

Notices of Intent

NOTICE OF INTENT

**Department of Agriculture and Forestry
Forestry Commission
and
Department of Revenue
Tax Commission**

Timber Stumpage Values
LAC 7:XXXIX.111

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of Forestry, and the Department of Revenue, Tax-Commission, under the authority of LA R.S. 3:3 proposes to repeal §111. Stumpage Values.

No preamble concerning the proposed rules is available.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 1. Timber Stumpage

§111. Stumpage Values

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission, LR 24:2076 (November 1998), repealed LR 25:

A public hearing will be held by the Louisiana Department of Agriculture and Forestry, Louisiana Forestry Commission, located in the auditorium at 5825 Florida Boulevard on August 27, 1999 at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments in writing at the public hearing. All interested persons may submit written comments on the proposed amendments through October 2, 1999, to Don Feduccia, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806.

Burton D. Weaver, Jr., Chairman
Forestry Commission

Malcom Price, Chairman
Tax Commission

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Stumpage Values

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no fiscal impact to state or local governmental units as a result of this proposed action. This proposed rule deletes Section 111 from the current rule on Timber Stumpage. Section 111 is a remnant of earlier stumpage value procedures which were modified in November 1998. The timber stumpage values listed in Section 111 are no longer in

effect, and the November 1998 rule change eliminated the need for values to be listed in the rule itself beginning in 1999.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no effect on directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Skip Rhorer
Assistant Commissioner
9907#046

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry Livestock Sanitary Board

Brucellosis Vaccination and Fee (LAC 7:XXI.305)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., The Department of Agriculture and Forestry, Livestock Sanitary Board proposes to amend regulations governing livestock auction market requirements. These rules comply with and are enabled by R.S. 3:2093, R.S. 3:2221, and R.S. 3:2228.

No preamble concerning the proposed rules is available.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 3. Cattle

§305. Brucellosis Vaccination and Fee

A. This regulation shall expire 12 years from the date of adoption. The fee shall only be used to pay for the direct and indirect costs of the Livestock Sanitary Board program and are anticipated to generate \$146,000 annually in revenues. The kinds and anticipated amounts or costs, which will be offset by this fee, include but are not limited to: other charges/professional services - \$127,750; indirect costs-\$18,250. The Department of Agriculture and Forestry shall suspend collection upon a finding by the Department of Agriculture and Forestry that collections will exceed the cost of the program. The commissioner of the Department of Agriculture and Forestry hereby certifies that written approval to adopt this regulation was received on July 1, 1988 from the commissioner of administration.

B. All heifer calves between 4 and 12 months of age not vaccinated for Brucellosis which are to be sold through an approved livestock auction market must be vaccinated with USDA approved Brucellosis vaccine prior to being sold. There shall be a fee to be paid by the seller of \$2 for each

heifer calf required to be vaccinated for Brucellosis, which fee shall be known as the Brucellosis vaccination fee. The Brucellosis vaccination fee shall be collected on the date of the sale from the seller by the approved livestock auction market and forwarded to the Louisiana Department of Agriculture and Forestry no later than the tenth day of the month following the month in which the fee was collected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2221 and R.S. 3:2223.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 15:75 (February 1989), amended LR 22:960 (October 1996), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1677 (September 1998), amended by the Department of Agriculture and Forestry, LR 25:

All interested persons should submit written comments on the proposed amendments by the end of business on August 25, 1999 to Dr. Maxwell Lea, Jr., Louisiana Department of Agriculture and Forestry at 5825 Florida Blvd., Baton Rouge, LA 70806.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Livestock Auction Market Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units to implement the proposed rule. The proposed rule change deletes redundant language in the existing rule which has created confusion.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no effect on directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Skip Rhorer Robert E. Hosse
Assistant Commissioner General Government Section Director
9907#045 Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Used Motor Vehicle and Parts Commission

Commission Meetings; Motor Vehicle Trade Shows
(LAC 46:V.2701, 3601, 3603, and 3605)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapters 4A and 4B, the Department of Economic Development, Used Motor Vehicle

and Parts Commission, notice is hereby given that the Used Motor Vehicle and Parts Commission intends to amend sections of existing rules and regulations regarding motor vehicle trade shows.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part V. Automotive Industry

Subpart 2. Used Motor Vehicle and Parts Commission

Chapter 27. The Used Motor Vehicle and Parts Commission

§2701. Meetings of the Commission

A. The Commission shall meet at its office in Baton Rouge, LA on the third Tuesday in each month to transact such business as may properly come before it. The regular meeting will convene at the hour of 1 P.M. and shall continue at the pleasure of those present. Any change of monthly meetings will be in accordance with the Open Meeting Law R.S. 42:5.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772(E).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 15:1058 (December 1989), LR 18:1116 (October 1992), LR 24:1682 (September 1998), LR 25:

Chapter 36. Motor Vehicle Trade Shows

§3601. Definitions

Promoter—means any Louisiana resident, domestic firm, association, corporation, or trust, who alone or with others assumes the financial responsibility of a vehicle trade show or exposition in which vehicles are displayed by dealers, manufacturers or distributors, licensed under R.S. 32:773.

Trade Show—means a controlled event in which a promoter charges or barter for booth space and/or charges for spectator entrance in which 3 or more used motor vehicle dealers exhibit vehicles.

Vehicle—means any new or used motor home, motorcycle, motor scooter, ATV, watercraft, boat, or boat with an inboard or outboard motor attached and shall also include new and used trailers, recreational trailers, semi-trailers and travel trailers. Motor manufacturer of motor homes, motorcycles, motor scooters, ATV's, watercraft, boats, or a boat with an inboard or outboard motor attached.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772E.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16:113 (February 1990), LR 25:

§3603. License, Fees and Applications

A. - A.3. ...

4. A promoter shall also be required to obtain a permit for any trade show or exposition from the LUMVPC.

5. A permit fee of \$50.00 will be charged for each show.

B. - B.5. ...

6. An exhibitor may not attend more than 3 trade shows or expositions in any calendar year.

7. An exhibitor may not attend any trade show or exhibition in which there is less than 4 attending Louisiana dealers.

C. - C.1. ...

2. A licensed used motor vehicle dealer who participates in a motor vehicle show or exposition shall not be deemed to have an additional place of business at that show or exposition and shall not be charged any permit fees.

D. All applications for permits received within 5 days of the start of the trade show or exposition shall be charged a \$50.00 late processing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772E.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16:113 (February 1990), amended by LR 19:1021 (August 1993), LR 25:

§3605. Qualifications and Eligibility of Motor Vehicle Trade Shows

A. Promoters of motor vehicle trade shows or expositions in which a dealer, manufacturer, or distributor, which is required to be licensed under R.S. 32:773, displays vehicles, are required to obtain a permit from the LUMVPC no later than 60 days prior to the start date of the vehicle trade show and shall give the start date, ending date, location of the proposed trade show or exposition, and the type of vehicles to be promoted.

B. Within 10 days of the start of the event, the promoter shall also furnish a complete list of all licensed Louisiana dealers and exhibitors who will participate. This list shall also include the dealer's current dealer number.

C. - C.3. ...

4. That the exhibitor invited has not attended more than 2 trade shows or expositions in the last calendar year in this state.

D. If the majority of local Louisiana licensed dealers in a trade show area decline to attend, the commission shall have the authority to prohibit any trade show.

E. A licensed Louisiana dealer will not be permitted to attend more than 3 trade shows per calendar year.

F. A promoter shall not allow an exhibitor who has secured a permit to exhibit any used vehicles of any type.

G. A promoter shall not allow an exhibitor to display any vehicles of the same make, model or brand as an attending local licensed Louisiana dealer at a trade show or exposition.

H. A promoter cannot be an owner, officer, employee or relative of an owner, officer, or employee of a participating dealership in a trade show.

I. A promoter is required to keep all records of attending dealers and exhibitors and all records of dealers that have declined to attend a trade show or exposition for a period of 5 years.

J. A manufacturer or distributor may exhibit vehicles through a licensed Louisiana dealer and may only display suggested list price.

K. A minimum of 3 Louisiana dealers will be required for all trade shows. Of the 3 Louisiana dealers, each dealer must represent a separate company or corporation.

L. An exhibitor cannot attend more than 2 trade shows per calendar year where there is less than 4 licensed Louisiana dealers.

M. Any promoter who violates any provisions of these rules and regulations shall be subject to the civil penalties under R.S. 32:780.

N. The executive director may, upon approval by the commission, suspend or modify any portion or portions of these rules and regulations herein when it is in the best interest of the community in which the trade show is being held.

O. The commission may deny an application for a permit for any licensed used motor vehicle dealer, an exhibitor or manufacturer for any reason it feels to be in the best interest of the trade show to be held.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772E and 32:774E.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16:114 (February 1990), amended LR 19:1021 (August 1993), LR 25:

Interested persons may submit written comments no later than 30 days from the date of publication of the notice of intent to John M. Torrance, Executive Director, 3132 Valley Creek Drive, Baton Rouge, LA, 70808, (225) 925-3870.

John M. Torrance
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Commission Meetings; Motor Vehicle Trade Shows

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs or savings to state or local governmental units are anticipated as a result of the proposed rules. Proposed rules change the meeting date of the commission and imposes limits on participation in trade shows or expositions that the licensee may attend and adds a \$50.00 fee per trade show or exposition for promoters.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections will be increased by approximately \$800.00 per year as a result of a \$50.00 permit fee per show for promoters.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Proposed rules will not result in any cost to the trade show participants.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Proposed rules will allow licensees to be competitive due to imposed limitation of participants. Not all licensees are able to participate in the numerous trade show events; therefore, the limitations of participants will reduce the exposure of those licensees who participate in the numerous events. The limitation also includes out of state exhibitors. Attendance of Louisiana dealers at trade shows or expositions will be limited to three shows per year.

John M. Torrance
Executive Director
9907#054

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Used Motor Vehicle and Parts Commission**

**Exemptions on Selling Extended Warranties
(LAC 46:V.4103)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapters 4A and 4B, the Department of Economic Development, Used Motor Vehicle and Parts Commission, notice is hereby given that the Used Motor Vehicle and Parts Commission intends to amend a section of existing rules and regulations regarding vehicle service contracts.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part V. Automotive Industry

Subpart 2. Used Motor Vehicle and Parts Commission

Chapter 41. Condition of Sale of a Motor Vehicle

§4103. Sale and Marketing of Motor Vehicle

Performance Warranty Contracts

A - E.5. ...

6. If an Issuer is selling an extended performance warranty to a consumer who is purchasing a new motor vehicle with a manufacturer's warranty from a used motor vehicle dealer and offers a 90 day or more refund of the purchase price of the extended performance warranty, the Issuer shall be exempt from E.4, E.5, E.5a, E.5b and E.5c.

F - H.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:466 (June 1989), amended LR 25:

Interested persons may submit written comments no later than 30 days from the date of publication of the notice of intent to John M. Torrance, Executive Director, 3132 Valley Creek Drive, Baton Rouge, LA 70808, (225) 925-3870.

John M. Torrance
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Exemptions on Selling Extended
Warranties**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that there will be no implementation costs to this agency. This rule merely exempts the 48 hour waiting period before the contract can be sold to a consumer and the requirement of a 2' x 2' sign informing the consumer about the 48 hour waiting period.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no estimated effect on revenue collections since this agency does not receive any funds from the sale of extended warranties.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

For those dealers who are selling and backing their own extended warranty contracts, they must post a \$150,000.00 surety bond with this agency. The estimated costs of the surety bond ranges from \$3,000.00 - \$5,000.00 a year. It is anticipated that approximately five used motor vehicle dealers will sell their own extended warranty contracts. The authority to sell and back these contracts is provided by the current rules.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no estimated effect on competition and employment.

John M. Torrance
Executive Director
9907#056

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Accountability System (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The School Accountability System was promulgated as a Rule in the June, 1999 issue of the Louisiana Register and amendments have been made to the policy.

**Title 28
EDUCATION**

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 24:1085 (June 1998), LR 25:

Bulletin 741

Louisiana Handbook for School Administrators

2.006.00 Every School shall participate in a school accountability system based on student achievement as approved by the Louisiana State Board of Elementary and Secondary Education (SBESE).

Refer to R.S. 17:10.1

Indicators for School Performance Scores

2.006.01 A school's School Performance Score shall be determined using a weighted composite index derived from three or four indicators: criterion-referenced tests (CRT), norm-referenced tests (NRT), and student attendance for grades K-12, and dropout rates for grades 7-12.

Louisiana's 10- and 20-Year Education Goals

2.006.02 Each school shall be expected to reach 10- and 20-Year Goals that depict minimum educational performances.

Indicators and Weighting	Grades Administered	10-Year Goal	20-Year Goal
CRT Tests (60 percent K-12)	Grades 4, 8, 10, 11	Average student score at BASIC	Average student score at PROFICIENT
NRT Tests (30 percent K-12)	Grades 3, 5, 6, 7, 9	Average composite standard score corresponding to the 55th percentile rank in the tested grade level	Average composite standard score corresponding to the 75th percentile rank in the tested grade level
Attendance (10 percent K-6; 5 percent 7-12)		95 percent (grades K-8) 93 percent (grades 9-12)	98 percent (grades K-8) 96 percent (grades 9-12)
Dropout Rate (5 percent 7-12)		4 percent (grades 7-8) 8 percent (grades 9-12)	2 percent (grades 7-8) 4 percent (grades 9-12)

School Performance Scores

2.006.03 A School Performance Score (SPS) shall be calculated for each school. This score shall range from 0-100 and beyond, with a score of 100 indicating a school has reached the 10-Year Goal and a score of 150 indicating a school has reached the 20-Year Goal. The lowest score that a given school can receive for each individual indicator index and/or for the SPS as a whole is "0."

Every year of student data shall be used as part of a school's SPS. The initial school's SPS shall be calculated using the most recent year's NRT and CRT test data and the prior year's attendance and dropout rates. Subsequent calculations of the SPS shall use the most recent two years' test data and attendance and dropout rates from the two years prior to the last year of test data used. For schools entering accountability after 1999, one year's baseline data shall be used for schools formed in mid-cycle years and two year's data for other schools.

A baseline School Performance Score shall be calculated in Spring 1999 for Grades K-8 and in Spring 2001 for Grades 9-12.

During the summer of 1999 for K-8 schools and summer of 2001 for 9-12 schools, each school shall receive two School Performance Scores as follows:

- A score for regular education students, including gifted, talented, speech or language impaired, and Section 504 students.
- A score including regular education students AND students with disabilities eligible to participate in the CRT and/or NRT tests.
- For the purpose of determining Academically Unacceptable Schools, during the summer of 1999 for K-8 schools and during the summer of 2001 for 9-12 schools, the School Performance Score that includes only regular education students shall be used.

Indicator	Index Value	Weight	Indicator Score
CRT	66.0	60 percent	39.6
NRT	75.0	30 percent	22.5
Attendance	50.0	10 percent	5.0
Dropout	N/A	0 percent	0
SPS = 76.1			

Criterion-Referenced Tests (CRT) Index Calculations	
A school's CRT Index score equals the sum of the student totals divided by the number of student eligible to participate in state assessments. For the CRT Index, each student who scores within one of the following five levels shall receive the number of points indicated.	
Advanced =	200 points
Proficient =	150 points
Basic =	100 points
Approaching Basic =	50 points
Unsatisfactory =	0 points

Formula for Calculating a CRT Index for a School	
1. Calculate the total number of points by multiplying the number of students at each performance level times the points for those respective performance levels, for all content areas.	
2. Divide by the total number of students eligible to be tested times the number of content area tests.	
3. Zero shall be the lowest CRT Index score reported for accountability calculations.	
Initial Transition Years	
To accommodate the phase-in of Social Studies and Science tests for K-8 schools, the following CRT scores shall be used for each year:	
1999 Baseline CRT Score =	1999 Math and English Language Arts (Grades 4 and 8)
2001 Comparison CRT Score =	2000 and 2001 Math and English Language Arts (both years averaged for each subject and each grade)
2001 <i>New</i> Baseline CRT Score =	2000 and 2001 Math, English, Social Studies, and Science (both years averaged for each subject and each grade)
2003 Comparison CRT Scores =	2002 and 2003 Math, English, Social Studies, and Science (both years averaged for each subject and each grade)
This re-averaging shall result in a re-calculated baseline to include science and social studies for K-8 schools in 2001. A similar schedule shall be used for 9-12 schools to begin with a 2001 baseline year.	

Norm-Referenced Tests (NRT) Index Calculations						
For the NRT Index, standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged together to get a school's NRT Index score.						
NRT Goals and Equivalent Standard Scores						
Composite Standard Scores Equivalent to Louisiana's 10- and 20-Year Goals, by Grade Level *						
Grade						
Goals	Percentile Rank	3	5	6	7	9

10-Year Goal	55th	187	219	231	243	TBA
20-Year Goal	75th	199	236	251	266	TBA

* Source of percentile rank-to-standard score conversions: *Iowa Tests of Basic Skills, Norms and Score Conversions, Form M (1996), Spring norms, interpolated for Fourth Quarter, March and Iowa Test of Educational Development, Norms and Score Conversions, with Technical Information, Form M (1996), Chicago, IL: Riverside Publishing Company.*

NRT Formulas Relating Student Standard Scores to NRT Index
Where the 10-year and 20-year goals are the 55th and 75th percentile ranks respectively and where SS = a student's standard score, then the index for that student is calculated as follows:

Grade 3:	Index 3rd grade = $(4.167 * SS) - 679.2$ SS = $(\text{Index 3rd grade} + 679.2)/4.167$
Grade 5:	Index 5th grade = $(2.941 * SS) - 544.1$ SS = $(\text{Index 5th grade} + 544.1)/2.941$
Grade 6:	Index 6th grade = $(2.500 * SS) - 477.5$ SS = $(\text{Index 6th grade} + 477.5)/2.500$
Grade 7:	Index 7th grade = $(2.174 * SS) - 428.3$ SS = $(\text{Index 7th grade} + 428.3)/2.174$
Grade 9:	Index 9th grade = TBA SS = TBA

Formula for Calculating a School's NRT Index

1. Calculate the index for each student, using the grade-appropriate formula relating standard score to NRT Index.
2. Zero shall be the lowest NRT Index score reported for accountability calculations.
3. Compute the total number of index points in all grades in the school.
4. Divide the sum of NRT Index points by the total number of students eligible to be tested.

Attendance Index Calculations
An Attendance Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's attendance rates. Subsequent years' indices shall be calculated using the prior two years' average attendance rates as compared to the state goals.

Attendance Goals		
	10-Year Goal	20-Year Goal
Grades K-8	95 percent	98 percent
Grades 9-12	93 percent	96 percent

Attendance Index Formulas
Grades K-8
Indicator (ATT K-8) = $(16.667 * ATT) - 1483.4$
Grades 9-12
Indicator (ATT 9-12) = $(16.667 * ATT) - 1450.0$
Where ATT is the attendance percentage, using the definition of attendance established by the Louisiana Department of Education

Lowest Attendance Index Score
Zero shall be the lowest Attendance Index score reported for accountability calculations.

Dropout Index Calculations
A Dropout Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's dropout rates. Subsequent years' indices shall be calculated using the prior two year's average dropout rates as compared to the state goals.

Dropout Goals		
	10-Year Goal	20-Year Goal
Grades 7 and 8	4 percent	2 percent

Grades 9-12	8 percent	4 percent
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Dropout Index Formulas
Non-Dropout Rate (NDO) = 100 - Dropout Rate (DO) (expressed as a percentage)

Grades 7 and 8	Dropout Index (7-8) = Indicator (DO Gr 7-8) = $(25 * NDO) - 2300.0$ NDO = $(\text{Indicator DO Gr 7-8} + 2300.0) / 25$
Grades 9-12	Dropout Index (9-12) = Indicator (DO Gr 9-12) = $(12.5 * NDO) - 1050.0$ NDO = $(\text{Indicator DO Gr 9-12} + 1050.0) / 12.5$

Lowest Dropout Index Score
Zero shall be the lowest Dropout Index score reported for accountability calculations.

Data Collection

2.006.04 A test score shall be entered for all eligible students within a given school. For any eligible student who does not take the test, including those who are absent, a score of "0" on the CRT Index and NRT Index shall be calculated in the school's SPS. To assist a school in dealing with absent students, the Louisiana Department of Education shall provide an extended testing period for test administration. The only exception to this policy is a student who was sick during the test and re-testing periods AND who has formal medical documentation for that period.

Growth Targets

2.006.05 Each school shall receive a Growth Target that represents the amount of progress it must make every two years to reach the state 10- and 20-Year Goals.

In establishing each school's Growth Target, the SPS inclusive of students with disabilities shall be used as the baseline. However, the percentage of students with disabilities varies significantly across schools and the rate of growth for such students, when compared to regular education students, may be different. Therefore, the proportion of students with disabilities eligible to participate in the CRT or NRT test in each school will be a factor in determining the Growth Target for each school.

Growth Targets
During the first ten years, the formula is the following:
[PropRE * (100 - SPS)/N] + [PropSE * (100 - SPS)/2N], or 5 points, whichever is greater
where
PropSE = the number of special education students in the school who are eligible to participate in the NRT or CRT tests, divided by the total number of students in the school who are eligible to participate in the NRT or CRT tests. For purposes of this calculation, gifted, talented, speech or language impaired, and 504 students shall not be counted as special education students, but shall be included in the calculations as regular education students.
PropRE = 1-PropSE. PropRE is the proportion of students not in special education.
SPS = School Performance Score
N = Number of remaining accountability cycles in the 10-Year Goal period
During the second ten years, the formula is the following:
[PropRE * (150 - SPS)/N] + [PropSE * (150 - SPS)/2N], or 5 points, whichever is greater

Growth Labels

2.006.06 A school shall receive a label based on its success in attaining its Growth Target.

Growth Labels

A school exceeding its Growth Target by 5 points or more shall receive a label of *Exemplary Academic Growth*.

A school exceeding its Growth Target by fewer than 5 points shall receive a label of *Recognized Academic Growth*.

A school improving, but not meeting its Growth Target, shall receive a label of *Minimal Academic Growth*.

A school with a flat or declining SPS shall receive a label of *School in Decline*.

When a school's SPS is greater than or equal to the state goal, "Minimal Academic Growth" and "School in Decline" labels shall no longer apply.

Performance Labels

2.006.07 A Performance Label shall be given to a school that qualifies, in addition to Growth Labels.

A school with an SPS of 30 or below shall be identified as an Academically Unacceptable School. This school immediately enters Corrective Actions.

For purpose of determining Academically Unacceptable Schools, during the summer of 1999 for K-8 schools and during the summer of 2001 for 9-12 schools, the SPS that includes only regular education students shall be used. Any school with an SPS of 30 or less, based on the test scores of regular education students only, shall be deemed an Academically Unacceptable School.

A school with an SPS of 30.1 - state average shall be labeled Academically Below Average.

A school with an SPS of state average - 99.9 shall be labeled Academically Above Average.

*The state average is recalculated every growth cycle. The state average shall be the SPS calculated for all eligible students in the state, treating the state as a single unit.

**A school with an SPS of 100.0 - 124.9 shall be labeled a *School of Academic Achievement*.

**A school with an SPS of 125.0 - 149.9 shall be labeled a *School of Academic Distinction*.

**A school with an SPS of 150.0 or above shall be labeled a *School of Academic Excellence* and shall have no more Growth Targets.

**A school with these labels shall no longer be subject to Corrective Actions and shall not receive "negative" growth labels, i.e., School in Decline and Minimal Academic Growth. This school shall continue to meet or exceed Growth Targets to obtain "positive" growth labels, recognition, and possible rewards.

Rewards/Recognition

2.006.08 A school shall receive recognition and possible monetary awards when it meets or surpasses its Growth Targets and when it shows growth in the performance of students who are classified as high poverty.

School personnel shall decide how any monetary awards shall be spent; however, possible monetary rewards shall not be used for salary or stipends. Other forms of recognition shall also be provided for a school that meets or exceeds its Growth Targets.

Corrective Actions

2.006.09 A school that does not meet its Growth Target shall enter into Corrective Actions. A school that enters Corrective Actions shall receive additional support and assistance, with the expectation that extensive efforts shall be made by students, parents, teachers, principals, administrators, and the school board to improve student achievement at the school. There shall be three levels of Corrective Actions.

All schools in Corrective Action I shall provide pertinent information to the Louisiana Department of Education concerning steps they have taken to improve student performance in order to document activities related to Corrective Action I and in light of recent proposed changes in federal programs. This information shall be required on an annual basis.

Requirements for Schools in Corrective Actions I

1) Revised or New School Improvement Plan (due December 15)

All Louisiana schools were required to have a School Improvement Plan in place by May of 1998. Those schools falling within the category of "Academically Unacceptable" and placed in Corrective Actions I shall be required to review and either revise or completely rewrite their plan, with the assistance of a District Assistance Team, and submit it to the Division of School Standards, Accountability, and Assistance. The plan shall contain the following essential research-based components:

A. A Statement of the school's beliefs, vision, and mission;

B. A comprehensive needs assessment which shall include the following quantitative and qualitative data:

Student academic performances on standardized achievement tests (both CRT and NRT) and performance/authentic assessment disaggregated by grade vs. content vs. exceptionality);

Demographic indicators of the community and school to include socioeconomic factors.

School human and material resource summary, to include teacher demographic indicators and capital outlay factors;

Interviews with stakeholders: principals, teachers, students, parents;

Student and teacher focus groups;

Questionnaires with stakeholders (principals, teachers, students, parents) measuring conceptual domains outlined in school effectiveness/reform research;

Classroom Observations;

C. Measurable objectives and benchmarks;

D. Effective research-based methods and strategies;

E. Parental and community involvement activities;

F. Professional development component aligned with assessed needs;

G. External technical support and assistance;

H. Evaluation strategies;

I. Coordination of resources and analysis of school budget (possible redirection of funds);

J. Action plan with time lines and specific activities.

2) Assurance pages (due December 15)

Each school in Corrective Actions I shall be required to provide assurances that it worked with a District Assistance Team to develop its School Improvement Plan, and that the plan has the essential components listed above. Signatures of the team members shall also be required.

3) An annual Evaluation of the Level of Implementation of the School Improvement Plan (due June 15)

This evaluation shall be designed by the Louisiana Department of Education through the services of a contracted evaluator and mailed to the schools as soon as they are identified. It shall be required on an annual basis, with the first year's data pertaining to implementation activities. The evaluation for the second year shall contain some implementation data, but shall pertain particularly to student performance as determined by the School Performance Score. The Louisiana Department of Education shall make every effort to see that the information is collected in a manner that shall be of assistance to the schools and that shall provide feedback to them as they strive to improve student achievement.

Corrective Actions Summary Chart

Corrective Actions Level II: A highly trained Distinguished Educator (DE) shall be assigned to a school by the state. The DE shall work in an advisory capacity to help the school improve student performance. The DE shall make a public report to the school board of recommendations for school improvement. Districts shall then publicly respond to these recommendations. If a school is labeled as Academically Unacceptable, parents shall have the right to transfer their child to a higher performing public school (See Transfer Policy Standard Number 2.006.11).

Corrective Actions Level III: The DE shall continue to serve the school in an advisory capacity. Parents shall have the right to transfer their child to a higher performing public school (See Transfer Policy, Standard Number 2.006.11). A district must develop a Reconstitution Plan for the school at the beginning of the first year in this level and submit the plan to SBESE for approval.

If a Corrective Actions Level III school has achieved at least 40 percent of its Growth Target or 5 points, whichever is greater, during its first year, then that school may proceed to a second year in Level III. If such minimum growth is not achieved during the first year of Level III, but SBESE has approved its Reconstitution Plan, then the school shall implement the Reconstitution Plan during the beginning of the next school year. If SBESE does not approve the Reconstitution Plan AND a given school does not meet the required minimum growth, the school shall lose state approval and all state funds.

Any reconstituted School's SPS and Growth Target shall be re-calculated utilizing data from the end of its previous year. SBESE shall monitor the implementation of the Reconstitution Plan.

A school initially enters Corrective Actions Level I if it has an SPS of 30 or less or if it has an SPS of less than 100 and fails to reach its Growth Target.

A school moves into a more intensive level of Corrective Actions when adequate growth is not demonstrated during each 2-year cycle. A school with an SPS of 30 or less, i.e., Academically Unacceptable School, shall move to the next level of Corrective Actions as long as its score is 30 or less.

A school with an SPS of 30.1 to 50.0 shall move to the next level of Corrective Actions if it grows fewer than 5 points. If it grows 5 points or more each cycle, but less than its Growth Target, a school may remain in Corrective Actions Level I for two cycles and Corrective Actions Level II for one cycle.

A school with an SPS of 50.1 to 99.9 shall remain in Corrective Actions Level I as long as its growth is at least its Growth Target minus 5 points, but not less than 0.1 points. During the first 10-year cycle, there is no maximum number of cycles that such a school can stay in Level I as long as this minimum growth is shown each cycle.

A school exits Corrective Actions if its School Performance Score is above 30 and the school achieves its Growth Target.

School Level Tasks

Level I

- 1) Utilize state diagnostic process to identify needs; and
- 2) Develop/implement a consolidated improvement plan, including an integrated budget; process must include: a) opportunities for significant parent and community involvement, b) public hearings, and c) at least two-thirds teacher approval

Level II

- 1) Work with advisory Distinguished Educator, teachers, parents, and others to implement revised School Improvement Plan; and
- 2) Distinguished Educator works with principals to develop capacity for change

Level III

- 1) Distinguished Educator continues to assist with improvement efforts and the design of that school's Reconstitution Plan

Reconstitution or No State Approval/No Funding

- 1) If Reconstitution Plan is approved by SBESE: a) implement Reconstitution Plan, and b) utilize data from the end of the previous year to re-calculate school performance goals and Growth Targets. If Reconstitution Plan is not approved, no state approval/no state funding

District Level Tasks

Level I

- 1) Create District Assistance Teams to assist schools;
- 2) Publicly identify existing and additional assistance being provided by districts, such as funding, policy changes, and greater flexibility;
- 3) As allowed by law, reassign or remove school personnel as necessary; and
- 4) For Academically Unacceptable schools, ensure schools receive at least their proportional share of applicable state, local, and federal funding.

Level II

- 1) District Assistance Teams continue to help schools;
- 2) Hold public hearing and respond to Distinguished Educators' written recommendations;
- 3) As allowed by law, local boards reassign or remove personnel as necessary; and
- 4) For Academically Unacceptable Schools, authorize parents to send their children to other public schools

Level III

- 1) District Assistance Teams shall continue to help schools;
- 2) Authorize parents to send their children to other public schools;
- 3) Design Reconstitution Plan; and
- 4) At the end of year one, one of the following must occur: a) schools must make adequate growth of at least 40 percent of the Growth Target or 5 points, whichever is greater; b) District shall develop Reconstitution Plan to be approved by SBESE; or c) SBESE grants non-school approval status

Reconstitution or No State Approval/Funding

- 1) If Recommendation Plan is approved by SBESE, provide implementation support. If the Reconstitution Plan is not approved, no state approval/no state funding

State Level Tasks

Level I

- 1) Provide diagnostic process for schools;
- 2) Provide training for District Assistance Teams;
- 3) For some Academically Unacceptable Schools only, SBESE assigns advisory Distinguished Educators to schools; and
- 4) Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans

Level II

- 1) Assign advisory Distinguished Educator to schools; and
- 2) Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans

Level III

- 1) Assign advisory Distinguished Educator to schools for one additional year;
- 2) At end of Year 1, SBESE approves or disapproves Reconstitution Plans; and
- 3) Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans

Reconstitution or No State Approval/No Funding

- 1) If Reconstitution Plan is approved by SBESE, a) monitor implementation of reconstitution plan; and b) provide additional state improvement funds; and
- 2) If Reconstitution Plan is not approved, no state approval/state funding

Reconstitution Plan

2.006.10 Districts shall develop and submit a Reconstitution Plan to SBESE for approval for any school in Correction Actions Level III during the first year in that level. This Reconstitution Plan indicates how the district shall remedy the school's inadequate growth in student performance. The plan shall specify how and what reorganization shall occur and how/why these proposed changes shall lead to improved student performance.

If a Corrective Actions Level III school has grown at least 40 percent of its Growth Target or 5 points, whichever is greater, during its first year, then that school may continue another year in Level III. If such minimum growth is not achieved during the first year, but SBESE has approved its Reconstitution Plan, then the school shall implement the Reconstitution Plan during the beginning of the next school year. If SBESE does not approve the Reconstitution Plan AND a given school does not meet the required minimum growth, it shall lose state approval and all state funds.

Transfer Policy

2.006.11 Parents shall have the right to transfer their child to another public school when an Academically Unacceptable School begins Correction Actions Level II or any other school begins Correction Actions Level III.

Transfers shall not be made to Academically Unacceptable Schools or any school undergoing Corrective Actions Level II or Level III.

Upon parental request, districts shall transfer the child to the nearest acceptable school prior to the October 1 student membership count.

If no academically acceptable school in the district is available, the student may transfer to a neighboring district. Parents shall provide the transportation to the school. State dollars shall follow the child when such a transfer occurs.

Schools and districts may refuse to accept a student if there is insufficient space, if a desegregation order prevents such a transfer, or if the student has been subjected to disciplinary actions for behavioral problems.

Progress Report

2.006.12 The SBESE shall report annually on the state's progress in reaching its 10- and 20-Year Goals. The Louisiana Department of Education shall publish individual school reports to provide information on every school's performance. The school reports shall include the following information: School Performance Scores, and school progress in reaching Growth Targets.

Appeals Procedures

2.006.13 The Louisiana Department of Education shall define "appeal" what may be appealed, and the process that the appeal shall take.

Student Mobility

2.006.14 As a general rule, the test score of every eligible student at a given school shall be included in that school's performance score regardless of how long that student has been enrolled in that school. A school that has at least 10 percent of its students transferring from outside the district and enrolled in the school after October 1 may request that the Louisiana Department of Education calculate what its SPS would have been if such out-of-district enrollees had not been included. If there is at least a 5 point difference between the two School Performance Scores, then the school may appeal any negative accountability action taken by the state, e.g., movement into Corrective Actions, application of growth labels.

Pairing/Sharing of Schools with Insufficient Test Data

2.006.15 In order to receive an SPS, a given school must have at least one grade level of CRT testing and at least one grade level of NRT testing. A school that does not meet this requirement must either be "paired or shared" with another school in the district as described below. For the purpose of the Louisiana Accountability System, such a school shall be defined as a "non-standard school."

A school with a grade-level configuration such that it participates in neither the CRT test nor in the NRT test (e.g., a K, K-1, K-2 school) must be "paired" with another school that has at least one grade level of CRT testing and one grade level of NRT testing. This "pairing" means that a single SPS shall be calculated for both schools by averaging both schools' attendance and/or dropout data and using the test score data derived from the school that has at least two grade levels of testing.

A school with a grade-level configuration where students participate in either CRT or NRT testing, but not both (e.g., a K-3, 5-6 school), must "share" with another school that has at least one grade level of the type of testing missing. Both schools shall "share" the missing grade level of test data. This shared test data must come from the grade level closest to the last grade level in the non-standard school. The non-standard school's SPS shall be calculated by using the school's own attendance, dropout, and testing data AND the test scores for just one grade from the other school.

A district must identify the school where each of its non-standard schools shall be either "paired or shared." The "paired or shared" school must be the one that receives by promotion the largest percentage of students from the non-standard school. In other words, the "paired or shared" school must be the school into which the largest percentage of students "feed." If two schools receive an identical percentage of students from a non-standard school, the district shall select the "paired or shared" school.

Once the identification of "paired or shared" schools has been made, this decision is binding for 10 years. An appeal to SBESE may be made to change this decision prior to the end of 10 years, when redistricting or other grade configuration and/or membership changes occur.

New Schools and/or Significantly Reconfigured Schools

2.006.16 For a newly formed school, the school district shall petition SBESE, following existing procedures, to have a new site code assigned to that school. Once the site code is assigned, the school shall receive its initial baseline SPS the summer following its second year of operation, since it shall need two years of testing data and one year of attendance and/or dropout data.

The district may also petition SBESE for a new SPS for a school with significant reconfiguration from the previous year, where such significant reconfiguration varies at least 50 percent from the previous year's grade structure and/or size. For example, a K-4 school changes to a K-8 school, or a given school's population decreases in half or doubles in size from one year to the next. If SBESE grants a new SPS and agrees that this is a significant reconfiguration, this school would receive a new baseline SPS during the summer following its second year of operation.

A school that has population and/or grade configuration change from the previous year of less than 50 percent, but more than 25 percent, is not eligible for a new SPS. Instead, such school may appeal any state accountability decisions made as a result of not meeting its Growth Targets, e.g., movement into Corrective Actions.

Inclusion of Alternative Education Students

2.006.17 Each superintendent, in conjunction with the alternative school director, shall choose from one of two options for including alternative education students in the Louisiana Accountability System for the system's alternative education schools.

Option I The score for every alternative education student at a given alternative school shall be returned to ("sent back") and included in the home-based school's SPS. The alternative school itself shall receive a "diagnostic" SPS, not to be used for rewards or Corrective Actions, if a statistically valid number of students were enrolled in the school at the time of testing.

Option II The score for every alternative education student shall remain at the alternative school. The alternative school shall be given its own SPS and Growth Target, which makes the alternative school eligible for rewards and Corrective Actions.

In order to be eligible for Option II, an alternative school shall meet all of the following requirements:

- The alternative school must have its own site code and operate as a school;
- The alternative school must have a required minimum number of students in the tested grade levels. The definition of "required minimum" is stated in section 2.006.19, and
- At least fifty percent (50 percent) of the total school population must have been enrolled in the school for the entire school year, October 1 - May 1.

Once an option is selected for an alternative school, it shall remain in that option for at least 10 years. An appeal to SBESE may be made to change the option status prior to the end of 10 years if a school's purpose and/or student eligibility changes.

An alternative school that chooses Option II shall receive an initial baseline SPS during summer of 1999 if the majority of its students are in grades K-8. If the majority of its students are in grades 9-12, an alternative school shall receive its baseline SPS during the summer of 2001.

All students pursuing a regular high school diploma, working in curriculum developed from Louisiana Content Standards, shall be included in the state-testing program, with those scores included in an SPS.

Students 16 years of age and older who are enrolled in a Pre-GED program, not pursuing a regular high school diploma, shall not be included in the state-testing program and shall not be included in an SPS. Information on these students, e.g., number receiving a GED, shall be reported in the school's report card as a sub-report.

An alternative school in Corrective Actions II may request some flexibility in obtaining assistance from either a Distinguished Educator (DE) or a team designed to address the special needs of the alternative school population, as long as the total costs for the team do not exceed that for the DE. Sample team members could include the following: social workers, psychologists, educational diagnosticians, and counselors, etc.

Inclusion of Lab Schools and Charter Schools

Such schools shall be included in the Louisiana Accountability System following the same rules that apply to traditional and/or alternative schools. The only exceptions are that Lab Schools and Type 1, 2, and 3 Charter Schools are "independent" schools and cannot be "paired" or "shared" with another school if they do not have at least one CRT and one NRT grade level, and/or if there is no "home-based" district school to which a given student's scores can be returned if all three conditions for Option II cannot be met. Therefore, if they do not have the required grade levels and/or required minimum number of students, such schools cannot receive an SPS. Instead, the state shall publish the results from pre- and post-test student achievement results, as well as other relevant accountability data, as part of that school's report card. This policy is to be revisited during the year 2001.

For the 1998-99 and 1999-2000 academic school years, detention and Department of Corrections facilities shall NOT receive an SPS.

Inclusion of Students with Disabilities

2.006.18 All students, including those with disabilities, shall participate in Louisiana's new testing program. The scores of all students who are eligible to take the CRT and the NRT tests shall be included in the calculation of the SPS. Most students with disabilities, approximately 80 percent of students with disabilities, shall take the CRT and the NRT tests with accommodations, if required by their Individualized Education Program. A small percentage of students with very significant disabilities, approximately 20 percent of students with disabilities, shall participate in an alternate assessment, as required by their IEP.

Inclusion of Schools with Very Low Numbers of Students

2.006.19 A minimum amount of test data shall be required for School Accountability calculations. To be included, a school shall have at least 40 testing units on the statewide criterion-referenced test. A testing unit is one subject test for one student, e.g., English language arts or mathematics. A school shall have at least 20 students with composite scores on the statewide norm-referenced test.

Interested persons may submit written comments until 4:30 p.m., September 10, 1999 to Jeannie Stokes, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Bulletin 741—Accountability System

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Educational Assessment
Program—LEAP 21 (LAC 28:I.901)

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The estimated implementation costs of Louisiana's Public Education Accountability System to state governmental units will be \$12,240,682. There will be no additional implementation costs to state government units to establish a minimum number of students to be tested in order to generate a School Performance Score. Under the accountability system, every eligible student shall be included in the testing. A minimum number of students for testing is required to assure a reliable School Performance Score. Local school systems may incur additional costs for the following items: costs not funded by the State for teacher staff development and in-service training, collection and analysis of data for the state's diagnostic process, personnel assigned to the District Assistance Teams, development and implementation of consolidated improvement plans, and transportation costs for students who choose to attend another school within the district as part of Corrective Actions Level II or Level III.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections by state/local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Louisiana's Public Education Accountability System is based on the concept of continuous growth: every school can improve and is expected to show academic growth. Economic benefits may be realized as K-12 students acquire knowledge and skills to become more productive citizens in the workforce. Parents who choose to send their children to a school in another district as part of Corrective Actions Level II or III may incur additional transportation costs for such students since the policy specifies that such transportation costs are the responsibility of parents.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

More rigorous academic standards and higher student performance may improve school districts' ability to recruit and retain qualified teachers. School districts may have to improve compensation and/or working conditions to recruit qualified teachers if the diagnostic process concludes that poor teacher quality is negatively affecting student performance. School districts will need to hire qualified replacements for personnel who take temporary positions as Distinguished Educators. Schools in Corrective Actions may find it difficult to recruit and retain qualified teachers. School districts may have to improve teacher compensation and/or working conditions to recruit and retain qualified teachers for such schools.

Marlyn Langley
Deputy Superintendent
Management and Finance
9907#033

H. Gordon Monk
Staff Director
Legislative Fiscal Office

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November, 1975). The content of the procedural block clarifies that the performance standards for LEAP for the 21st Century (LEAP 21) are equal to the rigor of the National Assessment of Educational Progress (NAEP) performance standards.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

901. School Approval Standards and Regulations

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975), amended LR 25:

Louisiana Educational Assessment Program

1.009.03 Each school system shall participate in the Louisiana Educational Assessment Program.

Performance standards for *LEAP for the 21st Century* (LEAP 21) are equal to the rigor of the National Assessment of Educational Progress (NAEP) performance standards.

District-wide test results, but not scores or rankings of individual students, shall be reported to the local educational governing authority at least once a year at a regularly scheduled local educational governing authority meeting.

Systems shall not conduct any program of specific preparation of the students for the testing program by using the particular test to be administered therein.

Interested persons may submit written comments until 4:30 p.m., September 10, 1999, to Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741—Louisiana Handbook for
School Administrators—LEAP 21**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no estimated implementation costs (savings) to state and local governmental units as a result of this measure. There will be no impact because the revisions to Bulletin 741 will be incorporated into the existing document.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collection at the state or local level.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There should be no effect on costs or benefits to directly affected persons in non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There should be no impact on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
9907#053

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Hiring Full-Time/Part-Time Noncertified School Personnel (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, the proposed rule which extends until July 1, 2000, the current policy which allows noncertified school personnel to be employed by local school systems when there is no certified teacher available. The revision is a change to the *Louisiana Administrative Code*, 28:I.903.I. There is no change proposed in the content of the current policy which allows school systems to employ noncertified teachers when there is no certified teacher available. The change extends the date only.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§903. Teacher Certification Standards and Regulations**

* * *

I. Noncertified Personnel

Full-time/part-time noncertified school personnel, excluding speech, language, and hearing specialists, may be employed by local public education agencies experiencing extreme difficulty in employing certified teachers for the

classroom, provided that the following documentation is submitted to the Department of Education:

A signed affidavit by the local superintendent that the position could not be filled by a certified teacher;

Submission of names, educational background, subject matter and grade level being taught as an addendum to the Annual School Report.

A. Individuals employed under this policy must:

1. Hold a minimum of a baccalaureate degree from a regionally accredited institution;
2. Take all appropriate areas of the PRAXIS/NTE at the earliest date that it is offered during the first year of employment and all appropriate areas at least once each year during subsequent years of employment; and
3. Earn six semester hours of college course work each year as indicated below.

a. Teachers who have not completed a teacher education program must:

(1) within the first year of employment and prior to consideration for re-employment the second year, be officially admitted to a teacher education program; obtain a prescription or outline of course work required for certification; and achieve the required scores on the PRAXIS Pre-Professional Skills Tests in Reading, Writing, and Mathematics. The appropriate score(s) on the Communication Skills and/or General Knowledge portions of the NTE may be accepted only if the test(s) was taken prior to September 1999;

(2) prior to consideration for re-employment each year, complete at least six semester hours of college course work as prescribed by the college or university to complete a teacher education program.

b. Teachers who have completed a teacher education program but who have not achieved the required scores on all parts of the PRAXIS/NTE, prior to consideration for re-employment each year, must earn six semester hours appropriate to the area of the PRAXIS/NTE (Pre-Professional Skills Tests in Reading, Writing, and Mathematics, the Principles of Learning and Teaching K-6 or 7-12, and the subject assessments/specialty area tests) in which the score was not achieved. Appropriate scores achieved on portions of the NTE which were formerly required may be used provided the score was achieved prior to the date the test(s) was discontinued for use in Louisiana.

A university sponsored seminar, workshop or course specially designed for preparing for the PRAXIS/NTE may be used once to substitute for three semester hours of the required course work. Documentation from the university must be provided to verify participation.

B. The following documentation, as appropriate, shall be kept on file in the LEA's Superintendent's/Personnel Office:

1. official transcripts showing a minimum of a baccalaureate degree from a regionally accredited institution;
2. documentation that the teacher has been officially admitted to a teacher education program, if applicable;
3. an outline by the college or university of the course work required for certification, or an outline of courses to help achieve the appropriate PRAXIS/NTE scores for persons who have completed a teacher education program;

4. official transcripts showing successful completion of the six semester hours as prescribed by the college or university since the last employment under this policy;

5. documentation to verify one-time participation in a university sponsored or state approved seminar/workshop/course for PRAXIS/NTE preparation for teachers who have completed a teacher education program;

6. an original PRAXIS/NTE score card showing the PRAXIS/NTE has been taken in all appropriate areas since the last employment under this policy; and

7. documentation that efforts for recruitment of certified teachers have been made (e.g. newspaper advertisements, letters, contacts with colleges, and so forth).

C. These individuals shall be employed at a salary that is based on the effective state salary schedule for a beginning teacher with a baccalaureate degree and a certificate with zero years of experience. Local salary supplements are optional.

D. The total number of years a person may be employed according to the provisions of this policy is five years.

E. To be eligible for re-employment under this policy, a teacher who has not met the requirement of earning six semester hours of college credit or who has not taken the PRAXIS/NTE must meet one or more of the following conditions.

1. Medical Excuse. When serious medical problems of the teacher or immediate family in the same household exist, a doctor's statement is required with a letter of assurance from the teacher that six semester hours will be earned prior to the beginning of the next school year.

2. Required Courses Not Available. A letter of verification from area universities is required stating that the required courses are not being offered.

3. Change of School, Parish, or School System. Re-employment is permitted only if the change is not part of a continuous pattern.

4. Change of Certification Areas. Re-employment is permitted with assurance that the requirements for continued employment under this policy will be met.

(These are the only conditions that may be used. Documentation which supports the above condition must be maintained in the teacher's personnel file.)

THIS INTERIM EMERGENCY POLICY WILL REMAIN IN EFFECT UNTIL JULY 1, 2000.

This policy does not apply to university laboratory schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3761-3764.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 24:1085 (June 1998), LR 25:0000 (June 1999), LR:

Interested persons may submit written comments until 4:30 p.m., August 10, 1999 to Jeannie Stokes, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746—Hiring Full-Time/Part-Time Noncertified School Personnel

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The adoption of this policy will result in a cost to the Department of Education of approximately \$700 (printing and postage) for dissemination of the policy.

BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$60. Funds are available.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The extension of this policy will allow local school systems to continue to employ noncertified school personnel when there is no certified teacher available.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The extension of this policy allows school systems to fill vacancies which exist due to the unavailability of certified teachers.

Marlyn Langley
Deputy Superintendent
Management and Finance
9907#027

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1213—Minimum Standards for School Buses
(LAC 28:XXV.537)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement a revision to Bulletin 1213 promulgated in LR 2:187 (June 1976), referenced in LAC 28:I.915.B, and adopted in codified format in the *Louisiana Register*, April 1999. The amendment allows two decals on school buses to acknowledge the free cellular phone services made available to that school system by a provider.

Title 28

EDUCATION

Part XXV. Minimum Standards for School Buses

Chapter 5. Bus Body Standards

§537. Identification

A. - F.2. ...

3. No more than two signs, not to exceed 18" x 7", acknowledging a cellular telephone service provider may appear on the side of a school bus. One sign shall be placed to the immediate left of the main door. The other sign shall be placed below or to the right of the driver's side window.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158; R.S. 17:160-161; R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 25:646 (April 1999), amended LR 25:

Interested persons may submit written comments until 4:30 p.m., September 10, 1999 to Jeannie Stokes, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 1213—Minimum
Standards for School Buses**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no estimated implementation costs or savings to state or local governmental units as a result of this measure.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no estimated effects on revenue collection of state or local governmental units as a result of this measure.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

All individuals involved in transporting students to and from school, e.g., school officials, parents whose children ride the bus and the passengers themselves, will benefit by knowing that each school bus has been designed and equipped with safety of its passengers in mind. Use of cellular phones adds another element of safety in the operation of school buses.

This action will affect school officials and contract drivers of school buses. They will have at their disposal, at no cost to the school system or the individual, a cellular telephone to use in case of an emergency. Use of the telephone will be limited to 911, the district maintenance shop, school administrators or other agencies that can respond to an emergency. We could not determine the economic benefits to directly affected persons. It will depend upon the number of school buses equipped with cellular phones and the cost the provider would normally charge for the services provided. Affected persons will not incur workload adjustments or additional paperwork by this action.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This action will have no effect on employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
9907#061

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1475—Operational and Vehicle Maintenance
Procedures (LAC 28:XXIX.901)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the State

Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 1475 promulgated in LR 2:198 (June 1976), referenced in LAC 28:I.915.C, and adopted in codified format in the *Louisiana Register*, May 1999. The amendment provides instructions to school bus drivers of those buses that are equipped with cellular telephones.

**Title 28
EDUCATION**

**Part XXIX. Bulletin 1475—Operational and Vehicle
Maintenance Procedures**

Chapter 9. Vehicle Operations

901. Specific Procedures

A.1. - 7.j. ...

k. The use of cellular telephones by school bus operators shall be authorized only under the following conditions:

- i. an emergency situation exists, such as a mechanical problem, accident, illness of driver or passenger;
- ii. bus is pulled safely out of traffic (if possible) and motor is turned off.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158; R.S. 17:160-161; R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:835 (May 1999), amended LR 25:

Interested persons may submit written comments until 4:30 p.m., September 10, 1999 to Jeannie Stokes, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 1475—Operational and Vehicle
Maintenance Procedures**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no estimated implementation costs or savings to state or local governmental units as a result of this measure.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no estimated effects on revenue collections of state or local governmental unit as a result of this measure.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The school bus driver will be the person directly affected by this action. Bulletin 1475 provides the essentials the driver needs to do his or her job. Students he or she transports every day to and from school will also benefit from a free, safe drive. Parents whose children are using the school bus will also benefit by not having to drive their children to school. The amendment to Bulletin 1475 adds to the essentials the driver needs to know. Now, when the school bus is equipped with a cellular telephone, the driver is required, if possible, to safely pull out of traffic, stop the bus and shut off the engine before he or she can operate the telephone. It is to be used only in case of emergencies. The telephone will be programmed so only certain agencies can be contacted, e.g., 911, school board offices and maintenance shop.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

The adoption of this bulletin will not effect competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
9907#058

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1566—Guidelines for Pupil Progression
(LAC 28:XXXIX.Chapters 1-11)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement revised Bulletin 1566, Guidelines for Pupil Progression. The revised guidelines for Pupil Progression incorporate the High States Testing Policy and other policies related to the promotion and retention of students. School systems will implement the new guidelines with the 1999-2000 school session.

**Title 28
EDUCATION**

Part XXXIX. Bulletin 1566—Guidelines for Pupil Progression

Editor's Note: Bulletin 1566 was promulgated in LR 6:144 (April 1980), amended LR 11:685 (July 1985) and LR 16:766 (September 1990), promulgated LR 19:1417 (November 1993), amended LR 24:2081 (November 1998). Once this bulletin becomes a rule as a codified document, historical notes will reflect activity on individual sections from that time forward.

Chapter 1. Purpose

§101. Foreword

A. This publication represents a forward step in the implementation of a vital component of R.S. 17:24.4. These Guidelines represent a cooperative effort of offices in the Louisiana Department of Education (LDE), and educators from across the State.

B. The Louisiana Department of Education will continue to provide leadership and assistance to school systems in an effort to attain a public system of education that makes the opportunity to learn available to all students on equal terms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§103. Preface

A. "The goal of the public educational system is to provide learning environments and experiences, at all stages of human development, that are humane, just and designed to promote excellence in order that every individual may be afforded an equal opportunity to achieve his full potential" (Preamble to Article VIII, Louisiana Constitution). This goal statement from the Constitution suggests that public elementary and secondary education is only a part of a continuum of services that should be available to assist each

individual to identify and reach his/her own educational or training goals as quickly and effectively as possible.

B. The amendment and enactment of the Louisiana Competency-Based Education Program, Act 750, (R.S. 17:24.4) by the Louisiana State Legislature in Regular Session during the summer of 1997, was the result of an ever-increasing demand by Louisiana's taxpayers for a better accounting of their educational dollars. A forerunner of Act 750 was Act 621, the public school Accountability Law. This far-reaching statute called for:

1. the establishment of a program for shared educational accountability in the public educational system of Louisiana;

2. the provision for a uniform system of evaluation of the performance of school personnel;

3. the attainment of established goals for education;

4. the provision of information for accurate analysis of the costs associated with public educational programs;

5. the provision of information for an analysis of the effectiveness of instructional programs; and

6. the annual assessment of students based on state content standards.

C. The Louisiana Competency-Based Education Law evolved from the Accountability Law into a unique program that encompasses all recent educational statutes, providing opportunities for students to learn systematically and opportunities for educators to gear instructional programs to achievement based on specific objectives.

D. The Louisiana Competency-Based Program is based on the premise that the program must provide options to accommodate the many different learning styles of its students. Every effort is being made to tailor the curriculum to the needs of the individual student, including the student with special instructional needs who subsequently needs curricular alternatives. Such a practice enhances the probability of success, since the student is provided with an instructional program compatible with his individual learning styles as well as with his needs.

E. The Louisiana State Legislature in Regular Session during the summer of 1997 amended and reenacted R.S. 17:24.4 (F) and (G) (1), relative to the Louisiana Competency-Based Education Program, to require proficiency on certain tests as determined by the State Board of Elementary and Secondary Education (SBESE) for student promotion and to provide guidelines relative to the content of Pupil Progression Plans.

F. The amended sections relate state content standards adopted for mathematics, English language arts, science, and social studies, to the Louisiana Educational Assessment Program (LEAP), and to the comprehensive Pupil Progression Plans of each of the 66 local educational agencies.

G. A *Pupil Progression Plan* is a comprehensive plan developed and adopted by each parish or city school board; it shall be based on student performance on the Louisiana Educational Assessment Program with goals and objectives that are compatible with the Louisiana Competency-Based Education Programs and that supplement standards approved by the State Board of Elementary and Secondary Education (SBESE). A Pupil Progression Plan shall require the student's proficiency on certain tests as determined by the

SBESE before he or she can be recommended for promotion.

H.1. The revised Section G of the Competency-Based Education Program, Act 750, addresses the Pupil Progression Plan as follows:

Each city and parish school board shall appoint a committee which shall be representative of the parents of the school district under the authority of such school board. Each committee shall participate and have input in the development of the Pupil Progression Plans provided for in this Section. Each parish or city school board shall have developed and shall submit to the State Department of Education a Pupil Progression Plan which shall be in accordance with the requirements of this section and be based upon student achievements, performance, and proficiency on tests required by this section. Each parish or city school board plan for pupil progression shall be based on local goals and objectives which are compatible with the Louisiana Competency-Based Education Program numerated in R.S. 17:24.4 (B), which comply with the provisions of R.S. 17:24.4 (A) (3), and which supplement the performance standards approved by the State Board of Elementary and Secondary Education. Each local school board shall establish a policy regarding student promotion or placement which shall comply with the provisions of this Section, including the requirements for Pupil Progression Plans. Based upon the local school board policy, which policy shall be developed with the participation and input of the committee provided for in this Subsection G, each teacher shall, on an individualized basis, determine promotion or placement of each student. Each local school board may review promotion and placement decisions in order to insure compliance with the established policy. Review may be initiated by the local board, superintendent, or parent or guardian. Those students who fail to meet required proficiency levels on the state administered criterion-referenced test of the Louisiana Educational Assessment Program shall receive remedial education programs that comply with regulations adopted by the State Board of Elementary and Secondary Education.

2. Those persons responsible for developing local Pupil Progression Plans must build their plans on a broad-based instructional program fluid enough to accommodate the individual student's previous experience, his acquired skills and abilities, and his deficiencies and disabilities, while at the same time maintaining a balance in the student's curricular experiences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

Chapter 3. General Procedure for Development; Approval and Revision of a Pupil Progression Plan

§301. Development of a Local Plan

A. Committee of Educators

1. The State Board of Elementary and Secondary Education (SBESE) and the Louisiana Department of Education (LDE) require assurances that the local education agency (LEA) Supervisors of Elementary and Secondary Education, Special Education, Vocational Education, Adult Education, Title I, teachers and principals and other individuals deemed appropriate by the local Superintendent are included in the development of the parish Pupil Progression Plan.

B. Committee of Parents

1. Act 750 of the 1979 Louisiana Legislature states that "each city and parish school board shall appoint a committee which shall be representative of the parents of the school district under the authority of such school board.

Such committees shall participate and have input in the development of the Pupil Progression Plan."

2. A committee representing the parents of the school district shall be appointed by each city and parish school board. Procedures shall be established whereby this committee shall be informed of the development of the Pupil Progression Plan. Opportunities shall be provided for parents to have input into the development of the local plan.

3. Due process and equal protection considerations require the local board to include on the parent committee representatives of various disability groups, racial, socio-economic, and ethnic groups from the local district.

4. The local board shall provide staff support to the parent committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§303. Description of Committees

A. The local school system shall keep on file a written description of the method of selection, composition, function and activities of the local committees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§305. Public Notice

A. Meetings of the local committees shall be conducted within the legal guidelines of Louisiana's Open Meetings Law. [R.S. 42.4.2(A) (2); Attorney General's Opinion Number 79-1045]

B. The local Pupil Progression Plan shall be adopted at a public meeting of the local board, notice of which shall be published pursuant to the Open Meetings Law. It shall be stated that once the plan is adopted, it will be submitted to the SBESE for approval pursuant to Act 750. Once the plan is approved by the SBESE, the policies in the local plan shall be incorporated into the policies and procedures manual of the local school board.

C. The statement defining the committee-selection process and the Pupil Progression Plan are public documents and must be handled within the guidelines of the Public Records Act (R.S. 44:1-42).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§307. Approval Process

A. Approval

1. Upon adoption for submission by the local school board, the plan along with a formal submission statement shall be submitted annually to the Office of Student and School Performance for review by the LDE.

B. Review and Revision

1. Local Pupil Progression Plans must be accompanied by a completed checklist.

2. Local systems will be informed in writing of approval.

3. Local systems whose plans need revision will be informed of needed changes.

4. Local systems are to resubmit revised plans for final approval, following the procedures outlined in Part B under Public Notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

Chapter 5. Placement Policies; State Requirements

§501. State Requirements

A. Each local Pupil Progression Plan shall contain written policies relative to regular placement and alternatives to regular placement. Such policies must conform to the requirements of these guidelines.

B. Based upon local school board policy pursuant to these guidelines, each teacher shall, on an individualized basis, determine promotion or placement of each student [Act 750; R.S. 17:24.4(G)]. Local School Board policies relative to pupil progression will apply to students placed in regular education programs as well as to exceptional students and to students placed in alternative programs. Placement decisions for exceptional students must be made in accordance with the least restrictive environment requirements of state and federal laws (Act 754 regulations, subsection 443).

C. No school board member, school superintendent, assistant superintendent, principal, guidance counselor, other teacher, or other administrative staff members of the school or the central staff of the parish or city school board shall attempt, directly or indirectly, to influence, alter, or otherwise affect the grade received by a student from his/her teacher (R.S. 17:414.2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§503. Regular Placement¹

A. Promotion—Grades K-12

1. Promotion from one grade to another shall be based on the following statewide evaluative criteria.

a. Requirements in Bulletin 741, Louisiana Handbook for School Administrators

i. Each plan shall include the school attendance requirements.

ii. Each plan shall include the course requirements for promotion by grade levels.

iii. Each plan shall include other applicable requirements.

b. Requirements of the Louisiana Educational Assessment Program

i. Each plan shall include the statement that, in addition to completing a minimum of 23 Carnegie units of credit as presented by SBESE, the student shall be required to pass all components of the Graduation Exit Examination in order to receive a high school diploma.

ii.(a). No fourth or eighth grade student shall be promoted if he or she scores at the "Unsatisfactory" level on the English language arts or mathematics components of LEAP for the 21st century (LEAP 21).

(b). Exceptions. This state policy may be overridden by the School Building Level Committee (and therefore the student can be promoted) only under the following conditions:

(i). if a given student scores at the "Unsatisfactory" level in English language arts or mathematics and scores at the "Proficient" or "Advanced" level in the other;

(ii). if a student with disabilities has participated in an alternative assessment;

(iii). For the 1999/2000 school year only, if a given student had been formerly classified as Alternative to Regular Placement (ARP) during the 1997-98 school year and if that student has participated in summer programs and retesting.

iii. Summer school and end-of-summer retest must be offered by school systems at no costs to all students who score at the "Unsatisfactory" level.

iv. Fourth grade students who are 12 years old on or before September 30 (and still have not scored above "Unsatisfactory") must be enrolled in an alternative setting or program.

v. A school system, through its superintendent, may apply for an appeal on behalf of individual fourth grade students who have not scored above the "Unsatisfactory" level after retesting provided that certain criteria are met.

vi. Eighth grade students who are 16 years of age on or before September 30 must enroll in an alternative program or setting, Option 2 or Option 3.

(a). Option 2—placement in a transitional program at the traditional high school campus where students take non-credit remedial courses in English language arts and/or mathematics and may take credit courses in other subjects. Students may remain in Option 2 for a maximum of two years and will participate in the Grade 8 LEAP 21.

(b). Option 3—placement in an alternative program/setting, job skills training program or other program designed to meet students' needs. Students are working toward a GED, certificate of completion, or other diploma options. Students in Option 3 may choose to take the eighth grade LEAP 21 for a maximum two years.

vii. Exceptional students participating in LEAP 21 must be provided with significant accommodations as noted in the students IEP.

viii. The aforementioned policies will be in effect from Spring 2000 through Spring 2003. Beginning in Spring 2004, the policies will also apply to students scoring at the "Approaching Basic" level.

c. Other Requirements

i. Each plan shall include the function of the school building level committee/student assistance team as it relates to student promotion.

B. Retention—Grades K-12

1. Retention of a student shall be based upon the student's failure to meet the criteria established by local boards for promotion and other criteria contained in these guidelines.

C. Acceleration

1. Grades K-8

a. The local school board shall establish written policies and procedures for the placement of students who evidence that they will benefit more from the instructional program at an advanced grade level.

2. Grades 9-12

a. The local school board shall follow the policies and procedures established in Bulletin 741, *Louisiana Handbook for School Administrators*, and other local requirements for student acceleration.

D. Transfer Students

1. The local school board shall establish written policies for the placement of students transferring from all other systems and home study programs (public, nonpublic, (both in and out-of-state), and foreign countries).

¹Schools can only make recommendations to parents regarding student enrollment in kindergarten, since kindergarten is not mandatory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§505. Progression—Students Participating in Alternate Assessment

A. The local school board shall establish written policies for progression of those exceptional students who are participating in alternate assessment.

1. The students participating in the alternate assessment will progress from one grade level to the next if they meet the following assurances.

a. The student has met attendance requirements according to Bulletin 741.

b. The student has completed 70 percent of his annual goals.

c. Transition planning, if noted on the IEP, has been addressed by the student and documented by the teacher.

d. The student participated in the alternate assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§507. Alternatives to Regular Placement

A. The local school board shall establish written policies for all alternatives to regular placement. Prior to a student's being removed from the regular program and being placed in an alternative program, written informed consent by the student's parents or guardians must be obtained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§509. Alternative Schools/Programs

A. The local school board may establish alternative schools/programs which shall respond to particular educational need(s) within the community.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§511. Review of Placement

A. Review of promotion and placement decisions may be initiated by the local school board, superintendent and/or parent or guardian [Act 750; R.S. 17:24.4(G)].

B. Each local school board may adopt policies whereby it may review promotion and placement decisions in order to insure compliance with its local plan [Act 750; R.S. 17:24.4(G)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§513. Policies on Records and Reports

A. Local school systems shall maintain permanent records of each student's placement, K-12. Each record shall be maintained as a part of the student's cumulative file.

B. Student records for the purposes of these guidelines shall include:

1. course grades;

2. scores on the Louisiana Educational Assessment Program;

3. scores on local testing programs and screening instruments necessary to document the local criteria for promotion;

4. information (or reason) for student placement (see definition of *placement*);

5. documentation of results of student participation in remedial and alternative programs;

6. special education documents as specified in the approved IDEA-Part B, LEA application;

7. a copy of the letter informing the parent of either the placement of the student in or the removal of the student from a remedial program;

8. a copy of the parent's written consent for either the placement of a student in or the removal of a student from an alternative to regular placement program;

9. a statement regarding written notification to parent concerning retention and due process procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§515. Policies on Due Process

A. Due process procedures for teachers, students, and parents shall be specified in each local Pupil Progression Plan as related to student placement. The local school system must assure that these procedures do not contradict the due process rights of exceptional students as defined in the IDEA-Part B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

Chapter 7. Placement Policies; Local Options

§701. Local Options

A. In addition to the statewide mandatory criteria for student placement in Chapter 5, §501 of these guidelines, local school boards, by written local policies, may also establish local criteria to be used in determining student placement. Such criteria shall be compatible with the statewide criteria established in Chapter 5, §501 and shall be submitted to the LDE as part of the local Pupil Progression Plan.

B. Local option criteria for Pupil Progression Plans shall conform to the following guidelines. Additionally, at the option of local school systems, the plans may include other factors to be considered in pupil placements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§703. Legislative Guidelines

A. Local school systems are encouraged to develop local criterion-referenced testing programs for local assessment use [Act 621; R.S. 17:391.7(G) and Act 750; R.S. 17:24(H)].

B. Local criteria for K-12 must supplement the content standards approved by the SBESE [Act 750; R.S. 17:24(G)].

C. Local criteria must be coordinated with statewide curricular standards for required subjects, to be developed as part of the competency-based education plan [Act 750; R.S. 17:24.4(E) and (G)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§705. Departmental Guidelines

A. Student scores on local testing programs may be used as additional criteria for determining pupil progression. Additional skills may be specified and tested for mastery at the local level as additional criteria for placement.

B. With reference to pupil placement, the local school system shall state the name of the instrument and publisher of other testing and screening programs to be used locally in grades K-12 for regular and exceptional students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§707. Other Local Option Factors

A. In conjunction with the enumerated legislated guidelines and LDE directives, local school systems may include evaluative criteria in their local Pupil Progression Plans. If other criteria are used, the Pupil Progression Plan must so specify.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

Chapter 9. Regulations for the Implementation of Remedial Education Programs Related to the LEAP/CRT Program

§901. Preface

A. The regulations for remedial education programs approved by the State Board of Elementary and Secondary Education are an addendum to Bulletin 1566, *Guidelines for Pupil Progression*, Board Policy 4.01.90. The regulations provide for the development of local remedial education programs by local education agencies.

B. The Louisiana Department of Education shall recommend for approval by the SBESE only those local remedial education plans in compliance with these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§903. Legal Authorization

A. R.S. 17:24.4(G) provides that those students who fail to meet required proficiency levels on the state administered criterion-referenced tests of the Louisiana Educational Assessment Program shall receive remedial education programs that comply with regulations adopted by the State Board of Elementary and Secondary Education.

B. R.S. 17:394 - 400 is the established legislation for the remedial education programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§905. Definition and Purpose

A. Definitions

Department—is the Louisiana Department of Education.

Remedial Education Programs—are defined as local programs designed to assist students, including identified students with disabilities, to overcome their educational deficits identified as a result of the state's criterion-referenced testing program for grades 4 and 8 and the Graduation Exit Examination (R.S. 17:396, 397, 24.4 and Board Policy).

State Board—is the State Board of Elementary and Secondary Education.

B. Purpose

1. The purpose of the Louisiana Remedial Education Act is to provide supplemental funds for the delivery of supplemental remedial instruction adapted for those eligible students in the elementary and secondary schools of this state as set forth in the city and parish school board Pupil Progression Plans approved by the SBESE. A program of remedial education shall be put into place by local parish and city school systems following regulations adopted by the Department and approved by the State Board pursuant to R.S. 17:24.4. All eligible students shall be provided with appropriate remedial instruction (R.S. 17:395 A).

2. The intent of remedial educational programs is to improve student achievement in the grade appropriate skills identified as deficient on the state's criterion-referenced testing program for grades 4 and 8 and the Graduation Exit Examination (R.S. 17:395 B and Board Policy).

3. For the Graduation Exit Examination only, remediation shall be provided in English language arts, mathematics, and written composition to all eligible students beginning in either the summer of 1989 or the 1989-90 school year. Remediation shall be provided in social studies and science for those eligible students beginning in either the summer of 1990 or during the 1990-91 regular school year (R.S. 17:24.4(G), 395 B and C and Board Policy).

4. Beginning in the Summer of 2000, remediation in the form of summer school shall be provided to students who score at the "Unsatisfactory" level on LEAP 21st Century (LEAP 21) English language arts or mathematics tests.

5. Beginning in the Fall of 2000 (or earlier), remediation shall be provided to students who score at the "Unsatisfactory" level on LEAP for the 21st Century (LEAP 21) science and social studies tests.

6. Beginning in the Fall of 2000 (or earlier), remediation is recommended for students who score at the "Approaching Basic" level on LEAP for the 21st Century (LEAP 21) English language arts, mathematics, science, or social studies tests.

7. Beyond the goal of student achievement in grade appropriate skills, additional goals are to give students a sense of success, to prevent alienation from school, and to prevent their early departure from school (R.S. 17:395 B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§907. Responsibilities of the State Board of Elementary and Secondary Education

A. The SBESE shall perform the following functions in relation to the remedial education program:

1. approve as a part of the Pupil Progression Guidelines (Bulletin 1566) the regulations for development of local remedial education programs designed to meet student deficiencies as identified through the Louisiana Educational Assessment Program in English/Language arts, written composition, mathematics, social studies and science (R.S. 17:399 A) for the Graduation Exit Examination and English language arts, mathematics, science and social studies for LEAP 21;

2. approve remedial education programs submitted by local education agencies as a part of their local Pupil Progression Plan (R.S. 17:398 B);

3. approve qualifications/certification requirements for remedial education teachers (R.S. 17:398 A);

4. receive from the Department an annual evaluation report on local remedial education programs that meet the requirements of R.S. 17:400 B;

5. approve the evaluation criteria developed by the Department for determining the effectiveness of remedial education programs [R.S. 17:399 B (2) and Board Policy].

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§909. State Funding of Remedial Education Programs

A. Remedial education funds shall be appropriated annually within the Minimum Foundation Program formula.

B. State remedial education funds shall be distributed to the parish and city school boards according to the distribution process outlined within the Minimum Foundation Program.

C. State funds for the remedial education program shall not be used to supplant other state, local, or federal funds being used for the education of such students (R.S. 17:399 (B)5). A plan for coordination of all state, local and federal funds for remediation must be developed by each LEA.

D. The use of state remedial education funds shall not result in a decrease in the use for educationally deprived children of state, local, or federal funds which, in the absence of funds under the remedial education program, have been made available for the education of such students [R.S. 17:399 (B)5].

E. For funding purposes, a student receiving remediation in English/Language arts, written composition, mathematics, social studies and/or science, shall be counted for each area in which remediation is needed (R.S. 17:398 B) for the Graduation Exit Examination and for English language arts and mathematics for LEAP 21.

F. Students in the State Remediation Program are also included in the student membership count for MFP funding purposes.

G. The remedial education program shall be coordinated with locally funded and/or federally funded remedial education programs, but shall remain as a separate remedial program.

H. If the Department determines through its monitoring authority that a city or parish board is not actually providing the type of remedial education program that was approved

through its Pupil Progression Plan or is not complying with state evaluation regulations, the Department shall recommend appropriate action until such time as it is determined that the school board is in compliance with its approved Pupil Progression Plan and with state evaluation regulations.

I. The state and local funds expended in the program shall be included in the instructional parameters for each city or parish school board.

§911. Criteria for State Approval

A. Student Eligibility

1. Any public elementary or secondary student, including an exceptional student participating in LEAP 21, who does not meet the performance standards established by the Department and approved by the State Board, as measured by the state criterion-referenced tests, shall be provided remedial education (R.S. 17:397).

2. The failure of Special Education students to achieve performance standards on the state criterion-referenced tests does not qualify such students for special education extended school year programs (Board Policy).

B. Teacher Qualifications

1. Remedial teachers shall possess the appropriate certification/qualifications as required by the SBESE.

2. Parish and city school boards may employ an instructional paraprofessional under the immediate supervision of a regularly certified teacher to assist with the remediation. Paraprofessionals must have all of the following qualifications:

a. must be at least twenty years of age;

b. must possess a high school diploma or its equivalent; and

c. must have taken a nationally validated achievement test and scored such as to demonstrate a level of achievement equivalent to the normal achievement level of a tenth grade student (R.S. 17:398A and Board Policy).

3. Parish and city school boards may employ educators already employed as regular or special education teachers to provide remedial instruction. These educators may receive additional compensation for remedial instruction, provided the services are performed in addition to their regular duties (R.S. 17:398 A).

C. Program Requirements

1. Student Profile

a. The Remedial Education Student Profile for the LEAP 21/Graduation Exit Examination, provided by the LDE shall be used by the local school system for providing remediation for each eligible student (Board Policy).

2. Coordination With Other Programs

a. The school system shall assure that coordination and communication occur on a regular basis among all who provide instruction for a student receiving remedial instruction (Board Policy).

3. Instruction

a. For the Graduation Exit Examination, remediation shall be provided in English language arts, mathematics and writing to all eligible students beginning in either the summer of 1989 or the 1989-90 school year. Remediation shall be provided in social studies and science for those eligible students beginning in either the summer of 1990 or during the 1990-91 regular school year (R.S. 17:24.4(G); 395 B and C and Board Policy).

b. Beginning in the Summer of 2000, remediation in the form of summer school shall be provided to students who score at the "Unsatisfactory" level on LEAP 21st Century (LEAP 21) English language arts or mathematics tests.

c. Beginning in the Fall of 2000 (or earlier), remediation shall be provided to students who score at the "Unsatisfactory" level on LEAP for the 21st Century (LEAP 21) science and social studies tests.

d. Beginning in the Fall of 2000 (or earlier), remediation is recommended for students who score at the "Approaching Basic" level on LEAP for the 21st Century (LEAP 21) English language arts, mathematics, science, or social studies tests.

e. Instruction shall include but not be limited to the philosophy, the methods, and the materials included in local curricula that are based upon State Content Standards in mathematics, English language arts, science and social studies (Board Policy 3.01.08).

f. Remedial methods and materials shall supplement and reinforce those methods and materials used in the regular program (Board Policy).

g. Each student achieving mastery criteria shall continue receiving instruction for maintenance of grade appropriate skills. The amount of instruction shall be based upon student need (R.S. 17:395.E).

D. Student Assessment

1. The parish and city school boards shall develop, as part of their Pupil Progression Plans, mastery criteria based on the State Content Standards and local curricula based on these standards (R.S. 17:395 D and Board Policy).

2. For Graduation Exit Examination these mastery criteria shall be used in determining the extent of student achievement in those grade appropriate skills in English language arts, written composition, mathematics, social studies, and/or science in which he/she was found deficient (R.S. 17:395 D, 17:24.4(G) and Board Policy).

3. For LEAP 21, these mastery criteria shall be used in determining the extent of student achievement in those grade appropriate skills in English language arts, mathematics, science and social studies.

4. School systems shall describe the methods used to measure student achievement of these criteria (R.S. 17:395 D and Board Policy).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§913. Local Program Development and Evaluation

A. Each parish and city school board shall develop annually a remedial education program as part of its Pupil Progression Plan, which complies with the established regulations adopted by the Department and approved by the SBESE pursuant to R.S. 17.24.4. The remedial education plan shall be reviewed annually by the Department prior to recommendation for approval by the SBESE (R.S. 17:395 A and Board Policy).

B. The remedial education plan shall describe all remedial instruction and proposals for program

improvement. Proposals shall include a narrative that shall incorporate the following:

1. program objective;
2. student population to be served and the selection criteria to be used;
3. methodologies, materials, and/or equipment to be used in meeting the remediation needs;
4. brief description of the remedial course;
5. plan for coordination of state, federal, and local funds for remediation;
6. procedure for documenting student's and parent(s) refusal to accept remediation;
7. evaluation plan encompassing both the educational process and the growth and achievement evidenced of students (R.S. 17:399A).

C. The remedial program shall be based on performance objectives related to educational achievement in grade appropriate skills addressed through the statewide curriculum standards for required subjects, and shall provide supplementary services to meet the educational needs of each participating student.

D. Each local school system shall adhere to the remedial education plan as stated in its approved Pupil Progression Plan and shall provide services accordingly (R.S. 17:400 A and Board Policy).

E. Each local school system shall include within the remedial education plan a summary of how state, federal, and local funds allocated for remediation have been coordinated to ensure effective use of such funds [R.S. 399 A (5) and B (4) and Board Policy].

F. Each local school system shall maintain a systematic procedure for identifying students eligible for remedial education (R.S. 17:397).

G. Each local school system shall offer remediation accessible to all students. Refusal to accept remediation by student and parent(s) must have written documentation signed by student and parent(s).

H. A list of all students eligible for remediation shall be maintained at the central office level with individual school lists maintained at the building level (Board Policy).

I. Each local school system shall participate in the evaluation of the Remedial Education Program conducted by the Department [17:399 A (6) and Board Policy].

J.1. Each local school system shall complete an annual evaluation of its program, using the approved Department guidelines, and shall submit the evaluation report to the State Superintendent by June 15 of each year [R.S. 17:399 B (1) and Board Policy]. The evaluation plan shall include specific means to examine and document:

- a. student performance;
- b. coordination with other programs;
- c. instruction.

2. The evaluation shall be conducted as described in the local evaluation plan (Board Policy).

K. Annually, prior to October 15, each school system shall report to the public the results of its efforts to provide a remedial education program and the results of the monitoring review submitted by the State Superintendent (Board Policy).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§915. State Department of Education Responsibilities

A. The Department shall be responsible for reviewing plans, monitoring implementation, and evaluating the remedial education programs of the local school system (R.S. 17:400 A).

B. The State Superintendent of Education shall prepare an annual report for submission to the SBESE and the Joint Committee on Education of the Louisiana Legislature which shall contain:

1. the number of students participating in remedial education programs; and
2. the level of student achievement.

C. The department shall provide guidelines for local evaluation of programs, shall review the local evaluation plans, shall monitor the implementation of remedial education plans, and shall receive and approve evaluation reports (R.S. 17:400 A and Board Policy).

D. Within 60 days of receipt of the evaluation report from the local school system, the Department shall submit to each local school system an analysis of the system's evaluation report and the Department's monitoring results (Board Policy).

E. The Department shall provide technical assistance to the city and parish school boards which shall include:

1. assistance with development of the remedial section of the Pupil Progression Plan;
2. assistance with staff development;
3. assistance with the use of appropriate Department forms;
4. assistance with program implementation; and
5. assistance with conducting local evaluations.

Chapter 11. Appendix A

§1101. Definition Of Terms

A. As used in this bulletin the terms shall be defined as follows:

1. State Terms

Acceleration—advancement of a pupil at a rate faster than usual in or from a given grade or course. This may include "gifted student" as identified according to Bulletin 1508.

Alternate Assessment—the substitute way of gathering information on the performance and progress of students who do not participate in typical state assessments.

Alternative to Regular Placement—placement of students in programs not required to address the State Content Standards.

Content Standards—statements of what we expect students to know and be able to do in various content areas.

LEAP 21 Summer School—the summer school program offered by the LEA for the specific purpose of preparing students to pass the LEAP 21 test in English language arts, or mathematics.

Louisiana Educational Assessment Program (LEAP)—the state's testing program that includes the grades 3, 5, 6, 7 and 9 Louisiana Norm-referenced Testing Program; the grades 4 and 8 Criterion-referenced Testing Program including English language arts, mathematics, social studies and science and the Graduation Exit Examination (English

language arts, mathematics, written composition, science and social studies).

Promotion—a pupil's placement from a lower to a higher grade based on local and state criteria contained in these Guidelines.

Pupil Progression Plan—"The comprehensive plan developed and adopted by each parish or city school board which shall be based on student performance on the Louisiana Educational Assessment Program with goals and objectives which are compatible with the Louisiana competency-based education program and which supplement standards approved by the State Board of Elementary and Secondary Education (SBESE). A Pupil Progression Plan shall require the student's proficiency on certain test as determined by SBESE before he or she can be recommended for promotion."

Regular Placement—the assignment of students to classes, grades, or programs based on a set of criteria established in the Pupil Progression Plan. Placement includes promotion, retention, remediation, and acceleration.

Remedial Programs—programs designed to assist students including identified exceptional and Non/Limited English Proficient (LEP) students, to overcome educational deficits identified through the Louisiana Education Assessment Program and other local criteria.

Remediation—see Remedial Programs.

Retention—nonpromotion of a pupil from a lower to a higher grade.

2. Local Terms

a. The definition of *terms* used in a local school system plan must be clearly defined for use as the basis for interpretation of the components of the plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

Interested persons may submit written comments until 4:30 p.m., September 10, 1999 to Jeannie Stokes, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Bulletin 1566—Guidelines for Pupil Progression

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Cost associated with the first year implementation of the High Stakes Testing Policy and associated summer school program are approximately \$13.16 million; approximately \$7.36 million provided by the state and approximately \$5.8 million provided by local education agencies.

It is anticipated that the cost of a summer school program will be shared 50/50 by state and local school systems. The state is projected to provide approximately \$7.36 million during the 1999-2000 year for summer school (approximately \$5.8 million) and early intervention and remediation pilots (\$1.6 million). Projections indicate that this amount of funding would provide for 67,056 instruction units of math and/or language arts, at approximately \$87.50 per unit. For a student

taking both subjects, this would account for 50 percent of the \$350 summer school program (covering 4 weeks of a 5 week summer school).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Benefits to schools and students include better accountability and increased student achievement.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no impact on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
9907#034

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Medical Examiners

Respiratory Therapists—Licensing and Practice
(LAC 46:XLV.2501-2569, 5501-5519)

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by the Louisiana Respiratory Therapy Practice Act, R.S. 37:3351-3361, and particularly 37:3355(3), the Louisiana Medical Practice Act, 37:1270(B)(6), and the provisions of the Louisiana Administrative Procedure Act, intends to amend its rules governing the licensure of respiratory therapists, LAC 46:XLV, Chapter 25, §§2501-2569, and Chapter 55, §§5501-5519, to conform such rules to the definitional and credentialing changes implemented by the national certifying board for respiratory therapists, the National Board for Respiratory Care, Inc., and to provide for other substantive modifications and technical corrections. The proposed rule amendments are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 1. General

Chapter 25. Respiratory Therapists

Subchapter A. General Provisions

§2501. Scope of Chapter

The rules of this chapter govern the licensing of certified and registered respiratory therapists in the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2503. Definitions

A. As used in this chapter, unless the context clearly states otherwise, the following terms and phrases shall have the meanings specified:

Applicant—a person who has applied to the board for licensure as a licensed registered respiratory therapist or a licensed certified respiratory therapist.

Board—the Louisiana State Board of Medical Examiners.

Certified Respiratory Therapist—also known as Certified Respiratory Therapy Technician, prior to July 1, 1999, means one who has successfully completed the entry level examination or its successor administered by the National Board for Respiratory Care.

Chest Physiotherapy (CPT)—chest percussion, postural drainage, chest clapping, chest vibrations, bronchopulmonary hygiene and cupping, positive expiratory therapy (PEP), deep breathing/cough exercise, and inspiratory muscle training.

Good Moral Character—as applied to an applicant, means that an applicant has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition or circumstance which would provide legal cause under R.S. 37:3358 for the denial, suspension or revocation of respiratory care licensure; the applicant has not, prior to or in connection with his application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to material fact or omits to state any fact or matter that is material to the application; and the applicant has not made any representation or failed to make a representation or engaged in any act or omission which is false, deceptive, fraudulent or misleading in achieving or obtaining any of the qualifications for a license required by this chapter.

Licensed Respiratory Therapist—a person who is licensed by the board and has the lawful authority to engage in the practice of respiratory care in the state of Louisiana, only under the qualified medical direction and supervision of a licensed physician, as evidenced by certificate duly issued by and under the official seal of the board. The term *licensed respiratory therapist* shall signify both certified respiratory therapist and registered respiratory therapist.

Medical Gases—gases commonly used in a respiratory care department in the calibration of respiratory care equipment (nitrogen, oxygen, compressed air and carbon dioxide), in the diagnostic evaluation of diseases (carbon monoxide, nitrogen, carbon dioxide, helium and oxygen) and in the therapeutic management of diseases (nitrogen, carbon dioxide, helium, oxygen and compressed air).

National Board for Respiratory Care—the official credentialing board of the profession, or its successor.

Nontraditional Respiratory Care Education Program—a program of studies primarily through correspondence with tutorial assistance and with a clinical component comparable to a traditional program.

Physician—a person who is currently licensed by the board to practice medicine in the state of Louisiana.

Registered Respiratory Therapist—one who has successfully completed the Advanced Practitioner Examination or its successor administered by the National Board for Respiratory Care.

Respiratory Care—the allied health specialty practiced under the direction, supervision and approval of a licensed physician involving the treatment, testing, monitoring, and care of persons with deficiencies and abnormalities of the cardiopulmonary system. Such therapy includes, but is not limited to, the following activities conducted upon written prescription or verbal order of a physician and under his supervision:

- a. application and monitoring of oxygen, ventilatory therapy, bronchial hygiene therapy, cardiopulmonary rehabilitation, and resuscitation;
- b. insertion and care of airways as ordered by a physician;
- c. institution of any type of physiologic monitoring applicable to respiratory care;
- d. administration of drugs and medications commonly used in respiratory care that have been prescribed by a physician to be administered by qualified respiratory care personnel;
- e. initiation of treatment changes and testing techniques required for the implementation of respiratory care protocols as directed by a physician;
- f. administration of medical gases and environmental control systems and their apparatus;
- g. administration of humidity and aerosol therapy;
- h. application of chest physiotherapy;
- i. the institution of known and physician-approved patient driven protocols relating to respiratory care under physician approval in emergency situations in the absence of immediate direction by a physician;
- j. application of specific procedures and diagnostic testing as ordered by the physician to assist in diagnosis, monitoring, treatment, and research, including those procedures required and directed by the physician for the drawing of blood samples to determine acid-base status and blood gas values, the collection of sputum for analysis of body fluids, and the measurement of cardiopulmonary functions as commonly performed in respiratory therapy, and the starting of intravenous lines for the purpose of administering fluids as pertinent to the practice of respiratory care under the supervision of a licensed physician.
- k. supervision of other respiratory therapy personnel; and
- l. transcription and implementation of the written and verbal orders of a physician.

Respiratory Therapy Practice Act or the Act—Acts 1985, Number 408, as amended, R.S. 37:3351-3361;

United States Government—any department, agency or bureau of the United States Armed Forces or Veterans Administration.

B. Respiratory care shall also include teaching patient and family respiratory care procedures as part of a patient's ongoing program and consultation services or for health, educational, and community agencies under the order of a licensed physician.

C. Masculine terms wherever used in this chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6). R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health

and Hospitals, Board of Medical Examiners, LR 19:744 (June 1993), LR 25:

Subchapter B. Requirements and Qualifications for Licensure

§2505. Scope of Subchapter

The rules of this subchapter govern and prescribe the requirements, qualifications and conditions requisite to eligibility for licensure as a licensed respiratory therapist in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2507. Requirements for Licensure of Registered Respiratory Therapist

A. To be eligible and qualified to obtain a registered respiratory therapist license, an applicant shall:

1. be at least 18 years of age;
2. be of good moral character;
3. be a high school graduate or have the equivalent of a high school diploma;
4. possess current credentials as a registered respiratory therapist granted by the National Board of Respiratory Care, or its successor organization or equivalent approved by the board, on the basis of written examination;
5. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the Commissioner of Immigration and Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 C.F.R.);
6. satisfy the applicable fees as prescribed by Chapter 1 of these rules;
7. satisfy the procedures and requirements for application provided by §§2515 to 2519 of this chapter; and
8. not be otherwise disqualified for licensure by virtue of the existence of any grounds for denial of licensure as provided by the law or in these rules.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualification in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 14:87 (February 1988), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:271 (April 1989), LR 17:479 (May 1991), LR 25:

§2509. Requirements for Licensure of Certified Respiratory Therapists

A. To be eligible and qualified to obtain a certified respiratory therapist license, an applicant shall:

1. be at least 18 years of age;
2. be of good moral character;
3. be a high school graduate or have the equivalent of a high school diploma;
4. have successfully completed:

a. a traditional respiratory care education program then accredited by the Commission on Accreditation of Allied Health Education Programs, or its successor, in collaboration with the Committee on Accreditation for Respiratory Care; or

b. a nontraditional respiratory care education program then accredited by the Commission on Accreditation of Allied Health Education Programs, or its successor, in collaboration with the Committee on Accreditation for Respiratory Care which was conducted in accordance with the provisions of §2510 of this chapter;

5. possess at least one of the following credentials:

a. current credentials as a certified respiratory therapist granted by the National Board for Respiratory Care, or its successor organization or equivalent approved by the board, on the basis of written examination; or

b. have taken and successfully passed the examination administered by the board as further detailed in §§2521 to 2537 of this chapter; provided, however, that an applicant who has failed such examination four times shall not thereafter be eligible for licensure in Louisiana; or

c. a temporary license in accordance with the provisions of §2547 of these rules and who has taken and passed the licensing examination administered by the board; provided, however, that an applicant who has failed such examination four times shall not thereafter be eligible for licensure in Louisiana;

6. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the Commissioner of Immigration and Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the Commissioner's regulations thereunder (8 C.F.R.);

7. satisfy the applicable fees as prescribed by Chapter 1 of these rules;

8. satisfy the procedures and requirements for application provided by §§2515 to 2519 of this Chapter and, if applicable, the procedures and requirements for examination provided by §2521 to §2537 of this chapter; and

9. not be otherwise disqualified for licensure by virtue of the existence of any grounds for denial of licensure as provided by the law or in these rules.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualification in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 14:87 (February 1988), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:271 (April 1989), LR 17:479 (May 1991), LR 19:755 (June 1993), LR 25:

§2510. Conduct of Nontraditional Training Programs

A. To qualify an applicant for licensure as a certified respiratory therapist pursuant to §2509.A.4.b, a nontraditional respiratory care education program must be conducted in accordance with the following standards.

1. A certified respiratory therapist student participating in such a program must be concurrently enrolled in a respiratory care education program of a school or college accredited by the Commission on Accreditation of Allied Health Education Programs, or its successor, in collaboration with the Committee on Accreditation for Respiratory Care.

2. The hospital furnishing tutorial assistance, testing, clinical training and similar services for the benefit of the student must:

a. have a written affiliation agreement with the accredited program;

b. designate a training coordinator who shall have had prior experience in a formal respiratory care educational environment with at least five years clinical experience in respiratory care and who shall be a licensed respiratory therapist or a physician who actively practices respiratory care;

c. provide for tutorial assistance and supervision of the student's clinical activities to be provided by a licensed respiratory therapist or a physician who actively practices respiratory care; and

d. be able to provide students with an opportunity to observe and participate in respiratory care procedures adequate in number and type to support the clinical training of entry level therapists relative to the number of students admitted to and participating in such training.

3. A student providing respiratory care to patients as permitted by R.S. 37:3361(3) in the course of a student's clinical training shall be supervised in accordance with the provisions of §5515 of these rules and shall be identified to patients and licensed practitioners by title or otherwise which clearly designates the student's status as a student or trainee.

B. A nontraditional respiratory care education program which does not conform to and apply the standards prescribed in §2510.A shall not be considered by the board to qualify as an applicant for licensure under §2509.A.4.b.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:746 (June 1993), amended LR 25:

§2511. Licensure by Reciprocity

A. A person who possesses and meets all of the qualifications and requirements for licensure specified in §2507 of this chapter, save for possessing current credentials as a registered respiratory therapist as prescribed in §2507.A.4, shall nonetheless be deemed qualified for licensure, as a registered respiratory therapist, provided that such person presents proof of current licensure as a registered respiratory therapist in another state, the District of Columbia, a territory of the United States, or another country which requires standards for licensure considered by the board to exceed or to be equivalent to the requirements for licensure under this chapter, provided such state, district, territory, or country accord similar privileges of licensure to persons who have been granted their licenses under the provisions of this chapter.

B. A person who possesses and meets all of the qualifications and requirements for licensure specified by

§2509, save for successfully passing the licensure examination administered by the board or save for possessing current credentials as a certified respiratory therapist as prescribed in §2509.A.4.a, shall nonetheless be deemed qualified for licensure as a certified respiratory therapist provided that such person presents proof of current licensure as a certified respiratory therapist in another state, the District of Columbia, a territory of the United States, or another country which requires standards for licensure considered by the board to exceed or to be equivalent to the requirements for licensure under this chapter, provided such state, district, territory, or country accord similar privileges of licensure to persons who have been granted their licenses under the provisions of this chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2513. Temporary License

The board may issue a temporary license as a licensed respiratory therapist to an applicant who possesses and meets all of the qualifications and requirements specified in §2547.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

Subchapter C. Application

§2515. Purpose and Scope

The rules of this subchapter govern the procedures and requirements applicable to application to the board for licensure of a licensed respiratory therapist in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended, Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2517. Application Procedure

A. Application for licensure shall be made upon forms prescribed and supplied by the board.

B. If application is made for licensure of a certified respiratory therapist on the basis of examination to be administered by the board, an initial application must be received by the board not less than 90 days prior to the scheduled date of the examination for which the applicant desires to sit (see Subchapter D of this Chapter respecting dates and places of examination). A completed application must be received by the board not less than 60 days prior to the scheduled date of such examination.

C. Application for licensure as a certified respiratory therapist based upon qualifications not requiring written examination administered by the board, or an application for licensure as a registered respiratory therapist may be made at any time.

D. Application forms and instructions pertaining thereto may be obtained upon personal request at or written request directed to the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA

70130. Application forms will be mailed by the board within 30 days of the board's receipt of a request therefor. To ensure timely filing and completion of applications, forms must be requested not later than 40 days prior to the deadlines for initial applications specified in §2517.B.

E. An application for licensure under this Chapter shall include:

1. proof, documented in a form satisfactory to the board, that the applicant possesses the qualifications for licensure set forth in this chapter;

2. one recent photograph of the applicant; and

3. such other information and documentation as is referred to or specified in this chapter or as the board may require to evidence qualification for licensure.

F. An application for licensure of a certified respiratory therapist on the basis of examination shall include all documents prescribed by the National Board for the Respiratory Care entry level examination and any other information and documentation deemed necessary by the board.

G. All documents required to be submitted to the board must be the original thereof. For good cause shown, the board may waive or modify this requirement.

H. The board may refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may, at its discretion, require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

I. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules as established by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2519. Effect of Application

A. The submission of an application for licensure to the board shall constitute and operate as an authorization by the applicant to each educational institution at which the applicant has matriculated, each governmental agency to which the applicant has applied for any license, permit, certificate or registration, each person, firm, corporation, organization or association by whom or with whom the applicant has been employed as a registered respiratory therapist or certified respiratory therapist, each physician whom the applicant has consulted or seen for diagnosis or treatment, and each professional or trade organization to which the applicant has applied for membership, to disclose and release to the board any and all information and documentation concerning the applicant which the board deems material to consideration of the application. With respect to any such information or documentation, the submission of an application for licensure to the board shall equally constitute and operate as a consent by the applicant to disclosure and release of such information and documentation as a waiver by the applicant of any privileges or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. By submission of an application for licensure to the board, an applicant shall be deemed to have given his consent to submit to physical or mental examinations if, when, and in the manner so directed by the board if the board has reasonable grounds to believe that the applicant's capacity to act as a registered respiratory therapist or certified respiratory therapist with reasonable skill or safety may be compromised by physical or mental condition, disease or infirmity, and the applicant shall be deemed to have waived all objections as to the admissibility or disclosure of findings, reports or recommendations pertaining thereto on the grounds of privileges provided by law.

C. The submission of an application for licensure to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose any information or documentation set forth in or submitted with the applicant's application or obtained by the board from other persons, firms, corporations, associations or governmental entities pursuant to this section, to any person, firm, corporation, association or governmental entity having a lawful, legitimate and reasonable need therefor, including, without limitation, the respiratory care licensing authority of any state, the National Board for Respiratory Care, the Louisiana Department of Health and Hospitals, state, county or parish and municipal health and law enforcement agencies and the armed services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

Subchapter D. Examination

§2521. Purpose and Scope

The rules of this subchapter govern the procedures and requirements applicable to the examination as administered by the board for the licensure of certified respiratory therapists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2523. Designation of Examination

The examination administered and accepted by the board pursuant to R.S. 37:3354 is the National Board for Respiratory Care entry level examination or its successor, developed by the National Board for Respiratory Care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2525. Eligibility for Examination

To be eligible for examination by the board, an applicant shall possess all qualifications for licensure as a certified respiratory therapist prescribed by this chapter save for having successfully completed the examination; provided, however, that an applicant who has completed, or prior to the next scheduled examination will complete the traditional respiratory care program required by §2509.A.4 of this

chapter, but who does not yet possess evidence of such completion shall be deemed eligible for examination upon submission to the board of a letter subscribed by the director of the approved program certifying that the applicant has completed the applicable program or will have completed such program prior to the board's next scheduled examination and specifying the date on which such curriculum will be completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2527. Dates, Places of Examination

The board's licensure examination is administered at least annually by the National Board for Respiratory Care in the city of New Orleans. The applicants shall be advised of the specific date, time and location of the next scheduled examination upon application to the board and may obtain such information upon inquiry to the office of the Louisiana State Board of Medical Examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2529. Administration of Examination

A. The board's licensure examination is administered by a chief proctor, appointed by the board, and one or more assistant proctors. The chief proctor is authorized and directed by the board to obtain positive photographic identification from all applicants appearing and properly registered for the examination, to establish and require examinees to observe an appropriate seating arrangement, to provide appropriate instructions for taking the examination, to fix and signal the time for beginning and ending the examination or the section thereof, to prescribe such additional rules and requirements as are necessary or appropriate to the taking of the examination in the interest of the examinees or the examination process, and to take all necessary and appropriate actions to secure the integrity of the examination and the examination process, including, without limitation, excusing an applicant for the examination or changing an applicant's seating location at any time during the examination.

B. An applicant who appears for examination shall:

1. present to the chief proctor or his designated assistant proctor proof of registration for the examination and positive personal photographic identification in the form prescribed by the board; and

2. fully and promptly comply with any and all rules, procedures, instructions, directions or requests made or prescribed by the chief proctor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repromulgated by Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2531. Subversion of Examination Process

A. An applicant-examinee who engages or attempts to engage in conduct which subverts or undermines the

integrity of the examination process shall be subject to the sanctions specified in §2535 of this chapter.

B. Conduct which subverts or undermines the integrity of the examination process shall be deemed to include:

1. refusing or failing to fully and promptly comply with any rules, procedures, instructions, directions or requests made by the chief proctor or an assistant proctor.
2. removing from the examination room or rooms any of the examination materials;
3. reproducing or reconstructing, by copying, duplication, written notes or electronic recording, any portion of the licensure examination;
4. selling, distributing, buying, receiving, obtaining or having unauthorized possession of a future, current, or previously administered licensure examination;
5. communicating in any manner with any other examinee or any other person during the administration of the examination;
6. copying answers from another examinee or permitting one's answers to be copied by another examinee during the administration of the examination;
7. having in one's possession during the administration of the examination any materials or objects other than the examination materials distributed, including, without limitation, any books, notes, recording devices, or other written, printed or recorded materials or data of any kind;
8. impersonating an examinee by appearing for and as an applicant and taking the examination for, as and in the name of an applicant other than himself;
9. permitting another person to appear for and take the examination on one's behalf and in one's name; or
10. engaging in any conduct which disrupts the examination or the taking thereof by other examinees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repromulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2533. Finding of Subversion

A. When, during the administration of examination, the chief proctor or any assistant proctor has reasonable cause to believe that an applicant-examinee is engaging or attempting to engage, or has engaged or attempted to engage, in conduct which subverts or undermines the integrity of the examination process, the chief proctor shall take such action as he deems necessary or appropriate to terminate such conduct and shall report such conduct in writing to the board.

B. In the event of suspected conduct described in 2531.B.5 or 6, the subject applicant-examinee shall be permitted to complete the examination, but shall be removed at the earliest practical opportunity to a location precluding such conduct.

C. When the board, upon information provided by the chief proctor, an assistant proctor, an applicant-examinee or any other person, has probable cause to believe that an applicant has engaged or attempted to engage in conduct which subverts or undermines the integrity of the examination process, the board shall so advise the applicant in writing, setting forth the grounds for its finding of probable cause, specifying the sanctions which are mandated

or permitted for such conduct by §2535 of this subchapter and provide the applicant with an opportunity for hearing pursuant to R.S. 49:9955-58 and applicable rules of the board governing administrative hearings. Unless waived by the applicant, the board's findings of fact, conclusions of law under these rules, and its decision as to the sanctions, if any, to be imposed shall be made in writing and served upon the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repromulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2535. Sanctions for Subversion of Examination

A. An applicant who is found by the board, prior to the administration of the examination, to have engaged in conduct or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process shall be permanently disqualified from taking the examination and from licensure in the state of Louisiana.

B. An applicant-examinee who is found by the board to have engaged or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process shall be deemed to have failed the examination. Such failure shall be recorded in the official records of the board with reasons given for such failure.

C. In addition to the sanctions permitted or mandated by §2535.A and B, as to an applicant-examinee found by the board during the examination to have engaged or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process, the board may:

1. revoke licensure issued to such applicant;
2. disqualify the applicant, permanently or for a specified period of time, from eligibility for licensure in the state of Louisiana; or
3. disqualify the applicant, permanently or for a specified number of subsequent administrations of the examination, from eligibility for examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repromulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2536. Restrictions, Limitation on Examination

With respect to any written examination administered by the board the successful passage of which is a condition to any license or permit issued under this chapter, an applicant having failed to obtain a passing score upon taking any such examination four times shall not thereafter be considered eligible for licensing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 14:87 (February 1988), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:479 (May 1991), LR 25:

§2537. Passing Score, Reporting of Examination Scores

An applicant will be deemed to have successfully passed the examination if he attains a score equivalent to that required by the National Board for Respiratory Care as a

passing score; provided, however, that with respect to any given administration of the examination, the board may determine to accept a lower or higher score as passing. Applicants for licensure shall be required to authorize the National Board for Respiratory Care to release their test scores to the board each time the applicant-examinee attempts the examination according to the procedures for such notification established by the National Board for Respiratory Care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2539. Lost, Stolen or Destroyed Examinations

The submission of an application for examination by the board shall constitute and operate as an acknowledgment and agreement by the applicant that the liability of the board, its members, committees, employees and agents, and the state of Louisiana to the applicant for the loss, theft or destruction of all or any portion of an examination taken by the applicant, prior to the reporting of scores, thereon by the board or the National Board for Respiratory Care, shall be limited exclusively to the refund of the fees paid for examination by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repromulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

Subchapter E. Licensure Issuance, Termination, Renewal, Temporary Issuance and Reinstatement

§2540. Issuance of License

A. If the qualifications, requirements and procedures prescribed or incorporated by §§2507, 2509 or 2511 are met to the satisfaction of the board, the board shall issue to the applicant a license evidencing the applicant's licensure as a registered respiratory therapist or a certified respiratory therapist in the state of Louisiana.

B. A license issued by the board on the basis of examination by the board shall be issued by the board within 30 days following the reporting of the applicant's license examination scores to the board. A license issued to an applicant not required to be examined by the board shall be issued by the board within 15 days following the meeting of the board next following the date on which the applicant's application, evidencing all requisite qualifications, is completed in every respect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2541. Expiration of License

A. Every license issued by the board under this chapter to be effective on or after January 1, 1999, and each year thereafter, shall expire, and thereby become null, void and to no effect the following year on the first day of the month in which the licensee was born.

B. The timely submission of an application for renewal of a license as provided by §2543 hereof shall operate to continue the expiring license in force and effect pending the

board's issuance, or denial of issuance, of the renewal license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1218 (December 1996), LR 24:1502 (August 1998), LR 25:

§2543. Renewal of License

A. Every license issued by the board under this subchapter shall be renewed annually on or before the date of its expiration by submitting to the board an application or renewal, upon forms supplied by the board, together with the applicable renewal fee prescribed in Chapter 1 of these rules and documentation of satisfaction of the continuing professional education requirements prescribed by subchapter G of these rules.

B. Every license issued by the board under this chapter to be effective on or after January 1, 1999, shall be renewed in the year 2000, and each year thereafter, on or before the first day of the month in which the licensee was born. Renewal fees shall be prorated for the transition to birth month licensure. An application for renewal of license shall be mailed by the board to each person holding a license issued under this chapter at least 30 days prior to the expiration of the license each year. Such form shall be mailed to the most recent address of each licensed respiratory therapist as reflected in the official records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1218 (December 1996), LR 24:1502 (August 1998), LR 25:

§2545. Reinstatement of License

A. A license which has expired without renewal may be reinstated by the board if application for reinstatement is made not more than two years from the date of expiration and subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be made upon forms supplied by the board and accompanied by two letters of recommendation, one from a reputable licensed physician and one from a reputable licensed respiratory therapist with whom the applicant has been associated in the applicant's most recent place of employment, together with the applicable renewal fee, plus a penalty equal to twice the renewal fee.

C. With respect to an application for reinstatement made more than one year after the date on which the license expired, as a condition of reinstatement, the board may require that the applicant complete a statistical affidavit upon a form provided by the board, provide the board with a recent photograph, and/or possess a current, unrestricted license issued by another state, evidencing satisfaction of the requirements of Chapter 25, Subchapter G with respect to continuing professional education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR

12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1218 (December 1996), LR 25:

§2547. Temporary License

A. The board may issue a 12-month temporary license as a registered respiratory therapist or a certified respiratory therapist under the following terms and conditions.

1. To be eligible for a 12 month temporary license as a registered respiratory therapist or a certified respiratory therapist, an applicant shall:

a. be qualified for licensure under §2507.A or §2509.A, save for having taken and passed a required licensing examination;

b. have successfully completed a respiratory care educational program accredited by the Commission on Accreditation of Allied Health Education Programs or its successor, in collaboration with the Committee on Accreditation for Respiratory Care;

c. have taken, or made application to take, the required written examination and be awaiting the administration and/or reporting of scores thereon; and

d. have applied within one year of the applicant's date of graduation from an accredited respiratory care education program. Exceptions to §2547.A.1.d, may be made at the discretion of the board with the advice of the Advisory Committee, provided that such request is submitted within the initial one year period from the date of graduation.

2. A temporary license issued under this subsection shall be effective for 12 months and shall, in any event, expire and become null and void on the earlier of:

a. the date on which the board takes action on the application following notice of the applicant's scores on the licensing examination; or

b. the first date of the examination if the applicant fails to appear for or complete the examination.

3. A temporary license may be extended only once, for a 6 month period, provided the applicant submits a written request for extension to the board. All such requests for a 6 month extension will be referred to the Advisory Committee for review and recommendation to the board. The Advisory Committee or the board may require additional documents from the licensee, such as:

a. licensing examination results for all attempts;

b. evidence of having attended entry level examination review courses; or

c. proof of extenuating circumstances preventing the licensee from attempting the licensing examination.

4. A temporary license so renewed under this subsection shall be effective for not more than 6 months and shall, in any event, expire and become null and void on the earlier of:

a. the date on which the board takes action on the application following notice of the applicant's scores on the licensing examination; or

b. the first date of the examination if the applicant fails to appear for or complete the examination.

B. The board may grant a permit to practice, effective for a period of 60 days, to an applicant who has made application to the board for a license as a registered respiratory therapist, who provides satisfactory evidence of registration by the National Board for Respiratory Care

pursuant to written examination administered by the NBRC, and who is not otherwise demonstrably ineligible for licensure under §2507 of these rules. A permit issued under this subsection may not be extended or renewed beyond its initial term.

C. The board may grant a permit to practice, effective for a period of 60 days, to an applicant who has made application to the board for a license as a certified respiratory therapist, who provides satisfactory evidence of having successfully completed a respiratory care educational program approved by the Committee on Accreditation for Respiratory Care or its successor organization, and who is not otherwise demonstrably ineligible for licensure under §2509 of these rules. A permit issued under this Subsection may not be extended or renewed beyond its initial term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:271 (April 1989), LR 17:480 (May 1991), LR 19:746 (June 1993), LR 25:

Subchapter F. Advisory Committee on Respiratory Care

§2549. Organization; Authority and Responsibilities

A. The Advisory Committee on Respiratory Care (the "committee"), as established, appointed and organized pursuant to R.S. 37:3356 of the Act is hereby recognized by the board.

B. The committee shall:

1. have such authority as is accorded it by the Act;

2. function and meet as prescribed by the Act;

3. serve as a clearinghouse for nontraditional respiratory care education and training programs conducted in the state of Louisiana;

4. advise the board on issues affecting the licensing of registered and certified respiratory therapists—and on the regulation of respiratory care in the state of Louisiana;

5. perform such other functions and provide such additional advice and recommendations as may be requested by the board;

6. provide advice and recommendations to the board respecting the modification, amendment and supplementation of rules and regulations, standards, policies and procedures respecting respiratory care licensure and practice;

7. serve as liaison between and among the board, licensed respiratory therapists, and professional organizations; and

8. have authority to review and advise the board on requests for extension of temporary licenses and license reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:747 (June 1993), amended LR 25:

§2551. Delegation of Authority

A. Authority is hereby delegated to the Advisory Committee on Respiratory Care to:

1. survey, by site visit or otherwise, each hospital or other institution located in this state which is affiliated with and at which is conducted a nontraditional respiratory care

education and training program for the purpose of reporting to the board as provided by §2351.B;

2. assist the board in the review of applicant's satisfaction of continuing education requirements for renewal of licensure under this chapter as provided in §2551.D.

B. The committee shall annually report to the board, in writing, on each such nontraditional respiratory care education and training program conducted in this state and, with respect to each such program, advise the board with respect to:

1. such program's compliance with the provisions of these rules relating to the conduct of such programs;

2. the number of students enrolled and participating in such program during the preceding year;

3. the number of graduates of such program having taken the National Board of Respiratory Care entry-level examination and the number of such graduates having successfully passed such examination; and

4. any recommendations the committee may have with respect to the future conduct of such program and regulation of the same by the board.

C. In discharging the responsibilities provided for by this section, the committee shall have authority to:

1. periodically request and obtain necessary and appropriate information from hospitals or other institutions located in this state which are affiliated with and at which are conducted a nontraditional respiratory care education and training programs, from the coordinators of such program, and from students enrolled in such programs; and

2. periodically conduct visits of the hospitals or other institutions at which such programs are conducted in this state.

D. To carry out its duties of §2551.A.2, the Advisory Committee is authorized by the board to advise and assist the board in the review and approval of continuing professional education programs and licensee satisfaction of continuing professional education requirements for renewal of licensure, as prescribed by Chapter 25, Subchapter G, including the authority and responsibility to:

1. evaluate organizations and entities providing or offering to provide continuing professional education programs for all licensed respiratory therapists and provide recommendations to the board with respect to the board's recognition and approval of such organizations and entities as sponsors of qualifying continuing professional education programs and activities pursuant to §2559 of these rules; and

2. review documentation of continuing professional education by licensed respiratory therapists, verify the accuracy of such documentation, and evaluation of and make recommendations to the board with respect to whether programs and activities evidenced by applicants for renewal of licensure comply with and satisfy the standards for such programs and activities prescribed by these rules; and

3. request and obtain from applicants for renewal of licensure such additional information as the Advisory Committee may deem necessary or appropriate to enable it to make the evaluations and provide the recommendations for which the committee is responsible.

E. In discharging the functions authorized under this section the Advisory Committee and the individual members thereof shall, when acting within the scope of such authority,

be deemed agents of the board. All information obtained by the Advisory Committee members pursuant to §§2551.A.2 and D shall be considered confidential. Advisory Committee members are prohibited from communicating, disclosing or in any way releasing to anyone, other than the board, any information or documents obtained when acting as agents of the board without first obtaining written authorization from the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3351-3361, R.S. 37:1270(B)(6) and R.S. 37:3357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:747 (June 1993), amended LR 22:1219 (December 1996), LR 25:

Subchapter G. Continuing Professional Education §2553. Scope of Subchapter

The rules of this subchapter provide standards for the continuing professional education requisite to the annual renewal of licensure as a licensed respiratory therapist, as required by §2543 and §2555 of these rules, and prescribe the procedures applicable to satisfaction and documentation of continuing professional education in connection with application for renewal of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1219 (December 1996), amended LR 25:

§2555. Continuing Professional Educational Requirement

A. Subject to the exceptions specified in §2569 of this subchapter, to be eligible for renewal of licensure for 1998 and thereafter, a registered respiratory therapist or certified respiratory therapists shall, within each year during which he holds licensure, evidence and document, upon forms supplied by the board, successful completion of not less than 10 hours, or 1.0 continuing education unit (CEU) of continuing education courses sanctioned by the American Association of Respiratory Care, the Respiratory Care Advisory Committee to the board, or their successors.

B. One Continuing Education Unit (CEU) constitutes and is equivalent to 10 hours of participation in organized continuing professional education programs approved by the board and meeting the standards prescribed in this subchapter. One hour of continuing education credit is equivalent to 50 minutes of instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1219 (December 1996), amended LR 25:

§2557. Qualifying Continuing Professional Education Programs

A. To be acceptable as qualifying continuing professional education under these rules, a program shall:

1. have significant and substantial intellectual or practical content dealing principally with matters germane and relevant to the practice of respiratory care;

2. have pre-established written goals and objectives, with its primary objective being to maintain or increase the participant's competence in the practice of respiratory care;

3. be presented by persons whose knowledge and/or professional experience is appropriate and sufficient to the subject matter of the presentation and is up to date;

4. provide a system or method for verification of attendance or course completion; and

5. be a minimum of 50 continuous minutes in length.

B. Other approved continuing education activities include:

1. earning a grade of "C" or better in a college or university course required to earn a degree in cardiopulmonary science or respiratory care, or grade of "pass" in a pass/fail course. One credited semester hour will be deemed to equal 15 contact hours or 1.5 CEUs;

2. programs on advanced Cardiac Life Support (ACLS), Pediatric Advanced Life Support (PALS) or Neonatal Advanced Life Support (NALS), or their successors each of which will equal 10 contact hours;

3. successfully completing a recertification examination for the highest credential held by the registered respiratory therapist or the certified respiratory therapist including certified respiratory therapist (CRT), registered respiratory therapist (RRT), certified pulmonary function technologist (CPFT), registered pulmonary function technologist (RPFT), registered cardiovascular technologist (RCVT), and certified cardiovascular technologist (CCVT), with each such recertification examination equal to 10 contact hours;

4. initial certification as a CPFT, RPFT Perinatal/Pedi Specialist, RCVT or CCVT and each such certification will equal 10 hours;

5. any accredited home study/correspondence program approved by the American Association for Respiratory Care (AARC) or the Respiratory Care Advisory Committee;

6. any initial instructor course taken in preparation for teaching ACLS, PALS, Basic Life Support (BLS) or NALS or their successors; and

7. successful completion by a certified respiratory therapist of the advanced practitioner examination (Registry examination).

C. None of the following programs, seminars or activities shall be deemed to qualify as acceptable CEU programs under these rules:

1. any program not meeting the standards prescribed by §2557.A;

2. independent/home study correspondence programs not approved or sponsored by the AARC or the Louisiana Respiratory Care Advisory Committee;

3. in-service education provided by a sales representative;

4. teaching, training or supervisory activities not specifically included in §2557.B;

5. holding office in professional or governmental organizations, agencies or committees;

6. participation in case conferences, informal presentations, or in service activities;

7. giving or authorizing verbal or written presentations, seminars or articles or grant applications;

8. passing basic cardiac life support (BCLS); and

9. any program, presentation, seminar, or course not providing the participant an opportunity to ask questions or seek clarification of matters pertaining to the presented content.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1220 (December 1996), amended LR 25:

§2559. Approval of Program Sponsors

A. Any program, course, seminar, workshop or other activity meeting the standards prescribed by §2557 shall be deemed approved for purposes of satisfying continuing education requirements under this subchapter, if sponsored or offered by the American Association for Respiratory Care (AARC), the Louisiana Hospital Association, the Louisiana Nurses Association, the American Lung Association, the American Heart Association, the American College of Chest Physicians, the American Thoracic Society, the American Nursing Association, the American Society of Cardiovascular Professionals, the American Medical Association, the American College of Cardiology, the Louisiana Association of Cardiovascular and Pulmonary Rehabilitation, the Louisiana State Medical Society, the American Board of Cardiovascular Perfusion, the American Nursing Credentialing Center, the Society for Diagnostic Medical Sonographers, any hospital or agency belonging to the Louisiana Hospital Association, any hospital or agency accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), and Cardiovascular Credentialing International.

B. Upon the recommendation of the Advisory Committee, the board may designate additional organizations and entities whose programs, courses, seminars, workshops, or other activities shall be deemed approved by the board for purposes of qualifying as an approved continuing professional education program under §2557.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1220 (December 1996), amended LR 25:

§2561. Approval of Program

A. A continuing professional education program or activity sponsored by an organization or entity not deemed approved by the board pursuant to §2559.A may be pre-approved by the board as a program qualifying and acceptable for satisfying continuing professional education requirements under this subchapter upon written request to the board therefore, upon a form supplied by the board, providing a complete description of the nature, location, date, content and purpose of such program and such other information as the board or Advisory Committee may request to establish the compliance of such program with the standards prescribed by §2557. Any such requests for pre-approval respecting a program which makes and collects a charge for attendance shall be accompanied by a nonrefundable processing fee of \$30.00.

B. Any such written request shall be referred by the board to the Advisory Committee for its recommendation. If the recommendation is against the approval, the board shall give notice of such recommendation to the person or organization requesting approval and such person or organization may appeal to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval of any such activity shall be final. Persons and organizations requesting pre-approval of continuing professional education programs

should allow not less than 60 days for such requests to be processed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1221 (December 1996), amended LR 25:

§2563. Documentation Procedure

A. A form for annual documentation and certification of satisfaction of the continuing professional education requirements prescribed by these rules shall be mailed by the board to each licensed respiratory therapist subject to such requirements with the application for renewal of licensure form mailed by the board pursuant to §2543 of these rules. Such form shall be completed and delivered to the board with the licensee's renewal application.

B. A licensed respiratory therapist shall maintain a record or certificate of attendance for at least four years from the date of completion of the continuing education program.

C. The board or Advisory Committee shall randomly select for audit no fewer than three percent of the licensees each year for an audit of continuing education activities. In addition, the board or Advisory Committee has the right to audit any questionable documentation of activities. Verification shall be submitted within 30 days of the notification of audit. A licensee's failure to notify the board of a change of mailing address will not absolve the licensee from the audit requirement.

D. Any certification of continuing professional education not presumptively approved by the board pursuant to these rules, or pre-approved by the board in writing, shall be referred to the Advisory Committee for its evaluation and recommendations pursuant to §2551.D.1.

E. If the Advisory Committee determines that a program or activity certified by an applicant for renewal in satisfaction of continuing education requirements does not qualify for recognition by the board or does not qualify for the number of CEU's claimed by the applicant, the board shall give notice of such determination to the applicant for renewal and the applicant may appeal the Advisory Committee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval and recognition of such program or activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1221 (December 1996), amended LR 25:

§2565. Failure to Satisfy Continuing Professional Education Requirements

A. An applicant for renewal of licensure who fails to evidence satisfaction of the continuing professional education requirements prescribed by these rules shall be given written notice of such failure by the board. The license of the applicant shall remain in full force and effect for a period of 90 days following the mailing of such notice, following which it shall be deemed expired, unrenewed and subject to revocation without further notice, unless the applicant shall have, within 90 days, furnished the board satisfactory evidence, by affidavit, that:

1. the applicant has satisfied the applicable continuing professional education requirements;

2. the applicant is exempt from such requirements pursuant to these rules; or

3. the applicant's failure to satisfy the continuing professional education requirements was occasioned by disability, illness or other good cause as may be determined by the board pursuant to §2567.

B. The license of a registered respiratory therapist or a certified respiratory therapist whose license has expired by nonrenewal or has been revoked for failure to satisfy the continuing professional education requirements of these rules may be reinstated by the board upon written application to the board accompanied by payment of a reinstatement fee, in addition to all other applicable fees and costs of \$50, together with documentation and certification that the applicant has, for each calendar year since the date on which the applicant's license lapsed, expired, or was revoked, completed an aggregate of 10 contact hours (1.0 CEU) of qualifying continuing professional education.

C. Any licensee who falsely certifies attendance and/or completion of the required continuing education requirement will be subject to disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1221 (December 1996), amended LR 24:1502 (August 1998), LR 25:

§2567. Waiver of Requirements

The board may, in its discretion upon the recommendation of the Advisory Committee, waive all or part of the continuing professional education required by these rules in favor of a certified respiratory therapist or a registered respiratory therapist who makes written requests for such waiver to the board and evidences to the satisfaction of the board a permanent physical disability, illness, financial hardship or other similar extenuating circumstances precluding the individual's satisfaction of continuing professional education requirements. Any licensed respiratory therapist submitting a CEU waiver request is required to do so on or before the date specified for the renewal of the licensee's license by §2543. Any request received by the Board past the date for the renewal of the licensee's licensure will not be considered for waiver but, rather, in accordance with the provisions of §2565.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1222 (December 1996), amended LR 25:

§2569. Exceptions to the Continuing Professional Education Requirements

The continuing professional education requirements prescribed by this subchapter as requisite to renewal of licensure shall not be applicable to:

1. a registered respiratory therapist or a certified respiratory therapist employed exclusively by, or at an institution operated by the United States Government; or

2. a registered respiratory therapist or a certified respiratory therapist who has held an initial Louisiana license on the basis of examination for less than one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1222 (December 1996), amended LR 25:

Chapter 55. Respiratory Therapists

Subchapter A. General Provisions

§5501. Scope of Chapter

The rules of this Chapter govern the practice of respiratory care in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§5503. General Definitions

A. As used in this Chapter, unless the context clearly states otherwise, the following terms and phrases shall have the meanings specified:

Applicant—a person who has applied to the board for licensure as a licensed registered respiratory therapist or a licensed certified respiratory therapist.

Board—the Louisiana State Board of Medical Examiners.

Certified Respiratory Therapist—also known as Certified Respiratory Therapy Technician, prior to July 1, 1999, means one who has successfully completed the entry level examination or its successor administered by the National Board for Respiratory Care.

Course of Study—an accredited, recognized or approved program which leads to a degree or certification of completion within four years, enabling a student to be eligible for registry or certification in respiratory care.

Good Moral Character—as applied to an applicant, means that an applicant has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition or circumstance which would provide legal cause under R.S. 37:3358 for the denial, suspension or revocation of respiratory care licensure; the applicant has not, prior to or in connection with his application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to material fact or omits to state any fact or matter that is material to the application; and the applicant has not made any representation or failed to make a representation or engaged in any act or omission which is false, deceptive, fraudulent or misleading in achieving or obtaining any of the qualifications for a license required by Subpart 2 of these rules.

License—the lawful authority of a registered respiratory therapist or a certified respiratory therapist to engage in the health specialty of respiratory therapy in the state of Louisiana, as evidenced by a license duly issued by and under the official seal of the board.

Licensed Respiratory Therapist—a person who is licensed by the board and has the lawful authority to engage in the practice of respiratory care in the state of Louisiana, only under the qualified medical direction and supervision of a licensed physician, as evidenced by certificate duly issued by and under the official seal of the board. The term "licensed respiratory therapist" shall signify both certified respiratory therapist and registered respiratory therapist.

Medical Gases—gases commonly used in a respiratory care department in the calibration of respiratory care equipment (nitrogen, oxygen, compressed air and carbon dioxide), in the diagnostic evaluation of diseases (carbon monoxide, nitrogen, carbon dioxide, helium and oxygen)

and in the therapeutic management of diseases (nitrogen, carbon dioxide, helium, oxygen and compressed air).

National Board for Respiratory Care—the official credentialing board of the profession or its successor.

Physician—a person who is currently licensed by the board to practice medicine in the state of Louisiana.

Registered Respiratory Therapist—one who has successfully completed the Advanced Practitioner Examination or its successor administered by the National Board for Respiratory Care.

Respiratory Care—the allied health specialty practiced under the direction, supervision and approval of a licensed physician involving the treatment, testing, monitoring, and care of persons with deficiencies and abnormalities of the cardiopulmonary system. Such therapy includes, but is not limited to, the following activities conducted upon written prescription or verbal order of a physician and under his supervision:

a. application and monitoring of oxygen, ventilatory therapy, bronchial hygiene therapy, cardiopulmonary rehabilitation and resuscitation;

b. insertion and care of airways as ordered by a physician;

c. institution of any type of physiologic monitoring applicable to respiratory care.

d. administration of drugs and medications commonly used in respiratory care that have been prescribed by a physician to be administered by qualified respiratory care personnel;

e. initiation of treatment changes and testing techniques required for the implementation of respiratory care protocols as directed by a physician;

f. administration of medical gases and environmental control systems and their apparatus;

g. administration of humidity and aerosol therapy;

h. application of chest physiotherapy;

i. the institution of known and physician-approved patient driven protocols relating to respiratory care under physician approval in emergency situations in the absence of immediate direction by a physician;

j. application of specific procedures and diagnostic testing as ordered by the physician to assist in diagnosis, monitoring, treatment, and research, including those procedures required and directed by the physician for the drawing of blood samples to determine acid-base status and blood gas values, the collection of sputum for analysis of body fluids, the measurement of cardiopulmonary functions as commonly performed in respiratory therapy, and the starting of intravenous lines for the purpose of administering fluids as pertinent to the practice of respiratory care under the supervision of a licensed physician;

k. supervision of other respiratory therapy personnel; and

l. transcription and implementation of the written and verbal orders of a physician.

Respiratory Therapy Practice Act or the Act—Acts 1985, Number 408, as amended, R.S. 37:3351-3361;

United States Government—any department, agency or bureau of the United States Armed Forces or Veterans Administration.

B. Respiratory care shall also include teaching patient and family respiratory care procedures as part of a patient's

ongoing program and consultation services or for health, educational, and community agencies under the order of a licensed physician.

C. Masculine terms wherever used in this chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:747 (June 1993), LR 25:

Subchapter B. Unauthorized Practice, Exemptions, and Prohibitions

§5505. Unauthorized Practice

A. No person shall engage in the practice of respiratory care in the state of Louisiana unless he has in his possession a current license or temporary license duly issued by the board under Subpart 2 of these rules.

B. No person shall hold himself out to the public, an individual patient, a physician, dentist or podiatrist, or to any insurer or indemnity company or association or governmental authority as a registered respiratory therapist or certified respiratory therapist, nor shall he directly or indirectly identify or designate himself as a respiratory therapist or licensed respiratory therapist, nor use in connection with his name the letters "LRT" (Licensed Respiratory Therapist), "LCT" (Licensed Certified Therapist), or any other words, letters, abbreviations, insignia, or signs tending to indicate or imply that the person is a registered respiratory therapist or a certified respiratory therapist or that the services provided by such person constitute respiratory care, unless such person possesses a current license or temporary license duly issued by the board under Subpart 2 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:747 (June 1993), LR 25:

§5507. Exemptions

A. The prohibitions of §5505 of this Chapter shall not apply to a person employed exclusively by, or at an institution operated by the United States Government when acting within the course and scope of such employment.

B. The prohibitions of §5505 of this Chapter shall not apply to a person acting under and within the scope of a license issued by another licensing agency of the state of Louisiana.

C. The prohibitions of §5505 of this chapter shall not apply to a person pursuing a "course of study" leading to registry or certification in respiratory care at an institution whose program is accredited, recognized or approved by an agency recognized by the Commission on Accreditation of Allied Health Education Programs and approved by the Louisiana State Board of Medical Examiners and who is designated by a title which clearly indicates his status as a student.

D. The prohibitions of §5507 of this Chapter shall not apply to a person not licensed as a respiratory therapist or in accordance with the provisions of these rules but who may

be employed in a pulmonary laboratory or physician's office to administer treatment confined to that laboratory or office under the direction and immediate supervision of a licensed physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended, by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§5509. Prohibitions

A. A licensed respiratory therapist shall not:

1. undertake to perform or actually perform any activities as described in §5503, definition or "Respiratory care," except under the written prescription or verbal order of a physician and under his supervision;

2. administer any drugs or medications except as dispensed by a pharmacist and prescribed by a physician or dispensed by a physician; or

3. perform any surgical incisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

Subchapter C. Supervision of Students

§5511. Scope of Subchapter

The rules of this Subchapter prescribe certain restrictions on and requirements for supervision of students pursuing a "course of study" as that term is defined in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repromulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§5515. Supervision of Student

A. A person pursuant to a "course of study" leading to registry or certification in respiratory care shall engage in the practice of respiratory care only under the supervision of a licensed respiratory therapist or a physician who actively practices respiratory care, as provided in this Section.

B. A licensed respiratory therapist or a physician who undertakes to supervise a student shall:

1. undertake to concurrently supervise not more than four students;

2. personally evaluate every patient prior to the provision of any respiratory care treatment or procedure by a student;

3. assign to a student only such respiratory care measures, treatments, procedures and functions as such licensed respiratory therapist or physician has documented that the student by education and training is capable of performing safely and effectively;

4. provide continuous and immediate on-premises direction to and supervision of a student and be readily available at all times to provide advice, instruction, and assistance to the student and to the patient during respiratory care treatment given by a student;

5. not permit a student to perform any invasive procedure or any life-sustaining or critical respiratory care, including therapeutic, diagnostic or palliative procedures, except under the direct and immediate supervision, and in

the physical presence of, the supervising therapist and/or physician; and

6. provide and perform periodic evaluation of every patient administered to by a student and make modifications and adjustments in the patient's respiratory care treatment plan, including those portions of the treatment plan assigned to the student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:748 (June 1993), LR 25:

Subchapter D. Grounds for Administrative Action

§5517. Causes for Administrative Action

The board may refuse to issue or renew, or may suspend, revoke or impose probationary conditions and restrictions on the license or temporary license of any registered respiratory therapist or certified respiratory therapist, if the licensee or applicant for license has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:886 (September 1991), LR 25:

§5519. Causes for Action; Definitions; Unprofessional Conduct

A. As used herein and in R.S. 37:3358, "unprofessional conduct" by a registered respiratory therapist or a certified respiratory therapist shall mean:

1. conviction of a crime or entry of a plea of guilty or *nolo contendere* to a criminal charge constituting a felony under the laws of the state of Louisiana, of the United States or of the state in which such conviction or plea was entered;

2. conviction of a crime or entry of a plea of guilty or *nolo contendere* to any criminal charge arising out of or in connection with the practice of respiratory care;

3. perjury, fraud, deceit, misrepresentation or concealment of material facts in obtaining a license to practice respiratory care;

4. providing false testimony before the board or providing false sworn information to the board;

5. habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system and which are capable of inducing physiological or psychological dependence;

6. solicitation of patients or self-promotion through advertising or communication, public or private, which is fraudulent, false, deceptive or misleading;

7. making or submitting false, deceptive or unfounded claims, reports or opinions to any patient, insurance company or indemnity association, company, individual, or governmental authority for the purpose of obtaining anything of economic value;

8. cognitive or clinical incompetence;

9. continuing or recurring practice which fails to satisfy the prevailing and usually accepted standards of respiratory care practice in this state;

10. knowingly performing any act which in any way assists an unlicensed person to practice respiratory care, or having professional connection with or lending one's name to an illegal practitioner;

11. paying or giving anything of economic value to another person, firm or corporation to induce the referral of patients to the registered respiratory therapist or certified respiratory therapist;

12. interdiction by due process of law;

13. inability to practice respiratory care with reasonable competence, skill or safety to patients because of mental or physical illness, condition or deficiency, including but not limited to deterioration through the aging process and excessive use or abuse of drugs, including alcohol;

14. refusal to submit to examination and inquiry by an examining committee of physicians appointed by the board to inquire into the licensee's physical and/or mental fitness and ability to practice respiratory care with reasonable skill or safety to patients;

15. practicing or otherwise engaging in any conduct or functions beyond the scope of respiratory care as defined by the Act or these rules;

16. the refusal of the licensing authority of another state to issue or renew a license, permit, or certificate to practice respiratory care in that state or the revocation, suspension or other restriction imposed on a license, permit, or certificate issued by such licensing authority which prevents, restricts or conditions practice in that state, or the surrender of a license, permit or certificate issued by another state when criminal or administrative charges are pending or threatened against the holder of such license, permit or certificate;

17. violation of the code of ethics adopted and published by the American Association for Respiratory Care;

18. demonstrating a lack of "good moral character" as defined in §5503.A; or

19. violation of any rules and regulations of the board, or any provisions of the Act, as amended, R.S. 37:3351-3361.

B. Denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a licensee may be ordered by the board in a decision made after a hearing in accordance with the Administrative Procedure Act and the applicable rules and regulations of the board. One year after the date of the revocation of a license, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement but shall hold a hearing to consider such reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:886 (September 1991), LR :25:

Inquiries concerning the proposed amendments may be directed in writing to: Delmar Rorison, Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

Interested persons may submit data, views, argument, information or comments on the proposed rule amendments,

in writing, to the Louisiana State Board of Medical Examiners, at Post Office Box 302050, New Orleans, Louisiana, 70191-0250 (630 Camp Street, New Orleans, Louisiana 70130). Written comments must be submitted to and received by the Board within 60 days from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the Board within 20 days of the date of this notice.

Delmar Rorison
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**
**RULE TITLE: Respiratory Therapists—Licensing and
Practice**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is not anticipated that the proposed rule amendments will result in any additional costs to the Board of Medical Examiners aside from those costs associated with publication in the *Louisiana Register*, which we estimate to be approximately \$3,800.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is not anticipated that the proposed rule amendments will have any effect on the Board's revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

It is not anticipated that the proposed rule amendments will have any adverse costs and/or economic impact on the affected licensees.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

It is not anticipated that the proposed rules will have any significant impact on competition or employment in either the public or private sector.

Delmar Rorison
Executive Director
9907#007

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary**

Employee Drug Testing Policy

The Department of Health and Hospitals, Office of the Secretary, proposes to adopt the following rule in accordance with R.S. 49:1015.

The employees of the state of Louisiana are among the state's most valuable resources, and the physical and mental well-being of these employees is necessary for them to properly carry out their responsibilities. Substance abuse causes serious adverse consequences to users, impacting on their productivity, health and safety, dependents, and co-workers, as well as the general public.

The State of Louisiana has a long-standing commitment to working toward a drug-free workplace. In order to curb the use of illegal drugs by employees of the state of Louisiana, the Louisiana legislature enacted laws (R.S. 49:1015) which provide for the creation and implementation of drug testing programs for public employees. Further, the Governor of the state of Louisiana issued Executive Order MJF 98-38 providing for the promulgation by executive agencies of written policies mandating drug testing of employees, appointees, prospective employees and prospective appointees, pursuant to Louisiana Revised Statute 49:1001 et seq.

The Department of Health and Hospitals (DHH) fully supports these efforts and is committed to a drug-free workplace.

Proposed Rule

I. Applicability

To assure maintenance of a drug-free workforce, it shall be the policy of DHH to implement a program of drug testing, in accordance with Executive Order No. MJF 98-38, R.S. 49:1001, et seq., and all other applicable federal and state laws, as set forth below. This policy shall apply to all employees of DHH including appointees and all other persons having an employment relationship with this agency. Each prospective employee shall be required to submit to drug screening. Pursuant to R.S. 49:1008, a prospective employee who tests positive for the presence of drugs in the initial screening shall be eliminated from consideration for employment.

Drug testing pursuant to this policy shall be conducted for the presence of cannabinoids (marijuana metabolites), cocaine metabolites, opiate metabolites, phencyclidine, and amphetamines in accordance with the provisions of R.S. 49:1001, et seq. DHH reserves the right to test its employees for the presence of any other illegal drug or controlled substance when there is reasonable suspicion to do so.

II. Definitions

Controlled Substance—a drug, chemical substance or immediate precursor in Schedules I through V of R.S. 40:964 or Section 202 of the Controlled Substances Act (21 U.S.C. 812).

Designer (Synthetic) Drugs—those chemical substances that are made in clandestine laboratories where the molecular structure of both legal and illegal drugs is altered to create a drug that is not explicitly banned by federal law.

Employee—unclassified, classified, and student employees, student interns, and any other person having an employment relationship with the agency, regardless of the appointment type (e.g. full time, part time, temporary, etc.).

Illegal Drug—any drug which is not legally obtainable or which has not been legally obtained, to include prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes or being used by one other than the person for whom prescribed.

Reasonable Suspicion—belief based upon reliable, objective and articulable facts derived from direct observation of specific physical, behavioral, odorous presence, or performance indicators and being of sufficient import and quantity to lead a prudent person to suspect that an employee is in violation of this policy.

Safety-Sensitive or Security-Sensitive Position—a position determined by the Appointing Authority to contain duties of

such nature that the compelling State interest to keep the incumbent drug-free outweighs the employee's privacy interests. A list of such positions within DHH is maintained by the DHH Human Resource Director. The list was determined with consideration of statutory law, jurisprudence, the practices of this agency and the examples of safety-sensitive and security-sensitive positions provided in the model policy document issued by the Division of Administration.

Under the Influence—for the purposes of this policy, a drug, chemical substance, or the combination of a drug, chemical substance that affects an employee in any detectable manner. The symptoms or influence are not confined to that consistent with misbehavior, nor to obvious impairment of physical or mental ability, such as slurred speech or difficulty in maintaining balance. A determination of influence can be established by a professional opinion or a scientifically valid test.

Workplace—any location on agency property including all property, offices and facilities (including all vehicles and equipment) whether owned, leased or otherwise used by the agency or by an employee on behalf of the agency in the conduct of its business in addition to any location from which an individual conducts agency business while such business is being conducted.

III. Policy Provisions

A. General Provisions

It shall be the policy of DHH to maintain a drug-free workplace and a workforce free of substance abuse. Employees are prohibited from reporting for work or performing work for DHH with the presence in their bodies of illegal drugs, controlled substances, or designer (synthetic) drugs at or above the initial testing levels and confirmatory testing levels as established in the contract between the State of Louisiana and the official provider of drug testing services. Employees are further prohibited from the illegal use, possession, dispensation, distribution, manufacture, or sale of controlled substances, designer (synthetic) drugs, and illegal drugs at the work site and while on official state business, on duty or on call for duty.

B. Conditions Requiring Drug Tests

1. DHH shall require drug testing under the following conditions. The Human Resource Director shall be involved in any determination that one of the above-named conditions requiring drug-testing exists.

a. Reasonable Suspicion. Any employee shall be required to submit to a drug test if there is reasonable suspicion (as defined in this policy) that the employee is using drugs.

b. Post-accident. Each employee involved in an accident that occurs during the course and scope of employment shall be required to submit to a drug test if the accident a) involves circumstances leading to a reasonable suspicion of the employee's drug use, b) results in a fatality, or c) results in or causes the release of hazardous waste as defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5).

c. Rehabilitation Monitoring. Any employee who is participating in a substance abuse after-treatment program or who has a rehabilitation agreement with the agency following an incident involving substance abuse shall be required to submit to random drug testing.

d. Pre-employment. Each prospective employee shall be required to submit to drug screening at the time and place designated by the DHH Security Coordinator, (the person within DHH responsible for administering the drug testing program) following a job offer contingent upon a negative drug-testing result. Pursuant to R.S. 49:1008, a prospective employee who tests positive for the presence of drugs in the initial screening shall be eliminated from consideration for employment.

e. Safety-Sensitive and Security-Sensitive Positions - Appointments and Promotions. Each employee who is offered a safety-sensitive or security-sensitive position (as defined in this policy) shall be required to pass a drug test before being placed in such position, whether through appointment or promotion.

f. Safety-Sensitive and Security-Sensitive Positions - Random Testing. Every employee in a safety-sensitive or security-sensitive position shall be required to submit to drug testing as required by the Appointing Authority, who shall periodically call for a sample of such employees, selected at random by a computer-generated random selection process, and require them to report for testing. All such testing shall, if practicable, occur during the selected employee's work schedule.

C. Confidentiality

All information, interviews, reports, statements, memoranda, and/or test results received by DHH through its drug testing program are confidential communications, pursuant to R.S. 49:1012, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug use by the tested individual is relevant.

D. Responsibility

The Secretary is responsible for the overall compliance with this policy and shall submit to the Office of the Governor, through the Commissioner of Administration, a report on this policy and drug testing program, describing progress, the number of employees affected, the categories of testing being conducted, the associated costs of testing, and the effectiveness of the program by November 1 of each year.

E. Violations

Violation of this policy, including refusal to submit to drug testing when properly ordered to do so, may result in disciplinary actions up to and including termination of employment. Each violation and alleged violation of this policy will be handled on an individual basis, taking into account all data, including the risk to self, fellow employees, and the general public.

Interested persons may present their views, in writing by 4:30 P.M. on August 31, 1999, to Ms. Nancy Fleming, Human Resource Director, Department of Health and Hospitals, Post Office Box 1349, Baton Rouge, LA 70821. She is responsible for answering any inquiries regarding this proposed rule.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Employee Drug Testing Policy

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated implementation costs for this proposed rule is as follows: \$218,450 for SFY 99/00, \$218,350 for SFY 00/01, and \$218,350 for SFY 01/02. The first year cost includes \$100 to pay for publishing the rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated increase or decrease in revenues. The federal government has indicated that they will not participate in this program. Therefore, all of the costs will be state general funds.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated that 3,484 new hires and 5,250 current employees will be tested. The Department is not responsible for any treatment that would be incurred due to implementation of the rule. There is an economic gain in the private sector to the extent that the rule provides for collections and testing as well as any treatment that may occur.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The impact is minimal. Once the rule is in place and all employees and potential employees are aware of the rule, the number of employees and potential employees failing the test will be minimal. It is doubtful that any staff shortage or employment opportunities will be created by this rule.

David W. Hood
Secretary
9907#032

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Inpatient Hospital Reimbursement—
Medicare Part A Claims**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq. This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides reimbursement for full co-insurance and deductibles for Medicare Part A claims for inpatient hospital services. Section 1902(a)(10) of the Social Security Act provides flexibility to States in the payment of Medicare cost-sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies States' flexibility in complying with the requirements to pay Medicare cost-sharing for QMBs and the protections against payment liability for this group of beneficiaries. Section 4714 states

that "a State is not required to provide any payment for any expenses incurred relating to payment for deductibles, co-insurance, or co-payments for Medicare cost-sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the State plan under this title for service if provided to an eligible recipient other than a Medicare beneficiary."

When a State's Medicaid rate for a Medicare covered item or service is the same as or less than Medicare's payment, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan is considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

Act 10 of the 1999 Regular Session of the Louisiana Legislature contains provisions limiting the payment of crossover claims for inpatient hospital services rendered to dually eligible Medicare/Medicaid recipients effective July 1, 1999. In accordance with this legislation, the Bureau proposes to adopt the following rule to limit the reimbursement for inpatient hospital services provided to dually eligible Medicare/Medicaid recipients to the Medicaid maximum payment. The effective date for this proposed rule July 1, 2000. However, the Medicaid reimbursement for inpatient hospital services rendered in small rural hospitals, as defined in state law, shall consist of payment of co-insurance and deductibles to bring total reimbursement up to the Medicare maximum payment.

Proposed Rule

The Department of Health and Hospitals, Bureau of Health Services Financing limits the Medicaid reimbursement for inpatient hospital services rendered to dually eligible Medicare/Medicaid recipients and Qualified Medicare Beneficiaries except those receiving services in a small rural hospital to the Medicaid maximum payment. Small rural hospitals, as defined in state law, are exempt from this limitation to the Medicaid maximum payment on payment of Medicare Part A claims for inpatient hospital services. This rule is adopted pursuant to Act 10 of the 1999 Regular Session of the Louisiana Legislature which contains provisions limiting the payment of crossover claims for inpatient hospital services rendered to dually eligible Medicare/Medicaid recipients effective July 1, 1999. The effective date for this rule is July 1, 2000.

If the Medicaid payment is reduced or eliminated as a result of applying the limit of the Medicaid maximum payment, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) is considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

Implementation of this rule is subject to approval by the Health Care Financing Administration (HCFA) as required for all Title XIX policy changes. If disapproved by HCFA, the policy prior to this change will remain in effect.

Interested persons may submit comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule is scheduled for Friday, August 27, 1999 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Inpatient Hospitals Reimbursement— Medicare Part A Claims**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce state program costs by approximately (\$6,926,707) for SFY 2000-2001, (\$7,134,591) for SFY 2001-2002, and (\$7,348,629) for SFY 2002-2003. Included in SFY 2000-2001 is \$160 (\$80 SGF and \$80 FED) for the state's administrative expense of promulgating this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce federal revenue collections by approximately (\$16,419,231) for SFY 2000-2001, (\$16,911,890) for SFY 2001-2002, and (\$17,419,247) for SFY 2002-2003.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Hospitals shall receive a reduction in reimbursement for Medicare Part A claims for inpatient services. Small rural hospitals shall be exempt from this limitation. This proposed rule will result in a cost avoidance of approximately (\$23,346,098) for SFY 2000-2001, (\$24,046,481) for SFY 2001-2002, and (\$24,767,876) for SFY 2002-2003.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9907#051

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Minimum Licensure Standards for Hospices
(LAC 48:I.Chapter 82)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend the following rule governing the licensure and regulation of Hospice Agencies as authorized by R.S. 40:2181-2191 and in

accordance with R.S. 49:953B(1) et seq., the Administrative Procedure Act. Act 941 of the 1988 Regular Session of the Legislature enacted R.S. 40:2181-2191 relative to hospices. This measure provided for the licensing and regulation of all Hospices operating in the state of Louisiana, and empowered the Department to adopt rules and regulations consistent with Medicare Hospice guidelines to carry out the provisions of the Act. Effective December 20, 1998 the Department adopted a rule revising the regulations governing licensing of hospice agencies (*Louisiana Register*, Volume 24, No. 12).

The Department has determined that it is necessary to amend the promulgated regulations governing licensing of hospice agencies in order to reduce the negative impact upon operations of existing licensed providers without diminishing the quality of patient care. Therefore, the Department proposes to adopt the following amendments to the minimum licensure standards for Hospices.

Title 48

PUBLIC HEALTH - GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 82. Minimum Standards for Licensing of Hospice Agencies

§8203. Licensing

A. Except to the extent required by §8205A(1), it shall be unlawful to operate or maintain a hospice without first obtaining a license from the department. The Department of Health and Hospitals is the only licensing authority for hospice in the State of Louisiana.

B. - D. ...

E. Initial Licensure. All requirements of the application process must be completed by the applicant before the application will be processed by DHH.

1. No application will be reviewed until payment of the application fee.

E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended LR 24:2257 (December 1998), LR 25:

§8205. Survey

A. Initial Survey. An initial on-site survey will be conducted to assure compliance with all hospice minimum standards.

1. Within 90 days after submitting its application and fee, the hospice must complete the application process, must become operational to the extent of providing care to two and only two patients, must be in substantial compliance with applicable federal, state, and local laws, and must be prepared for the initial survey. If the applicant fails to meet this deadline, the application shall be considered closed and the agency shall be required to submit a new application packet including the license application fee.

2. The initial survey will be scheduled after the agency notifies the department that the agency has become operational and is ready for the survey as provided in §8205A(1). In cases of a vast number of requests for surveys by different applicants, agencies will be surveyed according to the date the request is received by DHH.

3. If, at the initial licensure survey, the agency is in substantial compliance with all regulations, a Full license will be issued.

4. If, at the initial licensure survey, an agency has five or fewer violations of hospice minimum standards in an area other than personnel qualifications and/or patient care, the agency shall submit an acceptable plan of correction within ten (10) days from receipt of the Statement of Deficiencies. A follow-up survey may be conducted to assure compliance.

5. If, at the initial licensure survey, an agency has more than five violations of any minimum standards or if the violations are determined to be of such a serious nature that they may cause or have the potential to cause actual harm, DHH shall deny licensure and the agency may not re-apply for a period of two years from the date of the survey.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended LR 24:2257 (December 1998), LR 25:

§8217. Personnel Qualifications/Responsibilities

A. ...

A.1. Qualifications. The administrator must be a licensed physician, a licensed registered nurse, a social worker with a masters degree, or a college graduate with a bachelor's degree, and must have at least three years of documented management experience in health care service delivery. However, a person who was employed by a licensed Louisiana hospice as the administrator as of December 20, 1998 shall be exempt from these requirements as long as he/she remains employed by that hospice as the administrator.

A.2. - N.2.c. ...

O. Registered Nurse (RN). The hospice must designate a registered nurse to coordinate the implementation of the POC for each patient.

1. Qualifications. A licensed registered nurse must:

a. be currently licensed to practice in the State of Louisiana with no restrictions;

b. have at least two years' full time experience as a registered nurse (however, a person who was employed by a hospice as a registered nurse as of December 20, 1998 shall be exempt from this requirement as long as he/she remains employed by that hospice as a registered nurse); and

c. be an employee of the hospice. If the registered nurse is employed by more than one agency, he or she must inform all employers and coordinate duties to assure quality service provision.

O.2. - Q.3.p. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended LR 24:2257 (December 1998), LR 25:

§8241. Branch Offices

A. ...

B. No branch office may be opened unless the parent office has had full licensure for at least the immediately preceding 12 months and has a current census of at least 10 active patients.

C. - I.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended LR 24:2257 (December 1998), LR 25:

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P. O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Friday, August 27, 1999 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Minimum Licensure Standards for Hospices

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of this proposed rule will not result in an increase or decrease in state programmatic costs. However, \$200 (\$100 SGF and \$100 FED) will be incurred in SFY 1999 for the state's administrative expense of promulgating this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule will have no known effect upon revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There may be economic benefits to those employees who will continue in their current jobs as a result of the proposed changes. These employees will not be required to attend school and/or acquire work experience to meet the qualifications for their current job.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is estimated that employees currently in jobs will remain in their current jobs with the adoption of the proposed rule.

Thomas D. Collins
Director
9907#042

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Minimum Standards/Requirements for Substance Abuse/Addiction Treatment Facilities/Programs (LAC 48:I.Chapter 74)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule governing the requirements for licensing Substance Abuse/Addiction Treatment Facilities/Programs as authorized by R.S. 40:1058.1 through 40:1058.9 and in accordance with the Administrative Procedure Act R.S. 49:950 et seq.

Act 1000 of the 1997 Regular Session of the Legislature authorized the Department of Health and Hospitals to promulgate rules in accordance with Louisiana R.S. 40:1058.2. These written rules are the Minimum Licensure Standards for Substance Abuse/ Addiction Treatment Facilities. Any facility that presents itself to the public as a provider of services related to the abuse/addiction of controlled dangerous substances, drugs or inhalants, alcohol, problem and compulsive gambling, or a combination of the above is required to have a valid and current license prior to admitting any client. Therefore, the Bureau proposes to adopt the following licensure standards for all substance abuse/addiction treatment facilities/programs in the State.

Any facility licensed as of the date that the final rule is published adopting the following standards shall be required to meet the standards described in this rule one year from adoption of the final rule. All facilities licensed after the final rule is published will be required to meet all licensure standards in this rule prior to receiving a license. All previous rules are hereby repealed, including the standards manual comprising the Minimum Standards for Licensing Alcoholism and Drug Abuse/Substance Abuse Programs in its entirety as published in January 1977 and January 1986. The Minimum Standards for Substance Abuse/Addiction Treatment Facilities/Programs are promulgated in the Louisiana Administrative Code format and supersedes all manuals and rules previously adopted.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule governing the requirements for licensing Substance Abuse/Addiction Treatment Facilities/Programs. All previous rules are hereby repealed and this rule shall replace and supersede rules previously adopted.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 74. Minimum Standards/Requirements for Abuse/Addiction Treatment Facilities/Programs

§7401. Definitions and Acronyms

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly states otherwise.

AADD—abuse/addiction disease/disorder

Abuse—any act or failure to act that caused or may have caused injury to a client knowingly, recklessly, or intentionally, including incitement to act. Injury may include, but is not limited to: physical injury, mental disorientation, or emotional harm, whether it is caused by physical action or verbal statement.

Adequate/Sufficient—reasonable, enough: e.g., personnel to meet the needs of the clients currently in the enrolled in a specific program.

Adolescent—an individual between the ages of 13 and 17 inclusive who has not been emancipated by marriage or judicial decree.

Advertise—to solicit or induce to purchase the services provided by a treatment facility.

Adult—an individual 18 years of age or older, or an individual under the age of 18 who has been emancipated by marriage or judicial decree. Persons aged 16 and above may voluntarily seek and receive substance abuse services without parental consent.

Assessment—core function of substance abuse counseling in which a counselor/program identifies and evaluates an individual's strengths, weaknesses, problems, and needs for the development of the treatment plan.

"At Risk"—identification by OAD of greater potential for the use/abuse of alcohol and other drugs.

ATOD—alcohol, tobacco, and other drugs.

Board(s)—entities responsible for licensure/certification for specific professions (e.g., nursing, counselors, social workers, physicians, etc.). State of Louisiana Boards are the only accepted credentialing organizations for all personnel.

Branch—off-site operation, either autonomous or semi-autonomous, that operates 24 hours or less per week.

Case Management—core function of substance abuse counseling in which services, agencies, resources, or people are brought together within a planned framework of action toward the achievement of established goals. It may involve liaison activities and collateral contracts with other providers/facilities.

Client Education—core function of substance abuse counseling in which information is provided to individuals

and groups concerning alcoholism and other drug abuse, positive lifestyle changes, and the available services and resources.

Client Orientation—core function of substance abuse counseling in which the client is informed regarding: (1) general nature and goals of the program, (2) rules governing client conduct and infractions that can lead to disciplinary action or discharge from the program, (3) availability of services, (4) costs, and (5) client's rights.

Client/Patient/Consumer—any person assigned or accepted for prevention or treatment services furnished by a licensed facility as specified.

Compulsive Gambling—persistent and recurrent maladaptive gambling behavior that disrupts personal, family, community, or vocational pursuits, and so designated by the court, or diagnosed by a licensed physician.

Consultation—professional oversight, advice, or services provided under contract.

Consultation with Professionals—core function of substance abuse counseling in which functional relationship with counselors and other credentialed health care professionals is provided as required to assure comprehensive quality care for the client.

Core Functions—essential and necessary elements required of every abuse/addiction treatment facility. Core functions are: Screening, Intake, Orientation, Assessment, Treatment Planning, Counseling, Case Management, Crisis Intervention, Client Education, Referral, Reports and Record Keeping, and Consultation with Professionals.

Counseling (Individual/Group) Services—core function of substance abuse counseling in which appropriate support is provided to the client by those professionals qualified to provide therapeutic services. Special skills are used to assist individuals, families, or groups in achieving objectives through: (1) exploration of a problem and its ramifications, (2) examination of attitudes and feelings, (3) consideration of alternative solutions, and (4) decision making and problem solving.

Counselor—qualified professional as described in this document.

Counselor in Training (CIT)—a person currently registered with LSBCSAC board and pursuing a course of training in substance abuse counseling including educational hours, practicum hours, and direct, on-site supervision of work experience hours by a facility-employed QPS/QPC.

Crisis Intervention Services—core function of substance abuse counseling in which appropriate assistance during emergencies including 24 hour telephone coverage by qualified counselor to provide telephone assistance to prevent relapse, to provide referral to other services, and to provide support during related crises. Facilities may have written contract with another facility to provide coverage only if the caller is automatically transferred or given directions to reach professional assistance, or receive a call from a professional within thirty minute time frame.

Department—the Louisiana Department of Health and Hospitals (DHH). The following is a list of pertinent sections:

1. Health Standards Section (HSS). Section of Bureau of Health Services Financing, DHH that surveys, licenses, and serves as the regulatory body for health care facilities in the state;

2. Office of Addictive Disorders (OAD). DHH office responsible for providing treatment and prevention services related to abuse/addiction disease/disorders;

3. Office of Public Health (OPH). DHH Office that establishes and enforces various legislative health codes;

4. Office of Planning and Review (OPR). DHH office which professionally reviews all floor plans and site plans prior to licensing to assure compliance with state laws and codes;

5. Program Integrity Section (PRS). Section of Bureau of Health Services Financing, DHH responsible for investigating fraud and abuse.

Doctorate-Prepared—terminology used in professional community to describe those who have completed Doctorate in Social Work or Counseling, but have not met the requirements for licensing by their respective State Boards.

Exploitation—any act or process to use (either directly or indirectly) the labor or resources of a client for monetary or personal benefit, profit, or gain of another individual or organization.

Facility—provider of services, including all employees, consultants, managers, owners, and volunteers as well as premises and activities.

Intake—core function of substance abuse counseling in which information is gathered about a prospective client. Information is given to a prospective client about the treatment facility and facility's treatment and services.

Joint Ventures—facilities funded/operated by both public and private sources. Joint ventures are classified as private entities.

Masters-Prepared—terminology used in the professional community to describe those who have completed Masters Degree in Social Work or Counseling, but have not met the requirements for licensing by their respective State Boards.

Medication Administration—preparation and giving of legally prescribed individual dose to client; observation and monitoring of client/client response to medication.

Medication Dispensing—compounding, packaging, and giving of legally prescribed multiple doses to client.

Minors—all persons under the age of 18 whose disabilities of minority have not been removed by marriage or judicial decree.

Office of State Fire Marshal (OSFM)—establishes and enforces various legislative building codes.

On Call—immediately available for telephone consultation and less than one hour from ability to be on duty.

On Duty—scheduled, present, and awake at the site to perform job duties.

OSFM—Office of State Fire Marshal, La. Dept. of Public Safety.

Primary prevention—focus on reducing the onset of incidences (rate of occurrences) of alcohol, tobacco, and other drug (ATOD) use of non-users, preventing the development of ATOD use problems, and enhancing individual strengths as an inoculant against ATOD use.

Program—a specific group of therapeutic services designed to deliver treatment/prevention to a defined client population.

Public—owned and operated by federal, state, or local government.

Referral—core function of substance abuse counseling in which appropriate services not provided by facility are

identified, and client/family is assisted to optimally utilize the available support systems and community resources.

Reports and Record Keeping—core functions of substance abuse counseling in which results of the assessment and treatment planning are recorded. Written reports, progress notes, client data, and discharge summaries and other client related documentation is recorded in the client record.

Screening—core function of substance abuse counseling that is the determination of whether a client meets the program's admission criteria. It uses information such as the person's reason for admission, medical and substance abuse history, and other needed information to determine client's need for treatment, and/or appropriateness of admission.

Sexual Exploitation—a pattern, practice, or scheme of conduct that can reasonably be construed as being for the purpose of sexual arousal or gratification or sexual abuse of any person.

Site/Premises—a single identifiable location owned, leased, or controlled by a facility where any element of treatment is offered or provided.

Staff—individuals who provide services for the facility in exchange for money or other compensation, including employees, contract providers, and consultants.

Standards—policies, procedures, rules, and other guidelines (i.e., standards of current practice) contained in this document for the licensing and operation of substance abuse/addiction treatment facilities.

Substance Abuse/Addiction Treatment/Prevention Facility—any facility which presents itself to the public as a provider of services related to prevention and/or treatment of the abuse/addiction of controlled dangerous substances, drugs or inhalants, alcohol, problem or compulsive gambling, or a combination of the above. Facility shall be licensed to provide treatment to clients diagnosed with abuse/addiction disease/disorders (AADD) and provide support and prevention intervention to families, the public, and to those individuals identified as having greater than normal risk for developing abuse/addiction disease/disorders.

Sub-unit—off-site operation, either autonomous or semi-autonomous, that operates more than 24 hours per week.

Supervision—Occupational oversight, responsibility and control over employee(s)/service delivery by critically watching, monitoring, and providing direction.

Treatment Level—a group of treatments/services designed to positively impact a specific type/degree of abuse/addiction.

Treatment Planning—core function of substance abuse counseling in which the counselor and the client: (1) identify and rank problems needing resolution, (2) establish agreed upon immediate objectives and long-term goals, and (3) decide on a treatment process, frequency, and the resources to be utilized.

Unethical Conduct—Conduct prohibited by the ethical standards adopted by DHH, state or national professional organizations or by a state licensing agency.

Unprofessional Conduct—Any act or omission that violates commonly accepted standards of behavior for individuals or organizations.

Variance or Waiver—Administrative decision by HSS/DHH Secretary or designated personnel qualified to make the decision that failure (for limited time period), to

meet a Minimum Standard cannot potentially cause harm to any client/citizen or interfere with quality treatment. Facility shall post all variances/waivers in conspicuous place.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 through R.S. 40:1057.9 redesignated R.S. 40:1058.1 through R.S. 1058.9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, Division of Management, Office of Licensing and Certification, LR:2:154 (May 1976), adopted by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR:18:1449 (December 1992), LR 25:

§7403. Licensure

A. Any facility which presents itself to the public as a provider of services related to the prevention and/or treatment for abuse/addiction of controlled dangerous substances, drugs or inhalants, alcohol, problem or compulsive gambling, or a combination of the above is required to have a valid and current license prior to admitting any client.

B. Each licensed facility must comply with the minimum requirements in order to remain licensed. In addition, each facility is required to have a copy of the minimum standards on-site, and all administrative and professional staff should be familiar with contents of this rule.

C. All facilities licensed after promulgation of these standards shall be required to meet all standards contained herein prior to licensure.

1. Hospitals, nursing homes, and federally-owned facilities are exempt from licensure.

2. State facilities are exempt from the following general requirements:

- a. licensure fees;
- b. budgetary/audit requirements;
- c. disclosure of ownership forms;
- d. planning, location requirements;
- e. governing body regulations; and
- f. liability insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 through R.S. 40:1057.9 redesignated R.S. 40:1058.1 through R.S. 1058.9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, Division of Management, Office of Licensing and Certification, LR:2:154 (May 1976), adopted by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR:18:1449 (December 1992), LR 25:

§7405. Licensure Requirements

A. The facility shall not provide services without the appropriate license and shall advertise (or otherwise notify the public or other referral entities) only for services for which the facility is licensed to provide.

B. License Designation. A facility shall have written notification of restrictions, limitations, and services available to the public, community, clients, and visitors.

1. In-patient Facilities (24 hour facilities for adults, adolescent, or parents/dependent children)

- a. Detoxification
 - i. medically supported
 - ii. non-medical (social)
- b. In-patient Treatment (Primary)
- c. Residential Treatment (Primary); and
- d. Community-Based Care Facilities
 - i. halfway house
 - ii. three quarter house; and
 - iii. therapeutic community - long term residential.
- 2. Outpatient Facilities
 - a. Outpatient Counseling
 - b. Intensive Outpatient Treatment; and
 - c. Opiate Addiction Treatment
- 3. Primary Prevention Program—Non-treatment Designation
 - a. Youth Group
 - b. Community Education Only
- 3. Other (must be approved by OAD and HSS)
- 4. Additional Designations (conjointly approved by OAD/HSS in writing)

C. License Types

1. Full. A full license is issued only to those agencies that are in compliance with the minimum standards and all other requirements. The license is valid until the date of expiration unless revoked or suspended prior to the date of expiration, or denied renewal.

2. Provisional. A provisional license is issued to existing agencies that do not meet the criteria for full licensure. The termination of a license will occur if systemic changes fail to correct identified problems. A provisional license is valid for six months or until a designated termination date. Any license involved in an appeal process is automatically considered provisional.

D. Adherence Requirements. Each facility shall adhere to requirements throughout the period of licensure. Any period of non-compliance may result in sanctions, denials, or requiring corrective action.

E. Variance. Any variance granted by DHH/HSS shall:

- 1. be in writing;
- 2. cannot be retroactive;
- 3. be granted for a specific period of time, but less than one year; and
- 4. be listed on the facility license.

F. License Renewal. A license must be renewed at least annually. It is the responsibility of the facility to:

- 1. request a renewal packet from DHH/HSS if one is not received at least 45 days prior to license expiration;
- 2. complete all forms and return to DHH/HSS at least 30 days prior to license expiration; and
- 3. submit annual licensure fee with renewal packet.

NOTE: A provisional license shall not be re-issued as a full license until the expiration date, even if all corrections are made.

G. License Display. The current license shall be displayed on-site at each facility in full view of all clients and/or visitors. Any license issued by DHH supersedes all others and deems those previously issued as invalid. Any facility displaying and/or using an invalid or altered license will be sanctioned.

H. Satellites. Related facilities may share a name with the primary facility, if a geographic indicator is added to the end of the facility name. All satellite facilities must have a separate license from that issued to the parent facility.

1. Branches. Additional locations operating in the same or adjacent parish for 24 hours or less per week must meet the following conditions:

- a. OSFM/OPH approval;
- b. professional staff to provide services may or may not be also employees of parent facility;
- c. conjoint administrative staff and activities with parent facility;
- d. personnel records may be housed at parent facility;
- e. client records may be housed at parent facility;
- f. telephone system to forward calls to parent facility;
- g. initial survey is required prior to opening, but annual/renewal survey may be by attestation;
- h. written approval to operate at location will be issued from HSS when the following criteria are met:
 - i. full licensure of parent facility for at least one year;
 - ii. adequate professional staff to operate at two or more locations;
 - iii. identified need for services by OAD and
 - iv. submission of request for opening branch and required information.

2. Sub-unit. A second facility location operating more than 24 hours per week, and located in the same parish or a parish adjacent to the parish where the parent facility is located shall not be included in the same license as the parent facility. Separately licensed sub-units are required to meet the following additional criteria:

- a. separate qualified and full-time professional staff;
- b. conjoint or separate administrative staff and activities with parent facility;
- c. personnel records shall be housed on-site;
- d. client records shall be housed on-site.

3. Exception: Primary Prevention Programs may provide educational services at various public facilities, provided that the primary site is licensed.

I. Notification of Change Requirements. Any change listed below that is not reported in writing to DHH/HSS within 10 days is delinquent and subject to sanction. Written approval of changes by DHH is required to remain in compliance with licensure standards.

1. Change of Ownership

a. Include a copy of bill of sale, licensure fee, disclosure of ownership form, new application form, and information about relocation, name change, etc.

b. License is non-transferable; new owners must apply for a new license.

2. New Construction. All plans must have prior approval of the OSFM and OPR.

3. Renovations. All plans must have prior approval of the OSFM and OPR.

4. Address. Change of address requires issuance of replacement license. Prior approval is required, and is based on submitting requested information to HSS.

5. Change of Services. An application packet appropriate to the new service is required. An initial survey may be required prior to issuance of new license at the discretion of HSS.

6. Hours of operation. Written approval by DHH/HSS is required in advance of the change.

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§7407. Fees, Fines, and Assessments

A. Fees. All fees must be submitted to DHH in the form of a company or certified check or money order, and made payable to the Department of Health and Hospitals (DHH). All fees are non-refundable and non-transferable.

1. Fee Amounts. Current fee schedule is available upon request.

2. Initial Application. Fee for initial application process and initial licensure shall be submitted prior to consideration of licensure.

3. Annual Renewal. Fee is payable in advance of issuance of renewal license.

4. Change Fees. A fee must accompany any request requiring the issuance of a replacement license.

5. Late Fees. Any renewal or other fee is delinquent after the due date and an additional fee shall be assessed beginning on the day after the date due. No license will be issued until applicable fees are paid.

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§7409. Adverse Actions

A. DHH reserves the right to suspend, deny (initial or renewal), or revoke any license at the discretion of the Secretary or his/her designee. Facility owners and staff shall be referred to other entities such as Boards or state or federal enforcement agencies when there is suspicion of illegal, unprofessional or unethical behavior. Any involuntary termination of licensure or voluntary termination to avoid adverse action automatically disqualifies that facility and those associated with the facility from applying for licensure for a period of at least one year.

B. Provisional License Designation. Provisional license may be given for the following nonexclusive reasons:

1. more than five non-life-threatening violations of minimum standards during one survey;

2. more than three valid complaints in a two-year period;

3. documented incident that places patient at risk for harm;

4. repeated or continued noncompliance with any minimum standard;

5. incomplete or pending corrective plan of action or correction of violation.

C. Denial of Initial Licensure. DHH shall not accept application for an additional facility with common owners, managers, or staff unless the original facility is in full compliance for one year without interruption and is not under investigation by any other agency.

D. Revocation or Denial of Renewal of License. License may be revoked or denied for the following nonexclusive reasons.

1. cruelty or indifference to the welfare of the clients;

2. misappropriation or conversion of the property of the clients;

3. violation of any provision of this part or of the minimum standards, rules, and regulations, or orders promulgated hereunder.

a. providing services to more clients than authorized by license;

b. repeated failure to adhere to rules and regulations;

c. serious violation of standards or current professional standards of practice;

d. failure to submit corrective action plans for identified violations;

e. reasonable cause to suspect that client health/safety is jeopardized;

f. reliable evidence that facility:

i. falsified information on legal documents;

ii. failed to provide optimum therapy in accordance with current standards of practice; or

iii. has bribed, solicited or harassed any person to use the services of any particular facility.

g. failure to submit required fees in a timely manner.

h. failure to cooperate with survey/investigation by DHH/authorized agencies.

i. failure to employ a sufficient complement of and to appropriately utilize qualified professionals.

4. Permitting, aiding, or abetting the unlawful, illicit, or unauthorized use of drugs or alcohol within the facility.

5. Conviction or plea of *nolo contendere* by the applicant for a felony. If the applicant is an agency, the head of that agency must be free of such conviction. If a subordinate employee is convicted of a felony, the matter must be handled administratively to the satisfaction of DHH-HSS.

6. Documented information of past or present conduct or practices of facility which are detrimental to the welfare of the clients.

E. Appeal of Adverse Action

1. Notice. HHS shall give at least 30 days notice of denial of renewal or revocation of license unless DHH determines that the health and/or safety of clients is in jeopardy. In the event that DHH determines that the health and/or safety of clients is in jeopardy, clients will be removed from the facility immediately. No advance notice will be provided when health and/or safety are involved, and the facility may appeal within 30 days following the removal.

2. Informal Dispute Resolution. Request must be submitted in writing to DHH-HSS within 10 days of receipt of the notice of denial of renewal or revocation.

3. Administrative Appeal. Request must be submitted in writing to DHH, Office of the Secretary within 30 days of receipt of the notice of denial of renewal or revocation. Request for informal dispute resolution does not affect timeframes for requesting administrative appeal.

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HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, Division of Management, Office of Licensing and Certification, LR:2:154 (May 1976), adopted by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR:18:1449 (December 1992), LR 25:

§7411. Voluntary Cessation of Business

A. If at any time the facility is not operational for any reason, the license shall be deemed to be invalid and shall be returned to DHH/HSS within five working days. The agency owner is responsible for notifying DHH/HSS of the location of all records required to be maintained by the facility.

B. Expiration of Licensure. Failure to renew license prior to expiration will require reapplication for initial licensure including payment of any fines or fees required prior to acceptance of application.

C. Initial Licensure.

1. Initial Application. Process/procedure will assure that facility is capable of organizing and planning an operation to provide therapeutic services. The entire application process must be completed within 90 days from date of original submission of application in order to be approved. A completed application packet shall contain:

- a. Letter of intent that includes:
 - i. proposed date of operation;
 - ii. program mission;
 - iii. program description;
- b. Written Plan of Professional Services:
 - i. activity schedule, including goals and objectives;
 - ii. admission, screening, and re-admission criteria;
 - iii. discharge and transfer criteria;
 - iv. target population including age, gender, and other related characteristics such as pertinent cultural and ethnic background;
 - v. identification of professional disciplines and their respective responsibilities/roles in the goals of the treatment program as related to the needs of the individual client;
 - vi. arrangements (contracts) for the provision of additional therapeutic services, emergency medical services, and continuing care services;
- c. Current application, disclosure forms and other forms with application fee;
- d. Written approval from DHH, Engineering and Professional Review Section for the proposed facility, if required;

e. Documentation regarding the site:

- i. evidence that the proposed site will be appropriate to clients to be served;
- ii. identification of the permitted uses of the site under existing zoning laws of the municipality in which the site is located, if applicable;
- iii. a copy of the site plan and a sketch of the floor plan; and
- iv. assurance that facility will be physically harmonious with the neighborhood considering such issues as scale, appearance, density and population;
- f. Jurisdictional approvals as required:
 - i. Office of Public Health;
 - ii. Office of State Fire Marshal;
 - iii. municipal zoning and other approvals as applicable;
 - iv. others when required; e.g., State Methadone Authority;
 - g. Proof of general and professional liability insurance of at least \$500,000.
 - h. Governing Body information including names, addresses, telephone numbers of each member;
 - i. Proposed plan for staffing including organizational chart, staffing patterns, job descriptions, job qualifications/credentials, and criminal history reports on all owners, administrative personnel, and direct care workers;
 - j. Proposed budget including expected income and expenses, contract with external auditor;
 - k. Disclosure in writing of any financial and/or familial relationship with any other entity receiving third-party payer funds, or any entity which has previously been licensed in Louisiana;
 1. Outline of Orientation to be provided prior to opening of facility and within two weeks to those persons hired after opening date of facility.
 2. Initial on-site survey. DHH shall determine whether the facility is capable of becoming operational as indicated by compliance with all accepted standards of completed preparations and employment of all personnel, as well as securing all jurisdictional approvals.
 - a. Facility must become fully staffed and prepared for survey within six (6) months of completion of application.
 - b. All personnel shall have received orientation.
 - c. Facility shall be fully prepared to begin admitting clients before requesting an on-site survey.
 - d. Facility shall meet all requirements of the Minimum Standards.
 - i. If surveyor finds that facility has minor violations, surveyor shall solicit a corrective plan of action before recommending issuance of a license.
 - ii. All client oriented corrections shall be completed before DHH issues a license.
 - e. Any facility that is not recommended for licensure following the on-site survey shall be required to submit another application fee and application packet for review prior to requesting a subsequent on-site survey.
 - f. No client may be admitted until survey has been completed and facility has been notified that it is approved to admit clients. Surveyor shall notify facility verbally whether it is appropriate to begin admitting clients or to await further direction by DHH.

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§7413. Survey

A. All surveys shall be unannounced and may be in conjunction with other agency personnel and/or personnel from other local, state or federal agencies.

1. Initial. On-site survey of all aspects of the operation is required prior to the admission of any client for treatment at the facility. Regional manager may choose to give provider an approximate date of initial survey to include the "week of" but not the specific date of planned on-site visit.

2. Annual. On-site, unannounced survey of all aspects of the facility is performed annually to assure and promote continuous adherence to standards, discourage over-utilization of services, and serve as an adjunct to the OAD professional oversight. Annual survey for Prevention license may be accomplished by attestation provided that:

a. facility has had three consecutive years of deficiency-free surveys, and

b. Office of Addictive Disorders recommends attestation in writing.

3. Continued compliance. Assurance of continued compliance surveys may be performed without notice, particularly in facilities that had serious deficiencies or if HSS receives information that facility is not adhering to Standards.

4. Complaint Investigations. DHH shall determine the type and extent of investigation to be made in response to complaints in accordance with *Louisiana R.S. 40:2009.13 et seq.*

a. May be an internal investigation with a report submitted to DHH/HSS.

b. May be on-site focused or complete survey by DHH/OAD and/or DHH/HSS and other local, federal, and state agencies as appropriate.

5. Focused on-site visit or request for submission of documentation for desk review to assure corrective actions have been completed as alleged in the submitted plan of corrections.

B. Survey Results. All survey results become available for public inspection sixty (60) days after the survey or on the date that an acceptable plan of correction is received from the facility, whichever is sooner.

1. If violations of Minimum Standards are minor and do not directly involve client care, the facility may be allowed up to sixty days to make all necessary corrections.

2. If violations of Minimum Standards are not minor or if they directly affect client, facility license shall be terminated or sanctioned.

3. Any violation noted on two consecutive survey/visits or not corrected within sixty (60) days is considered a repeat violation and shall be reason for termination or sanction.

C. Plan of Corrections. Written allegations of correction are submitted from facility to HSS to describe actions taken by the facility in response to violations.

1. Required Components/Elements

a. Actions taken to correct any problems caused by deficient practice directed to a specific client.

b. Actions taken to identify other clients who may also have been affected by deficient practice, and to assure that corrective action will have positive impact for all clients.

c. Systemic changes made to insure that deficient practice will not recur.

d. Quality assurance plan developed to monitor to prevent recurrence.

2. Miscellaneous

a. All components of the corrective action plan must be specific and realistic, including the dates of completion.

b. Plan must be submitted as directed by surveyor, usually within 10 days of the date of the survey, or the provider may be sanctioned.

c. Corrections must be completed within 60 days of survey unless directed to correct in less time due to danger or potential danger to clients/staff.

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§7415. Organization and Administration

A. Administration.

1. Quality and Adequacy. Facility administration shall be qualified and adequate to assure adherence to all licensing standards. Qualifications shall be determined by the complexity of the services being provided. Facility compliance with licensing standards shall determine adequacy of available administrative oversight.

2. Administrative records. Record keeping shall be in accordance with accepted standards to assure the development and implementation of facility specific policies and procedures to adhere to all licensing standards.

a. Personnel (staff providing direct care to clients)

i. Annual health screens

ii. Actual hours of work

iii. Orientation/training/in-services

iv. Disciplinary actions

v. Credentials with verification

vi. Verification of professional licensure/certification and renewals

vii. Job descriptions/Performance expectations.

b. Administrative Operations

i. Organizational chart

ii. Mission, description of services

iii. Payment methods in accordance with Wage and Hour Board

iv. Codes of conduct to ensure professional, ethical and legal operations

v. Facility practices that ensure employees have necessary administrative support to provide therapeutic milieu for clients

vi. Proof of general and professional liability insurance in the amount of at least, \$500,000

vii. Projected plan of operations based on the findings of the facility specific to continuous improvement program

viii. Written agreements with other entities to assure adherence to licensing standards and continuity of care.

ix. Written designation of facility director, alternate director, and program director.

3. Governing Body. All private providers shall have an identifiable governing body composed of adults who have legal authority over the policies and activities of the facility. Responsibilities include:

a. ownership of all facility operations;

b. documentation to identify all members including name, address, telephone numbers with current updates as indicated;

c. maintenance of written minutes of all meetings of the governing body, including, but not limited to, date, time, location, participants, topics discussed, decisions reached, and actions taken, committee reports, and any other pertinent information;

d. annual documented review and appropriate actions on all policies, procedures, facility rules, goals, grievances, budget, internal and external evaluations, (including all survey findings).

B. Organization

1. Duties. Facilities shall be organized so that administrative personnel does not perform any programmatic duties and/or make clinical decisions, unless licensed/certified to make clinical decisions. A qualified professional supervisor or qualified professional counselor shall be designated, in writing, as responsible for supervising all treatment services and programs.

2. Ownership

a. Public. Government Entities (local, state, and federal)

b. Private. For Profit or Non-profit

i. Individual

ii. Corporation

(a). individual;

(b). group of individuals;

(c). publicly owned stock.

iii. Church

iv. Council/Organization

v. Joint ventures/contractors

C. Facility Protocols. Each facility shall establish facility-specific, written policy to implement such policy in these areas:

1. General

a. Procedures to ensure the health, safety, and well-being of clients.

b. Procedures to ensure that clients receive optimum treatment in order to achieve recovery.

c. Criteria to assure access to care without over-utilization of services.

d. Protocols to assure uniform and quality assessment, diagnosis, evaluation, and referral to appropriate level of care.

e. Procedures to assure operational capability and compliance.

f. Procedures to assure that only qualified personnel are providing care within the scope of the core functions of substance abuse treatment.

g. Procedures to assure that delivery of services shall be cost-effective and in conformity with current standards of practice.

h. Procedures to assure confidentiality of client records.

2. Continuous Quality Improvement Program (CQIP)

a. Annual internal evaluation procedure to collect necessary data to formulate plan.

b. Implementation to correct identified deficiencies and to prevent recurrence.

c. Utilization review of 5% of active client records quarterly by professional staff.

d. Quarterly meetings involving staff committee (at least 3 individuals) to assess and choose which CQIP activities are necessary and set goals for the quarter, to evaluate the activities of the previous quarter, and to implement immediately any changes that would protect the clients from potential harm or injury.

e. Annual review of policies, procedures, financial data, client statistics, and survey data by governing board/regional administrator.

3. Research or Non-traditional Treatment Modalities. Approval for exceptional procedures, treatment modalities, etc. shall be approved in writing by the OAD director and monitored as required.

4. Required Facility Reports. The facility director shall verbally/facsimile report these incidents to HSS within 24 hours of discovery. State operated facilities are also required to follow OAD reporting policy.

a. Fire and/or natural disasters;

b. Any substantial disruption of program operation;

c. Any death or serious injury of a client that may potentially be related to program activities; and

d. Violations of laws, rules, and professional and ethical codes of conduct by facility personnel/volunteers.

5. Operational Requirements. The facility shall:

a. be fully operational for the business of providing substance abuse/addiction prevention/treatment during normal business hours and after hours as indicated/approved on original application or change notification approval;

b. be available as a community resource, and maintain current schedule of area support groups;

c. share space, telephones, or personnel with other entities only in compliance with Louisiana R.S. 40:2007.

d. have active clients who are receiving services at the time of any survey after the initial survey;

e. be able to accept referrals during hours of operation as specified on licensure application;

f. utilize staff to provide services based on the needs of their current caseload of clients;

g. have required staff on duty at all times during operational hours.

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§7417. Staff Qualifications/Requirements

A. Standards of Conduct

1. The facility and all of its personnel shall:
 - a. protect the health, safety, rights, and welfare of clients;
 - b. provide services designated on license;
 - c. adhere to all applicable laws, regulations, policies, and procedures;
 - d. maintain required licenses, permits and credentials; and
 - e. adhere to professional and ethical codes of conduct.
2. Neither the facility nor any of its personnel shall:
 - a. commit an illegal, unprofessional or unethical act;
 - b. assist or knowingly allow another person to commit an illegal, unprofessional, or unethical act;
 - c. knowingly provide false or misleading information;
 - d. omit significant information from required reports and records or interfere with their preservation;
 - e. retaliate against anyone who reports a violation or cooperates during a review, inspection, investigation, hearings or related activity; or
 - f. interfere with Department reviews, inspections, investigations, hearings, or related activity. This includes taking action to discourage or prevent someone else from cooperating with the activity.

B. General Requirements

1. Facility personnel shall report violations of laws, rules, and professional and ethical codes of conduct to DHH/HSS and to appropriate licensing Board when applicable. The facility shall maintain records and have written policies governing staff conduct and reporting procedures that comply with this section.
2. A facility shall employ sufficient and qualified staff to meet the requirements and responsibilities required by licensure as well as the needs of each client being served.
3. Any experience used to qualify for any position must be counted by using one year equals 12 months of full time work. At no time will any professional staff be considered full time at two facilities.
4. All counselors (including full-time, part-time, and those who also have other duties) must have caseloads appropriate to available time which shall be determined by the needs of the active clients, and the level of treatment being provided.
5. A person may hold more than one position if that person is qualified to function in both capacities, and the required hours for each job are separate and apart for each position.

6. Facility administration is responsible for assuring that all credentials are from accredited institutions, legal, and verified to deter the fraudulent use of credentials.

C. Personnel Qualifications/Responsibilities

1. Qualified Professional Supervisor (QPS)

a. Qualifications

i. The following professionals who are currently registered with their respective Louisiana Board:

- (a). Licensed Psychologist;
- (b). Board Certified Social Worker.

ii. The following professionals who are currently registered with their respective Louisiana Boards and who can demonstrate two years of professional level counseling experience or one year of professional level substance abuse counseling or 90 clock hours (six semester hours) of substance abuse training, including the twelve core functions from an accredited college or university or an educational provider approved by DHH may function as QPS. Documentation shall be available from the facility upon request. The professionals eligible to become QPS's are listed below:

- (a). Board Certified Substance Abuse Counselor (BSAC) or (LASACT);
- (b). Licensed Professional Counselor (LPC);
- (c). Licensed Physician (MD);
- (d). Registered Nurse (RN);
- (e). Board Certified Compulsive Gambling Counselor (BCCGC);
- (f). Masters-Prepared Social Worker/Counselor;
- (g). Masters-Prepared Counselor under the supervision of a licensed psychologist or board certified social worker (BCSW).

b. Responsibilities. The QPS shall:

- i. provide direct client care utilizing the core functions of the substance abuse counseling and/or specific functions related to professional license;
- ii. serve as resource person for other professionals counseling substance abuse clients;
- iii. attend and participate in care conferences, treatment planning activities, and discharge planning related to primary caseload and/or clients of professionals being supervised;
- iv. provide on-site and direct professional supervision of any counselor in training and treatment, including but not limited to activities such as individual/group counseling, or educational presentations;
- v. provide oversight and supervision of such activities as recreation, art/music, or vocational education to assure compliance with accepted standards of practice;
- vi. function as patient advocate in all treatment decisions affecting the client;
- vii. be designated as the Program Director (if employed full-time unless other QPS's are employed and available at the facility) and/or actively supervise QPC if program does not require fulltime supervisor;
- viii. assure that facility adheres to rules and regulations regarding all substance abuse treatment, e.g. group size, caseload, referrals, etc;
- ix. provide only those services which are appropriate to their profession.

2. Qualified Professional Counselor (QPC)
 - a. Qualifications. A QPC is a professional who is employed in the treatment of abuse/addiction disorders and who is currently licensed/certified by the appropriate Louisiana Board as one of the following professionals:
 - i. Board Certified Substance Abuse Counselor (BCSAC) or (LASACT);
 - ii. board Certified Social Worker (BCSW);
 - iii. licensed Professional Counselor (LPC);
 - iv. licensed Psychologist;
 - v. licensed Physician (MD);
 - vi. registered Nurse (RN);
 - vii. board Certified Compulsive Gambling Counselor (BCCGC);
 - viii. masters-prepared Social Worker/Counselor who is under supervision to become licensed or Doctorate-prepared psychologist.
 - b. Responsibilities. The QPC shall:
 - i. provide direct care to clients utilizing the core functions of substance abuse counseling and may serve as primary counselor to specified caseload;
 - ii. serve as resource person for other professionals and paraprofessionals in their specific area of expertise;
 - iii. attend and participate in client care conferences, treatment planning activities, and discharge planning;
 - iv. provide on-site and direct professional supervision of any paraprofessional or inexperienced professional;
 - v. function as the patient advocate in all treatment decisions affecting the client;
 - vi. prepare and write notes/other documents related to client recovery, e.g. assessment, progress notes, treatment plans, etc.; and
 - vii. provide only those services that are appropriate to their profession.
3. Board Certified Prevention Manager/Specialist
 - a. Qualifications. Prevention Managers/Specialists shall be certified as required by the LSBCSAC.
 - b. Responsibilities include:
 - i. program coordination;
 - ii. education and training;
 - iii. community organization;
 - iv. public policy;
 - v. planning and evaluation; and
 - vi. professional responsibility.
4. Counselor in Training (CIT)
 - a. Qualifications
 - i. registered with the professional licensing board and in good standing at all times;
 - ii. actively pursuing certification at all times; and
 - iii. designated in writing as CIT, performing according to written, training plan under the auspices of the facility.
 - b. Responsibilities. The CIT shall:
 - i. provide direct client care utilizing the core functions of substance abuse counseling only under the on-site supervision of facility employed QPS/QPC;
 - ii. not identify nor represent himself/herself as counselor;

- iii. not perform any duties of counselor independently, without on-site supervision of facility employed QPS/QPC;
 - iv. never identify themselves as a consultant to any substance abuse facility;
 - v. not have simultaneous, concurrent employment with more than one facility at any time.
 5. Support Professional Staff. Support professional staff includes employees, consultants, contract employees, or volunteers who provide services in the capacity of their profession, including but not limited to, pharmacists, dietitians, physicians, nurses, social workers, teachers, counselors, or psychologists.
 - a. Qualifications
 - i. currently unencumbered license/registration with appropriate Louisiana Board (may be approved specifically by licensing Board, if encumbered); and
 - ii. a professional as recognized by the certifying entity, rather than assistant, aide, technician, associate, etc.
 - b. Responsibilities
 - i. those within their respective Board's delineated scope of practice only;
 - ii. in-service, staff training, consultation to paraprofessionals and professionals and direct supervision, as needed to improve the overall quality of care being provided.
 6. Volunteer
 - a. Qualifications. Volunteers must be:
 - i. appropriately screened and supervised to protect clients and staff;
 - ii. oriented to facility, job duties, other pertinent information;
 - iii. appropriately trained to meet requirements of duties assigned;
 - iv. given a job description or written agreement; and
 - v. identified as volunteers.
 - b. Responsibilities include:
 - i. direct care activities only when qualified facility personnel present;
 - ii. errands, recreational activities;
 - iii. individual assistance to support services; and
 - iv. other appropriately assigned duties.
 7. Contract Staff Services. Formal written agreements with professionals or other entities to provide services which may or may not be directly offered by facility staff are required for contract services. Both parties shall review and document review of each agreement annually. The facility retains full responsibility for all services provided by contract, unless client is discharged from original facility and admitted to contract facility. All services provided by contract shall meet the requirements of these standards and be provided only by qualified providers (licensed if required).
 8. Medical Director. Every facility licensed for detoxification or treatment shall have a designated medical director. Primary prevention programs are not required to designate a medical director.
 - a. Qualifications. The Medical Director shall have current, valid license to practice medicine in Louisiana.

- b. Responsibilities
 - i. provide services required by facility to meet the Standards;
 - ii. provide oversight for facility policy/procedure and staff regarding the medical needs of the clients being served in accordance with the current standards of medical practice; and
 - iii. retains ultimate responsibility for directing the specific course of medical treatment.

D. Training

1. Orientation. Each employee shall complete at least eight hours of Orientation prior to providing direct client care/contact. The content of the basic orientation provided to all employees at the time of employment with annual review shall include the following:

- a. policies/procedures and objectives of the facility;
- b. duties and responsibilities of the employee;
- c. organizational/reporting relationships;
- d. ethics and confidentiality;
- e. client's rights;
- f. standards of Conduct required by the facility;
- g. information on the disease process and expected behaviors of clients;
- h. emergency procedures including disaster plan, evacuation;
- i. principals and practices of maintaining a clean, healthy and safe environment;
- j. additional information as appropriate to job duties, type of client, etc;
- k. universal precautions;
- l. violent behavior in the workplace;
- m. abuse/neglect;
- n. overview of Louisiana licensing standards; and
- o. prevention overview.

2. In-Service. This educational offering shall assist the direct care/contact workers to provide current treatment modalities, and serve as refresher for subjects covered in orientation. Documentation of attendance for at least 3 hours per quarter is required. Additional educational programs are encouraged.

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§7419 Health and Safety

A. Infection Control

1. Facility shall protect staff, clients, and visitors from the potential/actual harm of infectious disease by the following policies and procedures:

- a. universal precautions. Education, practice, and implementation shall be applied.
- b. infection control program to report, evaluate, and maintain documentation pertaining to the spread of infectious disease, including data collection and analysis,

corrective actions, and assignment of responsibility to designated medical staff person.

- c. strict adherence to all sanitation requirements.

2. Facility shall establish and maintain a clean and neat environment by the implementation of the following housekeeping policies and procedures:

- a. supplies/equipment shall be available to staff/clients.
- b. consistent and constant monitoring and cleaning of all areas of the facility shall be practiced.
- c. facility may contract for services necessary to maintain a clean and neat environment.
- d. directions shall be posted for sanitizing in kitchen and bathroom areas.

3. Domestic animals shall be:

- a. properly vaccinated; and
- b. managed in a way consistent with the goals of the program and the needs of the client, including those with allergies.

B. Sanitation

1. Food and waste shall be stored, handled, and removed in a way that will not spread disease, cause odors, or provide a breeding place for pests.

2. If there is evidence of pests, the facility shall contract for pest control.

3. Poisonous, toxic and flammable materials shall be labeled, stored, and used safely.

C. Safety

1. Environmental

a. The entire facility, including grounds, buildings, furniture, appliances, and equipment, shall be structurally sound, in good repair, clean, and free from health and safety hazards.

b. The facility shall comply with Americans with Disabilities Act (ADA).

c. The environment shall enhance client dignity and confidentiality.

d. The facility shall have adequate space, furniture, and supplies for the services described in the program description, including:

- i. an adequate number of accessible drinking units;
- ii. an adequate number of sanitized non-disposable or disposable hot/cold cups;
- iii. clean, comfortable and appropriately furnished areas for various activities.

e. The facility shall have private counseling space. Staff shall have office space that is not required for other simultaneous activities.

f. The facility shall prohibit firearms and double-edged, fixed-blade knives on-site.

g. Mobile homes shall not be used for client sleeping areas.

2. The facility shall respond effectively during a fire or other emergency. Every program shall:

- a. have emergency evacuation procedures that include provisions for the handicapped;
- b. hold fire drills on each shift at least quarterly and correct identified problems promptly;
- c. be able to clear the building safely and in a timely manner at all times;

- d. post exit diagrams conspicuously throughout the program site;
- e. post emergency numbers by all phones; and
- f. have adequate first aid supplies that are visible and easy to access at all times.

3. Facility shall take all precautions possible to protect the staff, clients and visitors from accidents of any nature.

4. Facility shall have a written facility specific disaster plan, and staff shall be familiar with the contents of the plan as well as the location.

D. Emergency Care. At least one employee on site at each facility shall have training in dealing with out-of-hospital accidents and medical emergencies until emergency medical personnel and equipment can arrive at facility. The accepted level of training is the First Responder Course curriculum approved by the National Highway Traffic Safety Administration or comparable certification or license. Facilities that have licensed nurses/physicians on duty during all hours of operation are exempt from this requirement.

E. Physical Plant Requirements

1. Required Inspections

a. The facility shall pass all required inspections and keep a current file of reports and other documentation needed to demonstrate compliance with applicable laws and regulations. The inspections must be signed, dated, and free of any outstanding corrective actions. The following inspections are required:

- i. annual fire marshal inspection;
- ii. annual inspection of the alarm system by a licensed contractor;
- iii. quarterly fire alarm system test by facility staff;
- iv. annual kitchen inspection by Office of Public Health,
- v. gas pipe pressure test once every three years by the local gas company or a licensed plumber.
- vi. annual inspection and maintenance of fire extinguishers by personnel licensed or certified to perform those duties; and
- vii. regular inspections of elevators.

b. The following documentation shall be on file in facility:

- i. certificate of occupancy as required by local authorities;
- ii. DHH approval of the water supply/system;
- iii. DHH approval of the sewage system; and
- iv. documentation that the liquefied petroleum supply has been inspected and approved.

2. Fire Notification/Protection Systems

a. A fire detection, alarm, and communication system required for life safety shall be installed, tested, and maintained in accordance with the facility's occupancy and capacity classifications.

b. Fire alarm systems shall be installed by agents registered with Office of State Fire Marshal.

c. Alarms shall be loud enough to be heard above normal noise levels.

d. Fire extinguishers shall be mounted throughout the facility as required by code and approved by Office of State Fire Marshal.

i. Each laundry and walk-in mechanical room shall have at least one portable A:B:C extinguisher, and each kitchen shall have at least one B:C fire extinguisher.

ii. Each fire extinguisher shall have the required maintenance service tag attached.

e. Staff shall conduct quarterly inspections of fire extinguishers for proper location, obvious physical damage, and a full charge on the gauge.

3. Exterior Space Requirements. A provider shall:

a. ensure that all structures on the grounds of the facility that are accessible to clients are maintained in good repair and are free from an excessive hazard to health or safety;

b. maintain the grounds of the facility in an acceptable manner and ensure that the grounds are free from any hazard to health or safety;

c. store garbage and rubbish securely in non-combustible, covered containers that are emptied on a regular basis;

d. separate trash collection receptacles and incinerators from client activity areas and locate all containers so as to avoid being a nuisance to neighbors;

e. keep fences in good repair;

f. fence off or have natural barriers around areas determined to be unsafe, including steep grades, cliffs, open pits, swimming pools, high voltage boosters, or high speed roads.

4. Interior Space Requirements

a. Group Rooms. Seating for each client shall be provided with appropriate furnishings.

b. Leisure/Craft Areas. Materials appropriate to the clients being treated at the facility shall be stocked.

c. Bathrooms. Minimum facilities include:

i. adequate operational fixtures to meet Louisiana State Plumbing Code. All fixtures must be functional and have the appropriate drain and drain trap to prevent sewage gas escape back into the facility;

ii. an adequate supply of hot water for the number of residents and the program schedule. Hot water temperature at point of service to client shall be between 105 and 120 degrees Fahrenheit;

iii. toilets shall have seats and be located to allow access without disturbing other clients during sleeping hours and/or treatment sessions;

iv. adequate supply of toilet paper, towels, and soap;

v. doors to allow for individual privacy;

vi. external emergency release mechanism;

vii. safe and adequate supply of cold running water;

viii. safety mirrors attached to the walls at convenient heights and other furnishings necessary to meet the clients' basic hygiene needs;

ix. functional toilets, wash basins, and other plumbing or sanitary facilities which shall be maintained in good operating condition, and shall be kept free of any materials that might clog or otherwise impair their operation.

d. Administrative and Counseling Space

i. Administrative office(s) for records, secretarial work and bookkeeping shall be separate and secure from client areas.

ii. Space shall be designated to allow for private discussions and counseling sessions.

e. Doors and Windows. Outside doors, windows and other features of the structure necessary for safety and comfort of clients shall be secured for safety within 24 hours after they are found to be in a state of disrepair. Total repair should be effected as soon as possible.

i. A provider provides insect screening for all opened windows. This screening shall be readily removable in emergencies and shall be in good repair.

ii. All doors can be readily opened from both sides.

iii. All windows open to an outside view or a patio/porch area and are available for use as an alternate means of escape, if needed.

f. Storage. A provider shall:

i. ensure that there are sufficient and appropriate storage facilities;

ii. secure all potentially harmful materials.

5. Exits

a. Exit doors and routes shall be lighted and unobstructed at all times.

b. There shall be an illuminated "EXIT" sign over each exit. Where the exit is not visible, there shall be an illuminated "EXIT" sign with an arrow pointing the way.

c. Rooms for 50 or more people have exit doors that swing out.

d. No door may require a key for emergency exit. Locked facilities shall have emergency exit door releases as described in the Life Safety Code and/or approved by the Office of State Fire Marshal.

e. Windows shall provide a secondary means of escape.

f. Every building shall have at least two exits that are well separated.

g. Every multiple-story building shall have at least two fire escapes (not ladders) on each story that are well separated. Fire escapes shall:

i. be made of non-combustible material;

ii. have sturdy handrails or walls on both sides; and

iii. provide a safe route to the ground.

h. Stairs and ramps shall be permanent and have non-slip surfaces.

i. Exit routes higher than 30 inches (such as stairs, ramps, balconies, landings, and porches) shall have full-length side guards.

6. Electrical Systems. All electrical equipment, wiring, switches, sockets and outlets are maintained in good order and safe condition. Any room, corridor, stairway and exit within a facility is sufficiently illuminated.

a. The facility shall have adequate lighting to provide a safe environment and meet user needs.

b. Lighting shall be provided outside the building and in parking lots.

c. Light bulbs shall have shades, wire guards or other shields.

d. Emergency lighting shall illuminate EXIT routes.

7. Ventilation

a. The facility shall not use open flame heating equipment or floor furnaces, unvented space heaters, or portable heating units.

b. Occupied parts of the building, including kitchen and laundry areas, shall be air conditioned and temperature should remain between 65 degrees and 85 degrees Fahrenheit.

c. The entire facility shall be adequately ventilated with fresh air. Windows used for ventilation shall be screened.

d. Provider shall take all reasonable precautions to ensure that heating elements, including exposed hot water pipes, are insulated and installed in a manner that ensures the safety of clients and staff.

8. Plumbing

a. Safe, clean, cold drinking water shall be readily available to all residents.

b. The plumbing systems shall be designed, installed, operated and maintained in a manner that is designed to provide an adequate and safe supply of water for all required facility operations and to facilitate the complete and safe removal of all storm water and waste water.

9. Finishes and Surfaces

a. Lead-based paint or materials containing asbestos shall not be used.

b. Floor coverings must promote cleanliness, must not present unusual problems for the handicapped and have flame-spread and smoke development ratings appropriate to the use area (e.g. client's room versus exit corridor).

c. All variances in floors shall be easily identified by markings, etc. to prevent falls.

F. Additional Physical Plant Requirements for Residential Facilities

1. Kitchens. Kitchens used for meal preparations by either staff or clients shall be appropriately sized and provided with the necessary equipment for the preparation, storage, serving and clean-up of all meals provided to the clients/staff. In addition, if clients prepare meals, additional equipment and space will be required. All equipment shall be maintained in working order.

a. Trash containers shall be made of metal or United Laboratories-approved plastic.

b. Trash containers in kitchens and dining area shall be covered.

2. Staff Quarters. Live-in staff shall have adequate, separate living space with a private bathroom (toilet, wash basin, and tub/shower).

3. Leisure. Allotted leisure space shall be adequate for the capacity designated on the license and approved by DHH-Engineering and Planning. Each living unit of any residential facility shall contain a space for the free and informal use of clients. This space shall be constructed and equipped to meet programmatic goals.

4. Dining Area. Space shall be provided that permits clients, staff and guests to eat together in small groups and is clean, well-lighted, ventilated and attractively furnished.

5. Bedrooms. No more than four clients may occupy a designated bedroom space unless the floor plan is approved by DHH sections of Engineering and Professional Review, Fire Marshal, OAD and HSS. Sleeping areas shall have at least:

- a. 80 usable square feet per person in single-occupancy rooms;
- b. 60 usable square feet per person in multiple-occupancy rooms (or 50 square feet per person if bunk beds are used). Bunk beds shall not be used for Inpatient Primary Treatment programs;
- c. doors for privacy and a functional window;
- d. adequate personal storage space for each client, including space for hanging clothes and adequate drawer space;
- e. a ceiling height of at least seven feet six inches in a bedroom space of a size consistent with square footage requirements above, even if part of the room has a ceiling less than 7 feet six inches tall;
- f. bed of solid construction, appropriate to size and age of client, that has a clean, comfortable, non-toxic fire-retardant mattress that fits bed. Cots or other portable beds are to be used in emergencies only;
- g. clean sheets, pillow, bedspread and blanket provided by the facility as needed or requested by the client unless the request is unreasonable. All linens must be in good repair and systematically removed from use when no longer usable;
- h. enough room above the uppermost mattress of any bed to allow the occupant to sit up;
- i. a door/escape window leading directly to the outside of the building.

6. Bathrooms. There shall be at least one sink, one tub or shower, and one toilet for every eight residents.

- a. Showers and tubs shall have no-slip surfaces and curtains or other safe enclosures.
- b. Items required for personal hygiene shall be provided in residential facilities unless clients are already in possession of such items.

7. Miscellaneous

- a. Personal appliances shall be in good working order and inspected for safety hazards.
- b. All clients shall have access to laundry services at reasonable cost or properly maintained laundry facilities.

8. Emergency Power. Inpatient Primary Treatment facilities with capacity greater than 50 clients shall have a reliable, adequately sized emergency power system. The emergency power system is powered by a generator set or battery system, where permitted, to provide power during an interruption of normal electrical service.

9. Recreational Equipment. All 24-hour treatment facilities shall have access to reasonable outdoor recreational space and suitable recreational equipment.

10. Vehicles. Transportation shall be provided in a safe and reliable vehicle that is properly licensed, insured, and inspected, and driven by an appropriately licensed person. Vehicles must be adequately insured and operated in accordance with all applicable laws and regulations.

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§7421. Direct Service Management

A. Client's Rights. Involuntary hospitalization/commitment does not mean loss of your rights to make decisions about your life. The client shall have the right to expect the following inclusive but not exclusive rights:

1. assistance with healing of family relationships;
2. protection from unsafe and/or unskilled care by any person associated with the facility;
3. protection from unqualified persons providing services under the auspices of treatment;
4. consideration and respect toward the client, family and visitors when those people treat the facility staff with respect and consideration;
5. protection of personal property approved by the facility; and
6. protection from retaliation for exercise of the following rights.

B. Required Postings. The facility shall post a legible copy of the following documents in full view of clients, visitors, and employees:

1. the age appropriate Client Bill of Rights;
2. escape routes;
3. facility specific rules and responsibilities and grievance procedure;
4. current license and variances;
5. current activity schedule;
6. current survey findings.

C. Adult Client Bill of Rights. You have the right to:

1. a humane environment that provides reasonable protection from harm and appropriate privacy for your personal needs;
2. be free from abuse, neglect, and exploitation;
3. be treated with dignity and respect;
4. appropriate treatment in the least restrictive setting available that meets your needs;
5. be told about the program's rules and regulations before you are admitted;
6. be told before admission:
 - a. the condition to be treated;
 - b. the proposed treatment;
 - c. the risks, benefits, and side effects of all proposed treatment and medication;
 - d. the probable health and mental health consequences of refusing treatment; and
 - e. other available treatments which may be appropriate for you;
7. accept or refuse treatment after receiving this explanation;

8. change your mind at any time (unless specifically restricted by law);

9. a treatment plan designed to meet your treatment needs, and you have the right to take part in developing that plan;

10. meet with staff to review and update the treatment plan on a regular basis;

11. refuse to take part in research without affecting your regular care;

12. refuse unnecessary and/or excessive medication;

13. not to be restrained or placed in a locked room by yourself unless you are a danger to yourself or others;.

14. have personal information kept confidential and to be told about the times when the information can be released without your permission;

15. communicate with people outside the facility. This includes the right to have visitors, to make telephone calls, and to send and receive sealed mail. This right may be restricted on an individual basis by your doctor or the professional in charge of the program if it is necessary for your treatment or for security, but even then you may contact an attorney or DHH at any reasonable time;

16. be informed in advance of all estimated charges and any limitations on the length of services;

17. receive an explanation of your treatment or your rights while you are in treatment;

18. leave the facility within four hours of requesting release (if you consented to treatment), unless a physician determines that you pose a threat of harm to yourself and others;

19. make a complaint and receive a fair response within a reasonable amount of time;

20. complain directly to DHH at any reasonable time;

21. get a copy of these rights before you are admitted, including the address and phone number of DHH;

22. have your rights explained to you in simple terms, in a way you can understand, within 24 hours of being admitted.

D. Minor's Rights. In accordance with the *Louisiana Children's Code, Article 116*; you have the right to:

1. an attorney and the right to communicate with your attorney in a private place at all times;

2. a copy of your rights in a language you understand;

3. receive and send letters, to receive and make telephone calls, to receive visitors (at least weekly);

4. spend a reasonable amount of money on small items, such as snacks, and soft drinks;

5. wear your own clothes and keep personal things;

6. have a private space for your personal things;

7. be disciplined in a way that is appropriate. Restraint and seclusion cannot be used to punish or discipline you;

8. medicine that makes you feel better. If your medicine makes you feel bad, tell your nurse, doctor or client advocate;

9. treatment in a place that allows you to have the most freedom possible;

10. treatment plan that is set up to meet your individual needs;

11. leave the facility when your condition improves enough so that you can receive treatment in a less restrictive setting;

12. have a private doctor examine you at your own expense.

E. Grievance Procedure. The facility must have a grievance process and must indicate who the client can contact to express a grievance. Records of all grievances, steps taken to investigate, and results of interventions must be available to surveyors upon request.

F. Abuse, Neglect, and Exploitation

1. Reporting. All allegations of client abuse, neglect, and exploitation shall be reported verbally/facsimile within 24 hours, and confirmed in writing to HSS within seven days.

2. Abuse. Client abuse includes:

a. any sexual activity between facility personnel and a client;

b. corporal punishment;

c. nutritional or sleep deprivation;

d. efforts to cause fear;

e. the use of any form of communication to threaten, curse, shame, or degrade a client;

f. restraint that does not conform with these rules;

g. coercive or restrictive actions that are illegal or not justified by the client's condition taken in response to the client's request for discharge or refusal of medication or treatment; and

h. any other act or omission classified as abuse by Louisiana law.

3. Neglect. Neglect examples include:

a. failure to provide adequate nutrition, clothing, or health care;

b. failure to provide a safe environment free from abuse or danger;

c. failure to maintain adequate numbers of appropriately trained staff;

d. any other act or omission classified as neglect by Louisiana law.

4. Exploitation. Examples of exploitation include:

a. use of a client's personal resources, such as credit card, medical assistance card, or insurance card, to bill for inappropriate service;

b. use of the client's food stamps or other income to purchase food/services used primarily by others;

c. using the client to solicit money or anything of value from the public, or others.

5. Sexual exploitation. It may include sexual contact, a request for sexual contact, or a representation that sexual contact or exploitation is consistent with or part of treatment.

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§7423. Children/Adolescent Programs

A. Services are provided to adolescents or younger children on an individual basis as approved by OAD. Provisions in this section apply to facilities that are residential, outpatient, community-based, or primary prevention programs when service recipients are under 18 years of age. The following provisions are in addition to listed requirements for programs, and take precedence over conflicting requirements when services are provided to adolescents or children.

1. Treatment Services

a. The program's treatment services, lectures, and written materials shall be age-appropriate and easily understood by clients.

b. The treatment plan shall address adolescent needs and issues.

c. The program shall involve the adolescent's family or an alternate support system in the treatment process or document why this is not appropriate.

d. Staff shall not provide, distribute, or facilitate access to tobacco products.

2. Staffing. The following staffing requirements are minimum standards and do not restrict the facility from utilizing additional employees.

a. Any facility employee who provides direct care to children/adolescents shall meet the requirements of the *Louisiana Children's Code Article 116*. Specifically, the employee may have no documented history indicating the possibility that he/she would endanger the child. Facility shall make every effort to determine criminal history of employees.

b. The facility shall ensure that only "qualified professional staff" (Louisiana R.S. 40:1098.2) plan, supervise, or provide education or counseling or training in the emotional, mental health, and substance abuse problems to adolescents.

c. All direct care employees shall have training in human adolescent development, family systems, adolescent psycho-pathology and mental health, substance abuse in adolescents, and adolescent socialization issues.

d. All direct care employees and volunteers shall be trained and competent to use personal and physical restraint.

e. In residential programs, the qualified professional counselor ratio to clients shall be no higher than 1:8 during waking hours. A minimum of two staff persons shall be present at all times. A qualified professional counselor shall be on call at all times. Program sponsored activities away from the facility require staff to client ratio no higher than 1:5 with a minimum of two adults at all times.

f. Clients shall be under direct supervision at all times.

i. Onsite, staff shall be readily available at all times, preferably within eyesight or hearing distance. If clients are not within eyesight, staff shall conduct visual checks at least once every hour, including bed checks.

ii. Offsite, clients shall be within eyesight at all times.

3. Educational Resources. Programs for school age children shall provide Department of Education-approved

opportunity for clients to maintain grade level and continuity of education during any treatment lasting longer than 14 days unless treatment occurs during school vacation.

4. Special Considerations

a. Facilities shall address the special needs of adolescents and protect their rights.

b. Residential facilities shall have separate bedrooms and bathrooms for adults and adolescents and for males and females.

c. Adults and adolescents shall not be housed in the same area.

d. Adults and adolescents may be mixed for specific groups or activities when no conflict exists.

e. The facility shall obtain consent for admission and authorization to obtain medical treatment from parent or guardian prior to the time of admission for all clients under the age of majority.

f. The facility shall allow regular communication between an adolescent client and the client's family and shall not arbitrarily restrict any communications without clear, written, individualized clinical justification documented in the client record.

g. Staff shall not use tobacco products in the presence of adolescent clients.

h. The staff shall prohibit adolescent clients from using tobacco products on the program site or during structured program activities.

i. If functional status of client is not age appropriate, facility shall provide additional supervision to provide for safety of all clients.

B. Dependent Care describes those programs designed to provide substance abuse treatment to mothers with dependant children who remain with parent while the parent is in treatment.

1. Treatment Services

a. Weekly individual and group counseling or family therapy shall be conducted by qualified professional with appropriate experience.

b. Parenting classes shall be provided weekly. Attendance is required.

c. The program shall address the specialized needs of the parent and include services for children.

d. Education, counseling, and rehabilitation services shall address:

i. the effects of chemical dependency on a woman's health and pregnancy;

ii. parenting skills; and

iii. health and nutrition.

e. The program shall have a procedure to regularly assess parent-child interactions. Any identified needs shall be addressed in treatment.

f. Program staff shall provide access to family planning services.

2. Staffing. The following staffing requirements are minimum standards and do not restrict the facility from utilizing additional employees.

a. Qualified trained professionals shall provide constant supervision appropriate to age of each child.

b. The program shall provide or arrange for child care with a qualified provider while the parent participates in treatment activities. Before supervising children independently, the provider shall have infant CPR certification and at least eight hours training in the following areas:

- i. chemical dependency and its impact on the family;
- ii. child development and age-appropriate activities;
- iii. child health and safety;
- iv. universal precautions;
- v. appropriate child supervision techniques; and
- vi. signs of child abuse.

c. Every children's program shall have an employee or consultant who is available to provide staff training, evaluation of effectiveness of direct care staff, and to plan activities, etc. for at least one hour per week per child. This employee shall meet the following educational requirements:

- i. 90 clock hours of education and training in child development and/or early childhood education; and
- ii. one year of documented experience providing services to children.

d. When staff are responsible for children, the staff-to-child ratio shall not exceed 1:3 for infants (18 months and younger) and 1:6 for toddlers and children. Clients shall not supervise another parent's children without written consent from the legal guardian and staff approval.

4. Special Considerations

a. Staff shall not allow anyone except the legal guardian or a person authorized by the legal guardian to take a child away from the facility. If an individual shows documentation of legal custody, staff shall record the person's identification before releasing the child.

b. Facility shall have written policy/procedure regarding parent abuse and/or neglect of a child.

c. Residential programs shall not accept dependents over the age of 12 without specific variance approval of OAD and HSS.

d. Children over the age of six shall not share a bedroom with a member of the opposite sex who is not in the child's immediate family.

e. The program shall ensure that children are directly supervised by parents or qualified providers at all times.

f. The program shall have a written policy and a current schedule showing who is responsible for the children at all times.

g. The daily activity schedule shall include a variety of structured and unstructured age-appropriate activities.

h. The program shall provide a variety of age-appropriate equipment, toys, and learning materials.

i. School age children shall have access to school.

j. Standards protecting the health, safety, and welfare of clients also apply to their children.

k. Behavior management shall be fair, reasonable, consistent, and related to the child's behavior. Physical discipline is prohibited.

5. Safety Practices

a. The evacuation procedures shall include provisions for children approved by the fire marshal.

b. The program shall not allow children to use:

- i. climbing equipment or swings on or near concrete or asphalt;
- ii. toys that explode or shoot things;
- iii. other sharp or dangerous items; or
- iv. toys and equipment in disrepair.

c. The program shall have safeguards to prevent children from using toys that are dangerous because they are not age-appropriate.

d. The program site shall meet the additional physical plant requirements as required for children.

6. Health Practices

a. The program shall have procedures for isolating parents and children who have communicable diseases and providing them with appropriate care and supervision.

b. The program shall keep current immunization records for each child at the program site.

c. The program shall obtain a consent to obtain emergency medical care for each child at admission.

d. Each child shall have an assessment by a Medical Doctor and/or Advanced Practice Registered Nurse within 96 hours of admission. Copies of an assessment performed up to seven days before admission are deemed to meet this requirement.

e. The program shall provide potty chairs for small children and sanitize them after each use.

f. The program shall provide age-appropriate bathing facilities. Infants shall not be bathed in sinks.

g. Staff, volunteers, and parents shall use universal precautions when caring for children other than their own.

h. The program shall ensure that children are clean and appropriately dressed.

i. Staff shall check all diapers frequently, change without delay, and dispose of the diapers in a sealed container and sanitize the changing area.

j. The program shall provide an adequate diet for childhood growth and development, including two snacks per day.

k. Children's medication shall be given according to the label by the parent or a licensed health professional. The facility shall obtain written consent from the parent to administer the medication, as required. The facility shall assume full responsibility for the proper administration and documentation of medication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 through R.S. 40:1057.9 redesignated R.S. 40:1058.1 through R.S. 1058.9.

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§7425. Primary Prevention Programs

A. Programs are planned, goal-oriented activities designed for the following purpose:

1. promote personal (emotional, intellectual, physical, spiritual and social) growth of individuals; and/or

2. strengthen those aspects of the community environment which preclude, forestall, or impede the development of alcohol and other drug abuse problems.

B. The following are types of prevention programs.

1. Youth groups; and

2. Community Education Centers. Educational programs provide educational services through qualified personnel for government agencies, community organizations, school systems (public and private), churches, businesses, medical and health systems, professionals and individuals. These types of programs relate to community and personal health issues concerning the prevention of substance use/abuse.

C. Programs/Activities Strategies

1. Primary Prevention includes the following activities:

a. Information Dissemination. Primarily one-way communication to reach into a community systematically to identify "at risk" persons and their families, to inform the community of available services, location of needed services, and how to access the system;

b. Education. Primarily two-way communication to improve critical life and social skills, to increase resistance skills, and to improve ability to make judgments regarding the use of alcohol and other drugs;

c. Alternative Activities. Opportunities are provided that exclude the use of alcohol, tobacco, and other drug use;

d. Problem Identification and Referral. Activity provides assessment of community's need for primary prevention and/or identification/referral of "at risk" individuals;

e. Community-Based Process. Activities are designed to enhance the ability of the community to prevent substance abuse;

f. Environmental. Establishes or positively impacts written and unwritten community standards, codes and attitudes toward substance use/abuse.

2. Referral services program staff will be trained to recognize the symptoms of substance abuse/addiction and referrals must be made only to appropriately licensed treatment programs.

D. Staffing. The following staffing requirements are minimum standards and do not restrict the facility from utilizing additional employees.

1. All persons providing services to children/adolescents shall meet the criteria in §7417 of this document and the *Louisiana Children's Code, Article 116*. Facility must employ/assign personnel to provide for the safety of the clients during all activities.

2. A Certified Prevention Manager shall provide supervision to all employees concerning programmatic activities.

3. At least one Certified Prevention Specialist shall be available on duty for every 25 clients if program is for youth groups; otherwise for events such as community education, no guidelines.

4. Volunteers who work with children/adolescents shall be screened to prevent potential harm or danger to participants.

5. Prevention professional services differ from those of Counselor in that prevention professional duties do not include intervention.

6. Prevention Specialist in Training (PSIT). A person currently registered with the Louisiana State Board of Certification for Substance Abuse Counselors (or other board designated as appropriate by DHH/HSS) in good standing at all times.

E. Client Functional Status. Clients must be appropriate to program design and presentation.

F. Models. Prevention Programs will adhere to a model approved by OAD and DHH/HSS to reduce substance abuse and associated problem behaviors. Providers shall adhere to the following:

1. Submit all required documentation for initial licensure as required in §7403 Licensure.

2. Maintain rosters of all clients with pre/post test scores.

3. Provide services during the hours approved at initial licensing and also provide programs after-school, holidays, summer months, and weekends for youth groups.

4. Programs design shall have been proven effective through research, targeted to a specific designated population, and based on a needs assessment that identifies the extent and type of existing problems in the community, the services available, and the unmet needs.

5. Services provided shall be monitored by the facility through observation, reporting, and recording of deliverables. Outcomes shall be measured by reasonable criteria related to program goals.

6. Periodic evaluations of program effectiveness (at least annually) shall document the effect of the program, and reasons for impact.

G. Community Education. Information is provided to the public related to abuse/addiction, either as outreach activities or as a resource center. Each facility shall:

1. Employ a Board Certified Prevention Manager/Specialist;

2. Submit the following for initial licensure:

a. credentials;

b. scheduled activities and locations;

c. program descriptions;

d. licensure fee with current, complete application; and

e. description of target population(s).

3. Provide all services in accordance with accepted standards of professional conduct;

4. Maintain roster of attendees, as well as documentation of all services provided;

5. Provide a plan for process and outcome evaluation.

H. Record Requirements. Each facility is required to be in compliance with core requirements. Therefore, all records should include the following:

1. Client Information

a. Admission and referral information;

b. Client information/ data, name, race, sex, birth date, address, telephone number, social security number, school/employer, and next of kin/emergency contact;

c. Medical limitations, such as major illnesses and allergies; and

d. Attendance, participation in services and/or activities.

2. Additional Client Information

a. client roster;

b. activity schedule;

- c. pre/post test scores;
- d. log of clients referred to or received from facilities for treatment or evaluation; and
- e. a release to obtain emergency care in case of illness or injury is needed for youth groups.

I. Special Considerations. All Primary Prevention Programs must meet any additional requirements of OADA, and be approved in writing by OADA prior to licensing by DHH/HSS.

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§7427. Detoxification Services

A. Types of In-patient Detoxification

1. Medically Supported. Professional medical and nursing coverage available as determined by the needs of clients admitted for detoxification in a non-hospital residential setting.

2. Non-medical. Semi-skilled observation, monitoring and treatment by trained para-professionals, for those clients who have been medically approved, and whose detoxification process can be predicted.

NOTE: Medical detoxification is not covered under this licensure as it involves professional level continuous observation, monitoring and treatment for those clients whose detoxification process cannot be predicted due to unstable physical condition or other relevant conditions. Louisiana has only hospital-affiliated medical detoxification programs.

B. Detoxification Staffing. The following staffing requirements are minimum standards and do not restrict the facility from utilizing additional staff.

1. Medically Supported Detoxification

a. Nurses shall be available as needed to provide nursing care as required for a client, to train para-professionals, to provide support, and to administer medications and treatments. If the facility does not administer medications or treatments, nursing services are not required.

b. Physicians shall be consultative to provide direction for facility staff, approval of facility client care procedures, and to provide approvals for clients admitted to a facility.

c. Other personnel consists of professional and other support staff who are adequate to meet the needs of the clients admitted to the facility.

2. Non-medical Detoxification

a. Physicians shall be consultative to provide direction for facility staff, approval of facility procedures.

b. Other personnel consists of professional and other support staff who are adequate to meet the needs of the clients admitted to the facility.

C. Admission Assessment. While it is desirable to have clients complete the admission assessment process, it is not required if the client is admitted on an emergency basis. Facilities are required to orient direct care employees to

monitor, observe and recognize early symptoms of serious illness and to access emergency services promptly.

D. Treatment Services. Treatment is deferred until detoxification has been completed or the client is physically and mentally competent to begin treatment. The facility shall be expected to have the following services available, either on-site or by written agreement:

- 1. counseling;
- 2. crisis Intervention;
- 3. toxicology (in medically supported detoxification units only);
- 4. dietary; and
- 5. referral.

E. Special Considerations

1. History. The program shall obtain enough medical and psycho-social information about the client to provide a clear understanding of the client's present status. The detoxification history shall be initiated within 24 hours of admission, and completed and filed in the client record within 72 hours of admission. If the client's physical condition prevents documentation within 24 hours, staff shall explain the circumstances in the client record and obtain the information as soon as possible.

- a. Alcohol and other drug use, past and present, amount, frequency, last use;
- b. Past psychiatric and chemical dependency treatment;
- c. Significant medical history and current health status;
- d. Current living situation;
- e. Current employment situation; and
- f. Current emotional state and behavioral functioning.

2. Medical Clearance/Screening

a. Medically Supported. Medical history and physical examination completed during the 24 hours preceding admission is acceptable, if it is approved by the program's physician or advanced practice nurse. A medical history shall be completed within 24 hours and a physician's examination within 72 hours, unless emergency occurs.

b. Non-medical. Medical screening upon arrival, by First Responder, or equal as reflected in §7419. Health and Safety, with telephone access to RN or MD for instructions for the care of the client.

3. Toxicology/Drug Screening

a. Medically Supported. Physician may waive drug screening if and when client signs list of drugs being abused and understands that his/her dishonesty could result in severe medical reactions during detoxification process.

b. Non-medical. Clients who require drug screening shall be transferred to Medically Supported or Medical Detoxification Program until stabilized.

4. Stabilization Plan. Qualified professional shall identify the client's short term needs based on the detoxification history, the medical history, and the physical examination, if available and prepare a plan of action until client becomes physically stable.

5. Detoxification Plan

a. Medically Supported. The detoxification plan shall be reviewed and signed by the physician and the client, and shall be filed in the client's record within 24 hours of admission with updates as needed.

b. Non-medical. The detoxification plan shall be reviewed and signed by the counselor and the client, and shall be filed in the client's record within 24 hours of admission with updates as needed.

6. Detoxification Notes. The program shall implement the detoxification plan and document the client's response to and/or participation in scheduled activities. Notes shall include:

- a. the client's physical condition, including vital signs;
- b. the client's mood and behavior;
- c. client statements about the client's condition and needs; and
- d. information about the client's progress or lack of progress in relation to detoxification goals; and
- e. additional notes shall be documented as needed.

7. Physician's Orders when indicated.

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§7429. Treatment Program Requirements

A. Treatment Protocols

1. All services shall be delivered according to a written plan and a posted activity schedule. The treatment program shall:

- a. be age and culturally appropriate for the population served;
- b. demonstrate effective communication and coordination;.
- c. provide for appropriate utilization of services;
- e. be an environment that enhances the positive self-image of clients and preserves their human dignity;
- f. administer medication only when prescribed or approved by the staff Medical Doctor or Advanced Practice Registered Nurse (APRN);
- g. require professional participation in all required components of the treatment program;
- h. assure that the hours of scheduled treatment activity meet requirements of the program license; and
- i. have qualified staff and write policies and procedures to assure that all medications and treatments are provided to the client safely and properly utilizing current standards of practice.

2. Every client shall have a medical history and screening by MD/RN upon admission, with subsequent physical examination if indicated within 72 hours of admission.

3. Clients shall have access to HIV counseling and testing services directly or through referral. Such counseling and testing shall be voluntary, anonymous/confidential, and not limited by ability to pay.

4. The program shall make testing for tuberculosis and sexually transmitted diseases available to all clients unless the program has access to test results obtained during the

past year. The services may be provided directly or through referral as long as appropriate follow-up referral/care is also provided.

5. The psycho-social assessment and treatment plan shall be reviewed and countersigned by licensed social worker or psychologist.

6. Transfer between facilities to provide continuum of care requires compilation of client data rather than completing medical history/examination/physician orders, psycho-social assessment, treatment plan, and other pertinent information upon admission to inpatient or outpatient care. See §7427.D. Treatment Services, and E. Special Considerations.

B. Treatment Admission

1. The minimum requirements for formal acceptance of a prospective client into a treatment facility are:

- a. availability of appropriate level of care;
- b. legal authority or voluntary admission;
- c. availability of professionals to provide required services;
- d. history and diagnosis of abuse/addiction disorder by licensed physician/qualified Advanced Practice Registered Nurse as currently defined in the Diagnostic and Statistical Manual for Mental Disorders (DSM); and
- e. written documentation that client/family consents to treatment and understands the diagnosis and treatment modality.

2. Admission Process. Must be performed at each facility, confidentially and efficiently primarily by qualified professional, including patient/family education/orientation of facility policies/procedures, related to:

- a. visitation;
- b. family involvement;
- c. safety;
- d. authorization to provide treatment;
- e. potential problems;
- f. projected duration of treatment;
- g. consequences of non-compliance;
- h. treatment methodology; and
- i. any other pertinent information.

3. Re-admissions. Each facility shall have written re-admission standards which address criteria, length of stay, authorization to make exceptions, and crisis intervention.

4. Fees. Each facility shall have written fee policies which include schedule, method of payment, fee determination policy, and consequences for non-payment.

C. Discharge/Transfer Criteria. The following conditions create need for discharge or transfer:

1. maximum benefit or completion of program;
 - a. non-compliance;
 - b. death/illness;
 - c. non-payment;
 - d. dangerous behavior;
 - e. inability of client to participate;
 - f. inability of facility to provide needed services; or
 - g. progression to another level of treatment.

2. Each program shall develop and follow appropriate written criteria to decide when clients will be discharged or transferred to another level. The criteria shall describe:

- a. indicators used to determine satisfactory completion of the level;

b. circumstances under which clients may be referred or transferred to another level or facility; and

c. circumstances under which clients may be discharged before completing the program.

D. Discharge Process. Written, client specific plan that provides reasonable protection and continuity of services, and includes:

1. client transfer or referral/assignment to outside resources, continuing care appointments, crisis intervention assistance, and discharge summary;

2. documented attempts to involve family or an alternate support system in the discharge planning process;

3. planning before the client's scheduled discharge;

4. individual goals or activities to sustain recovery; and

5. signature of the client and consenting person/guardian.

6. Discharge Summary. When client is being transferred to another level of treatment, two working days are allowed for completion. In other situations 30 days are allowed. The plan must be written, client specific, and include:

a. needs and problems identified at the time of admission (may be attached);

b. services provided;

c. assessment of the client's progress towards goals;

d. circumstances of discharge; and

e. evidence that continuity of care recommended following discharge.

7. Request for Discharge. When such a request is received, the facility shall:

a. not hold a voluntary client against the consentor/guardian's will;

b. have written procedures for handling discharges and discharge requests that comply with applicable statutes;

c. not try to keep a client in treatment by coercion, intimidation, or misrepresentation;

d. not say or do anything to influence the client's decision that is not justified by the client's condition.

E. Transfer Process.

1. Sender Requirements

a. Transfer all client information within 24 hours of transfer;

b. Notify the receiving facility (in writing) simultaneously with arrival of client any information that will be needed to care for client before transfer information arrives; and

c. Request/receive approval from receiving facility prior to transfer.

2. Receiver Requirements

a. provide client with orientation to facility; and

b. update all information received in transfer.

F. Client Record Standards. The facility is required to maintain a clinical record according to current professional standards for each client.

1. This record shall contain all pertinent past and current medical, psychological, social and other therapeutic information, including the treatment plan. No unauthorized person shall be permitted access to the clinical records. Safeguards shall be in place to prevent unauthorized access, loss, and destruction. Client record can be copied and/or transferred from one facility to another provided that client

signs authorization for transfer of record and provided that confidentiality of information is strictly in adherence with *42 CFR, Part 2*.

2. Client records shall be maintained at the facility where the client is currently active and for six months after discharge. Records may then be transferred to a centralized location for maintenance in accordance with standard practice and state and federal laws.

3. Confidentiality. Records shall be:

a. inaccessible to anyone not trained in confidentiality and/or is granted access by legal authority such as surveyors, investigators, etc.;

b. not shared with any other entity unless approved in writing by client, except in medical emergencies; and

c. kept in compliance with *42 CFR, Part 2*.

4. Record-keeping Responsibility. A trained person shall be designated as responsible for the client records.

5. Contents. Client record shall accurately document treatment provided and client response in accordance with professional standards of practice at all times.

G. Client Record Contents for Treatment Programs.

1. The minimum requirements for treatment programs' record retention is as follows:

a. admission and referral information;

b. client information/ data - name, race, sex, birth date, address, telephone number, social security number, school/employer, and next of kin/emergency contact;

c. medical limitations, such as major illnesses, allergies; and

d. attendance, participation in services/activities.

2. Additional Requirements for Client Treatment Records Contents

a. Physician's orders;

b. Psycho-social history/evaluation. A QPC/QPS shall document a psycho-social history that provides a thorough understanding of the client's history and present status including:

i. circumstances leading to admission;

ii. alcohol and other drug use, past and present (including amount, frequency, route of administration, and time/date of last use);

iii. past psychiatric and chemical dependency treatment;

iv. significant medical history and current health status;

v. family and social history;

vi. current living situation;

vii. relationships with family of origin, nuclear family, and significant others;

viii. education and vocational training;

ix. employment history (including military) and current status;

x. legal history and current legal status;

xi. emotional state and behavioral functioning, past and present; and

xii. strengths, weaknesses, and needs.

c. Treatment plan. The plan is a written list of the client's problems and needs based on admission information and updated as indicated by progress or lack of progress. Additionally, the plan shall:

i. contain input from primary counselor and client within 72 hours after admission, then information

from other disciplines added as client is evaluated and treated;

ii. be reviewed and revised as required, or more frequently as indicated by client needs;

iii. contain client-specific, measurable goals that are clearly stated in behavioral terms;

iv. contain realistic and specific expected achievement dates;

v. contain how facility will provide strategies/activities to help the client achieve the goals;

vi. be followed consistently by all staff members; and

vii. contain complete, pertinent information related to the mental, physical, and social needs of the client; and

viii. be generically approved by OAD.

d. Diagnostic laboratory and other pertinent information, when indicated.

e. Progress Notes. In accordance with current professional standards of practice, progress notes shall:

i. document implementation of the treatment plan and results;

ii. document services provided to the client. This may be done by filing a copy of the program schedule in the client record and documenting the client's level of participation in the progress notes;

iii. be completed weekly by the QPS/QPC to document progress toward stated treatment plan goals unless client is seen on a less frequent basis in accordance with the treatment plan; and

iv. be verified and co-signed by QPS/QPC when prepared or written by CIT.

f. Client Contact Report. The staff member involved in the incident shall prepare and file a written report.

g. Other pertinent information related to individual client as appropriate.

H. Required Program Services

1. Programs may use an outside source to provide any of the services listed below. However, the facility retains responsibility for the service. Any contracted services are subject to written approval by OAD and agreement must be renewed annually.

2. Assessment/Evaluation. Collection of data from client and/or family/others sufficient to formulate an individualized and client-specific treatment plan for referral to appropriate level of care includes:

a. physical examination when one is indicated by the M.D./nursing assessment/screening process;

b. laboratory examinations as required to prevent spread of contagious/communicable disease, as indicated by physical examination or nursing assessment, including drug screening when history is inconclusive or unreliable;

c. nursing assessment/medical history and screening interview;

d. psycho-social evaluation by professional, reviewed and countersigned by licensed social worker or psychologist;

e. intake screening to include: vocational, economic, educational, criminal/arrest information; substance use/abuse history and current situation with regard

to frequency, amount, and length of use, change in the amount, frequency, etc., and treatment history when applicable; consequences of use/abuse;

f. appropriate determination regarding treatment modality with referral to appropriate facility.

3. Counseling Session. Documented interaction between qualified professional personnel (QPS/QPC) and client or client and significant others. Documentation includes date, time, length, issues addressed, and individual response/progress. CITs who have documented evidence of at least 20 hours of training (including orientation and the twelve core functions of substance abuse counseling) and 60 hours of direct supervision by QPS/QPC may perform counseling functions when the QPS/QPC is on duty and available for immediate assistance if needed. Counseling sessions last at least 30 minutes in one of the following scenarios:

a. Individual;

b. Group. All counseling groups shall be homogenous and no more than 12 clients; or

c. Family.

4. Crisis Intervention. Twenty-four hour/day telephone coverage shall be provided by qualified personnel to assist clients with crisis care and follow-up assistance to access appropriate services if needed.

5. Education (Healthy Living). Education is provision of information to individuals and/or groups concerning alcohol and other drug abuse, positive lifestyle changes, and the available services and resources. Educational group size is not restricted and may be offered as outreach program. Program shall:

a. follow a course outline that identifies lecture topics, activity schedule, and major points to be discussed.

b. include benefits of participation in appropriate self-help groups; and

c. not identify the activity as a counseling session.

6. Therapy. Therapy is professional level services by appropriately licensed personnel (BCSW or psychologist or psychiatrist) to treat children, adolescents, or clients/family members who have complex problems or who are dually diagnosed with abuse/addiction disorder and mental illness.

7. Referral. Facility shall have appropriate resource information regarding local agencies to provide support and other services to client/family upon need/request and/or procedures to access such as vocational services, community services, and organizations to support recovery such as transitional living services, transportation, and vocational services. Additionally, facility will be expected to:

a. provide access to appropriate health care and mental health services;

b. refer pregnant clients who are not receiving prenatal care to an appropriate health care provider and monitor follow-through; and

c. refer clients to ancillary services necessary to meet treatment goals.

8. Toxicology Services. Programs are required to have appropriate Clinical Laboratories Improvement Amendments (CLIA) certification for testing or written protocols for collection of specimens in accordance with current standards of practice and be approved by the testing

laboratory. The minimal set of substances required to be screened for toxicology are subject to annual approval by OAD.

9. Dietary (required for 24 hour facilities only). Services are provided under the direction of a qualified dietitian, who is available for telephone consultation whenever client is admitted and has physician orders for dietary restrictions/supplements.

a. General requirements. The facility shall provide:

i. meal break after five consecutive hours of scheduled activities;

ii. an OPH approved kitchen with continuous conditions/procedures to maintain all foods at temperatures and under conditions to assure safe, sanitary handling;

iii. nutritious meals of adequate quality and quantity to meet the needs of each client, including religious and dietary restrictions;

iv. at least three meals daily, with no more than 14 hours between any two meals;

v. at least an evening snack;

b. Dietitian shall:

i. approve menus and provide written guidelines for substitutions in advance;

ii. provide staff in-service training as needed to assure quality meal service;

iii. provide information to professional staff regarding dietary needs of specific clients and be available for consultation when necessary.

c. Facility shall:

i. serve meals in a relaxed atmosphere that promotes utilization of newly learned skills in socialization and communication;

ii. maintain sanitation of dishes;

iii. ensure that all dishes, cups and glasses used by clients are free from chips, cracks or other defects; and

iv. ensure that animals are not permitted in food storage, preparation, and dining areas.

d. Facility retains responsibility to assure that meal preparation/service with client participation meets all requirements listed above and to supervise adequately to ensure compliance.

i. The program shall define duties in writing and have written instructions posted or easily accessible to clients.

ii. If menu planning and independent meal preparation are part of the client's treatment program, a licensed dietitian shall:

(a). approve the client training curriculum; and

(b). provide training or approve a training program for staff who instruct and supervise clients in meal preparation.

e. Meal preparation/service may be provided by contract service. However, facility is responsible for ensuring that all standards above are met.

10. Pharmaceutical. When any medication is administered and/or dispensed on-site, facility shall have written agreement with licensed pharmacist or licensed physician to provide on-site service and consultation and evaluation of medication policy and procedure of facility at least annually and to provide monthly on-site consultation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 through R.S. 40:1057.9 redesignated R.S. 40:1058.1 through R.S. 1058.9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, Division of Management, Office of Licensing and Certification, LR:2:154 (May 1976), adopted by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR:18:1449 (December 1992), LR 25:

§7431. Outpatient Counseling Facilities

A. Outpatient Counseling Programs provide non-residential treatment services for clients who require ongoing support on a regular or irregular basis, such as:

1. Continuing Care for those who have completed primary treatment and require minimal support to avoid relapse.

2. Early Intervention for those who have been identified as substance abusers and referred for education, activities, or support services designed to prevent progression of disease.

3. Initial Point of entry/reentry. Activities related to assessment, evaluation, diagnosis and assignment of level of care are provided, including transfer between facilities and/or treatment modalities, relapse assessment, and assignment to level of care.

4. Combination of the above

NOTE: Facility license is not required for individual or group practice of Licensed Professional Counselors/ therapists providing the above services under the auspices of their individual license(s).

B. Outpatient Staffing. The following staffing requirements are minimum standards and do not restrict facility from employing additional staff.

1. Supervisor (QPS). Supervisor is present for a minimum of 1 hour/week/counselor.

2. Counselor (QPC). Caseload size is based on needs of the active clients to ensure effective, individualized treatment and rehabilitation. Approval by OADA is required in writing when caseload exceeds 50 active clients. For this standard, "active" is defined as being treated at least every 90 days.

3. Nursing. Any facility administering medications must have licensed registered nurse. If a registered nurse or physician is on-duty/on-call in accordance with the definitions in Section 7405., a licensed practical nurse may administer medications.

4. Physician. Sufficient hours on-duty and on-call during hours of operation are required to provide medical direction as needed to assure quality care is provided.

5. Licensed psychologist or licensed social worker. Adequate coverage to provide review of psycho-social and treatment plans, and additionally as required to meet active client needs.

C. Client Functional Status. Clients must function independently in outpatient setting with appropriate support.

D. Special Considerations. When these services are court ordered, facility will provide all services in accordance with these licensing standards, maintain court related information, and initiate necessary communications to facilitate the court referral process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 through R.S. 40:1057.9 redesignated R.S. 40:1058.1 through R.S. 1058.9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, Division of Management, Office of Licensing and Certification, LR:2:154 (May 1976), adopted by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR:18:1449 (December 1992), LR 25:

§7433. Intensive Outpatient Treatment Facility

A. Outpatient treatment facilities increase the levels of responsibility for clients to apply knowledge and to practice skills in structured and non-structured settings. Organized and structured therapeutic regimen of day/evening treatment sessions for at least nine hours per week on three or more days per week.

B. Outpatient Facility Staffing. The following are minimum staff requirements and do not restrict the facility from utilizing additional employees.

1. Supervisor (QPS). Supervision is present for sufficient hours (greater than 10) to direct program activities to assure that activities are therapeutic, and additionally, one hour per week per counselor on staff.

2. Counselor (QPC). Counseling groups shall not exceed 12 clients, but may be smaller in keeping with the needs of the clients. Counselor shall be on site during all hours of operation.

3. Nursing. Any facility administering medications must have licensed registered nurse. If a registered nurse or physician is on-duty/on-call in accordance with Section 7405, a licensed practical nurse may administer medications.

4. Physician. Sufficient hours on-duty and on-call shall be available during hours of operation to provide medical direction and medical services as needed to assure quality care is provided.

5. Licensed psychologist or social worker. Presence is required as indicated by active client needs to review psycho-social assessments and treatment plans.

C. Client Functional Status. Clients can function with limited supervision within their existing environment or in environments designed to provide support, but cannot independently maintain stability for at least 72 hours.

D. Outpatient Treatment Facility Requirements

1. Treatment plan review shall be documented in progress notes weekly by counselor, and by other disciplines as needed to assure continuity of care.

2. Medical screening shall be performed by registered nurse or physician, and referred for physical examination if indicated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 through R.S. 40:1057.9 redesignated R.S. 40:1058.1 through R.S. 1058.9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, Division of Management, Office of Licensing and Certification, LR:2:154 (May 1976), adopted by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR:18:1449 (December 1992), LR 25:

§7435. Opiate Addiction Treatment Programs

A. Opiate addiction treatment programs use the medical model to detoxify and maintain the chronic opiate addict with synthetic narcotic until client can achieve recovery through a spectrum of counseling and other supportive/rehabilitative services. Each facility is required to independently meet the requirements of the protocols established by OAD/State Methadone Authority.

B. Treatment Phases/Specific Requirements.

1. Initial treatment. Intensive assessment and intervention lasts from 3 to 7 days in duration. Services to be provided are:

a. physical examination and medical assessment prior to initial administering of any medication;

b. individual counseling as indicated by daily nursing assessment;

c. initial treatment plan includes initial dose of medication and plan for treatment of critical health or social issues; and

d. client orientation.

2. Early stabilization. Beginning on the third to seventh day of treatment (following initial treatment) through 8 weeks duration, the following shall be provided:

a. frequent monitoring of client's reaction to medication;

b. individual counseling comprised of at least four individual counseling sessions during this phase;

c. development of treatment plan within thirty days with input by all disciplines, client and significant others; and

d. random monthly drug/alcohol screens.

3. Long-term treatment. This stage follows the end of early stabilization and lasts for an indefinite period of time. Services to be provided are:

a. annual physical examination in accordance with Center for Disease Control guidelines;

b. random monthly drug/alcohol screens until client has negative screens for one year, then approximately every ninety days. Clients who are allowed six days of take-home medication shall be tested every month;

c. counseling (individual or group). Number and type are determined by indicators and recommendations of the treatment team. Clients with repeated episodes of inappropriate behavior or multiple positive drug screens require reassessment and consideration for referral to more appropriate treatment modality;

d. semi-annual screening and assessment by nursing staff with referral to MD if necessary;

e. continuous evaluation of client's use of medication/treatment from other sources to prevent untoward reactions and to promote continuity of care;

f. documented review of treatment plan every ninety days by treatment team; and

g. progress notes addressing response to treatment at least every 30 days.

4. Medically supervised withdrawal with continuing care. This service is provided if and when appropriate. Services to be provided are:

a. counseling of the type and quantity determined by the indicators and the reason for detoxification; and

b. discharge planning with continuity of care to assist client to function without support of the medication and treatment activities.

C. Additional Opiate Treatment Services.

1. Toxicology Services. Random, periodic testing shall be conducted for drugs and alcohol at least once a month during the first year of treatment. After 12 months of negative urine screens, random testing shall occur at least every 90 days. Patients who receive six days of medication for take-home use shall be tested every month.

2. Counseling Services. Type and quantity shall be based on the assessment and recommendations of the treatment team and shall meet the following requirements:

a. written documentation shall support decisions of the treatment team including indicators such as positive drug screens, maladjustment to new situations, inappropriate behavior, criminal activity;

b. counseling may be provided in small (not to exceed 12 clients) homogenous groups provided that group counselor is familiar with client and documents all contacts in the client record;

c. written criteria determines when a client will receive additional counseling and/or take home medication privileges when different from state guidelines.

D. Opiate Treatment Facility Staffing. The following are minimum staffing requirements and do not restrict the facility from utilizing additional employees.

1. Licensed Pharmacist shall be:

a. accountable for the dispensing of all medications;

b. responsible for reconciliation of administration and dispensing inventory records at least every thirty days; and

c. responsible for maintaining medication records for at least three years.

2. Nursing Services. All medications shall be administered under the supervision of a registered nurse or physician. A licensed practical nurse cannot administer medication unless registered nurse or physician is on duty or on call in accordance with §7405.

3. Supervisor (QPS). On call as needed and present on duty at least one hour per week for each counselor on staff.

4. Counselor (QPC). Caseload is determined by the needs of the clients in the counselor's caseload and the counselor's available time to provide individual and group counseling. Any caseload greater than 50 clients per counselor must have written approval of State Methadone Authority/HSS.

5. Physician. Sufficient hours on-duty and on-call are required during hours of operation to provide medical direction and medical services as needed to assure quality care is provided.

E. Special Considerations

1. Any program that fails to maintain any required licensure shall be also terminated immediately.

2. State Methadone Authority shall approve all applications before submission to DHH/HSS for initial licensure.

F. Admission criteria

1. verification by MD that methadone treatment is medically necessary;

2. minimum age requirement of 18 years for admission, except with parental consent; and

3. referring medical history and diagnosis of chronic opiate addiction, as currently defined in the Diagnostic and Statistical Manual for Mental Disorders (DSM).

G. Take-Home Medication Privilege

1. Considerations for take-home medication shall include:

a. negative drug/alcohol screens for at least 90 days;

b. regularity of clinic attendance;

c. absence of serious behavioral problems;

d. absence of known criminal activity;

e. stability of home environment and social relationships;

f. assurance that take home medication can be safely stored;

g. whether the benefit to the patient outweighs the risk of diversion.

2. Exceptions to the above requirements must be documented and justified by the physician, approved by the State Methadone Authority and federal agencies as required, and can only be granted for emergencies and severe travel hardships.

3. Take-home medication privileges shall be granted on the following schedule:

a. after 90 days in treatment with clinic attendance at least 3 times per week, no more than a 2-day supply of take-home medication;

b. after 2 years in treatment with clinic attendance at least 2 times per week, no more than a 3-day supply of take-home medication;

c. after 3 years in treatment with clinic attendance at least weekly, no more than a 6-day supply of take-home medication.

4. Transport devices for take home medications shall be child-proof, clean, sanitary, and legally and clearly labeled appropriately at all times.

H. Client Record. In addition to general client record documentation, the client record shall contain regular documentation as appropriate (but at least every 30 days) of the client's status, including:

1. adequacy of dose;

2. results of 5 most recent drug urine screens with action taken for positive results;

3. physical status and use of prescription medication;

4. employment/vocational needs;

5. legal and social status;

6. overall client stability;

7. contact notes/progress notes; and

8. other relevant information as required by §7427.

Detoxification Services.

I. Training. In addition to Orientation as described in §7417. Staffing Qualifications/Requirements all direct care employees shall receive training and demonstrate knowledge that includes:

1. symptoms of opiate withdrawal;

2. drug urine screens and collections, policies and procedures;

3. current standards of practice regarding opiate addiction treatment;

4. poly-drug addiction; and

5. information necessary to assure care is provided within accepted standards of practice.

J. Temporary Transfers or Guest Dosing. The facilities involved shall do the following:

1. receiving facility shall verify dosage prior to administering medication;
2. sending facility shall verify dosage and obtain approval/acceptance from receiving facility prior to client's transfer.

K. Synthetic narcotic programs shall comply with applicable local, state and federal rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 through R.S. 40:1057.9 redesignated R.S. 40:1058.1 through R.S. 1058.9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, Division of Management, Office of Licensing and Certification, LR:2:154 (May 1976), adopted by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR:18:1449 (December 1992), LR 25:

§7437. Primary Residential Treatment Facilities

A. Residential Treatment Programs shall include:

1. use of the psycho-social model to provide continuous monitoring, observation, and treatment modalities using the twelve-step program design;
2. at least 25 hours of structured treatment activities per week including counseling and educational activities. At least three additional hours must be organized social and/or recreational activities.

B. Residential Treatment Staffing. The following staffing requirements are minimum standards and do not restrict the facility from utilizing additional employees.

1. Supervisor (QPS). Shall be on duty as needed, and provide at least one hour per week for each counselor on staff, but at least 10 hours per week to assure close supervision and individualized treatment.

2. Counselor (QPC). Caseload shall not exceed 1:15. Size of counseling groups shall be determined by the needs of clients, but shall not exceed 12 clients. Counselor shall be on-duty whenever counseling is being provided. If counseling is needed after customary hours, counselor shall be available to be on-duty.

3. Physician. Sufficient hours on-duty and on-call twenty-four hours per day, to provide medical direction and medical services as needed to assure quality care is provided.

4. Licensed social worker or psychologist. Adequate to provide therapy to those clients who have complex problems and to review and countersign psycho-social assessments and treatment plans.

C. Special Considerations. Facility must provide at least 25 hours of structured treatment activities per week for each client including counseling and educational services. At least three hours must be organized social and/or recreational activities.

D. Special Requirements. Treatment plan review shall be documented in progress notes at least weekly, and by other disciplines at least once during the first two weeks of treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 through R.S. 40:1057.9 redesignated R.S. 40:1058.1 through R.S. 1058.9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, Division of Management, Office of Licensing and Certification, LR:2:154 (May 1976), adopted by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR:18:1449 (December 1992), LR 25:

§7439. Inpatient Primary Treatment

A. Inpatient Primary Treatment Programs shall include:

1. use of the medical model to provide continuous monitoring, observation, and treatment modalities using the twelve-step program design or other models;
2. at least 25 hours of structured treatment activities per week including counseling and educational activities. At least three additional hours must be organized social and/or recreational activities.

B. Types of In-patient Facilities. Providers are 24 hour facilities for adults, adolescents, or parents/dependent children. Services provided are:

1. Detoxification. Provides immediate acute care for intoxication, but not serious medical problems. See §7421; and

2. In-patient Primary Treatment. Provides non-acute therapeutic regime including medical and psychiatric care, as needed.

C. Primary Inpatient Treatment Staffing. The following staff requirements are minimum standards and do not restrict the facility from utilizing additional employees.

1. Supervisor (QPS). Sufficient hours (greater than 15) to direct program activities to assure that activities are therapeutic and in addition, one hour per week per counselor on staff.

2. Counselor (QPC). Size of counseling groups shall be determined by needs of the clients, but shall not exceed 12 clients. Counselor shall be on site at least 40 hours per week.

3. Nursing. Registered nurse as determined by the needs of the clients being admitted and to meet the current standards of practice for client care. One registered nurse is required at least forty hours per week. Additional nursing functions may be supplemented by licensed practical nurses, if a registered nurse or physician is on-duty/on-call in accordance with §7405.

4. Physician. Sufficient hours on-duty and on-call twenty-four hours per day to provide medical direction and medical services as needed to assure quality care is provided.

5. Licensed social worker or psychologist. Adequate availability is required to provide therapy to those clients who have complex problems and to review and countersign psycho-social assessments and treatment plans.

D. Client Functional Status. Clients may require psychiatric and/or medical/nursing care in addition to substance abuse services.

E. Special Requirements. Treatment plan review shall be documented in progress notes weekly by all disciplines involved in care of client to assure continuity of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 through R.S. 40:1057.9 redesignated R.S. 40:1058.1 through R.S. 1058.9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, Division of Management, Office of Licensing and Certification, LR:2:154 (May 1976), adopted by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR:18:1449 (December 1992), LR 25:

§7441. Community-Based Programs

A. Community Based Programs shall include:

1. transitional living, support and counseling, room and board, social and recreational activities and vocational opportunities;

2. structured, drug-free environment to allow client to maintain or to improve upon the gains made during prior treatment or currently being made in treatment;

3. opportunities for the client to focus on re-socialization and to gradually resume responsibilities associated with independent living;

4. provision of services in Halfway and Three Quarter Houses.

B. Community Based Program Staffing. The following staff requirements are minimum standards and do not restrict the facility from utilizing additional employees. If clients require additional services/supervision, facility is expected to employ professional staff as needed.

1. Supervisor (QPS). Available for consultation, in addition to one hour per week per counselor.

2. Counselor (QPC). One full-time (or FTE) is required for every 25 residents unless clients require closer supervision. Counselor must be on-duty when majority of clients are awake and on-site.

3. House Manager. Supervisor of facility operations 24 hours per day and non-treatment, direct care person who supervises activities of the facility when the professional staff is on call, but not on duty. This person is required to have adequate orientation and skills to assess situations related to relapse and to provide access to appropriate medical care when needed.

C. Client Functional Status. Clients are capable of increasing life responsibilities.

D. Special Considerations. Treatment plan review shall be documented in progress notes monthly by all disciplines involved in care of client to assure continuity of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 through R.S. 40:1057.9 redesignated R.S. 40:1058.1 through R.S. 1058.9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, Division of Management, Office of Licensing and Certification, LR:2:154 (May 1976), adopted by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR:18:1449 (December 1992), LR 25:

§7443. Therapeutic Community (Long Term Residential)

A. Therapeutic Community programs shall:

1. provide highly structured environments designed to treat those clients who have demonstrated pattern of recidivism or a need for long term residential treatment;

2. provide graduated levels of increasing responsibility, functional capacity, autonomy, privilege, and authority to promote emotional and interpersonal growth through experience or expectation, accountability, support, evaluation, and both favorable and unfavorable consequences for behavior.

B. Therapeutic Community Program Staffing. The following staffing requirements are minimum standards and do not restrict the facility from utilizing additional employees.

1. Supervisor (QPS). Must be on-site a minimum of 1 hour/week/counselor.

2. Nursing. One registered nurse shall be on duty at least forty hours per week. Additional nursing functions may be supplemented by licensed practical nurses, if registered nurse or physician is on call twenty-four hours per day.

3. Physician. Sufficient hours on-duty and on-call twenty-four hours per day to provide medical direction as needed to assure quality care is provided.

4. Psychiatrist. Sufficient hours on-duty and on-call as needed to provide services to clients.

5. Licensed social worker (BCSW). At least one full-time per 20 clients and additional availability as needed to meet the needs of the clients.

6. Counselor (QPC). As needed to provide substance abuse counseling.

C. Special Considerations. The tiered level of structure in the therapeutic environment promotes emotional and interpersonal growth through experience or expectations, accountability, support, evaluation, and both favorable and unfavorable consequences for behavior. Societal principles and standards are reinforced with the client. Structure and discipline promote consequential thinking regarding cause and effect. Graduated level system allows individual to achieve increasing responsibility, functional capacity, autonomy, privilege, and authority as he/she progresses.

E. Client Functional Status. Upon admission, clients have had arrests or other problems living in society, attending school, earning a living, and/or functioning as a productive member of society.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 through R.S. 40:1057.9 redesignated R.S. 40:1058.1 through R.S. 1058.9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, Division of Management, Office of Licensing and Certification, LR:2:154 (May 1976), adopted by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and

Hospitals, Bureau of Health Services Financing, LR:18:1449 (December 1992), LR 25:

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 inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Friday, August 27, 1999 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Minimum Standards/Requirements for
Substance Abuse/Addiction Treatment
Facilities/Programs**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Implementation of this proposed rule will not result in an increase or decrease in state programmatic costs. However, \$4,658 (\$2,498 SGF and \$2,160 FED) will be incurred in SFY 1999 for the state's administrative expense of promulgating this proposed rule, the final rule, and for printing the new substance abuse licensing standards. All currently licensed facilities will receive the new licensing standards free of charge.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

A remittance of \$50 for a licensing packet, which will include the new standards, shall continue to be required for new facilities applying for licensing. However, the number of new facilities applying for licensing cannot be determined at this time.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This rule establishes the minimum licensing standards required for all substance abuse/addiction treatment facilities/programs. Any existing substance abuse/addiction treatment facilities/programs that cannot meet these standards will have its license revoked. Adoption of these standards will assure the quality of care provided by substance abuse/addiction treatment facilities/programs thus clients will benefit from this effort. There is insufficient data available on substance abuse facilities/programs operating in Louisiana to project a fiscal impact.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed minimum licensure standards may cause some providers to choose to discontinue providing substance abuse/addiction treatment facilities/program care, resulting in a reduction in the number of current operating providers. However, it is anticipated that new substance abuse/addiction treatment facilities may be licensed, thereby increasing employment opportunities for Louisiana residents as the

facilities hire qualified staff. There is insufficient data available on substance abuse facilities/programs operating in Louisiana to project a fiscal impact.

Thomas D. Collins
Director
9907#048

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Pharmacy Program—Average Wholesale Price (AWP)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and in accordance with the Administrative Procedure Act, R.S. 49:953(B) et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing published a rule effective April 20, 1990, regarding the reimbursement of drugs in the Louisiana Medicaid Pharmacy Program (*Louisiana Register*, Volume 16, No. 4). This rule established standards for payment for pharmacy services which included the definition of "Estimated Acquisition Costs" as the modified average wholesale price of the drug dispensed, identified by the manufacturer number, product number, and package number usually purchased by a provider, from a supplier whose products are generally available to all pharmacies and reported in one or more national compendia. Repackaged drug products supplied through co-ops, franchises, or other sources not readily available to other providers shall not be used to estimate provider acquisition cost. In such instances, the average wholesale price for the drug product used by the repackager identified by the manufacture number, product number, and largest reported package size in one or more national compendia shall be utilized by the agency to estimate acquisition cost. "Modified" as it is used in this rule is defined as the lower of: 1) Average Wholesale Price (AWP) minus 10.5 percent for single source drugs (brand name), multiple source drugs which do not have a State Maximum Allowable Cost (MAC) or Federal Upper Limit and those prescriptions subject to MAC overrides based on the physician's certification that a brand name product is medically necessary; 2) Louisiana's Maximum Allowable Cost limitations or 3) Federal Upper Limits.

Act 10 of the 1999 Regular Session of the Louisiana Legislature contains provisions amending the reimbursement methodology for prescription drugs under the Medicaid Program effective July 1, 1999. In accordance with this legislation, the Bureau proposes to adopt the following rule to limit payments for prescription drugs by amending the Estimated Acquisition Cost formula from AWP minus 10.5 percent for single source drugs (brand name), multiple source drugs which do not have a State Maximum Allowable

Cost (MAC) or Federal Upper Limit and those prescriptions subject to MAC overrides based on the physician's certification that a brand name product is medically necessary to AWP minus 10.5 percent for independent pharmacies and 13.5 percent for chain pharmacies. Chain pharmacies are defined as five or more Medicaid enrolled pharmacies under common ownership. All other Medicaid enrolled pharmacies are defined as independent pharmacies. The effective date for this proposed rule is July 1, 2000.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing limits payments for prescription drugs to the lower of: 1) Average Wholesale Price (AWP) minus 10.5 percent for independent pharmacies (all other Medicaid enrolled pharmacies) and 13.5 percent for chain pharmacies (five or more Medicaid enrolled pharmacies under common ownership); 2) Louisiana's Maximum Allowable Cost limitation plus the Maximum Allowable Overhead Cost; 3) Federal Upper Limits plus the Maximum Allowable Overhead Cost; or 4) provider's usual and customary charges to the general public. General public is defined as all other non Medicaid prescriptions including third-party insurance, pharmacy benefit management and cash. This rule is adopted pursuant to Act 10 of the 1999 Regular Session of the Louisiana Legislature which contains provisions amending the reimbursement methodology for prescription drugs under the Medicaid Program effective July 1, 1999. The effective date for this rule is July 1, 2000.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, P. O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Friday, August 27, 1999 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Pharmacy Program—Average Wholesale Price (AWP)**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce state program costs by approximately (\$909,373) for SFY 2000-2001, (\$935,474) for SFY 2001-2002, and (\$963,538) for SFY 2002-2003. Included in SFY 2000-2001 is \$80 for the state's administrative expense of promulgating this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce federal revenue collections by approximately (\$2,155,696) for SFY 2000-2001, (\$2,221,712) for SFY 2001-2002, and (\$2,288,363) for SFY 2002-2003. Included in SFY 2000-2001 is \$80 for the federal share of promulgating this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will not impact independent pharmacies. However, chain pharmacies will receive a reduction in reimbursements for prescribed drugs dispensed. This proposed rule will result in a cost avoidance of approximately (\$3,065,229) for SFY 2000-2001, (\$3,157,186) for SFY 2001-2002, and (\$3,251,901) for SFY 2002-2003.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9907#052

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 68—Patient Rights Under Health Insurance Coverage in Louisiana (LAC 37:XIII.Chapter 91)

(Editor's Note: The following rules, which appeared on pages 1178 through 1182 of the June 20, 1999 *Louisiana Register*, are being republished in their entirety to correct the hearing date.)

In accordance with the provisions of LSA-R.S. 49:953 of the Administrative Procedure Act, LSA-R.S. 22:3, R.S. 22:2014, and R.S. 22:2021(C), the Department of Insurance is proposing to adopt the following regulation regarding the rights of patients with health insurance coverage in Louisiana. This regulation is necessary to establish reasonable requirements for health insurance coverage that assures compliance with state statutory requirements under Title 22 of the Louisiana Revised Statutes of 1950. More specifically, this regulation is necessary to implement and enforce the following provisions: LSA-R.S. 22:2(G), 22:4, 22:215.9, 22:215.11, 22:215.13, 22:215.17 22:215.18, 22:215.19 22:2004, 22:2005, 22:2013, 22:2016 22:2018, 22:2020, 22:2021 and 22:2022.

Title 37 INSURANCE

Part XIII. Regulations

Chapter 91. Regulation 68—Patient Rights Under Health Insurance Coverage in Louisiana

§9101. Purpose

A. The purpose of this regulation is to clarify the rights of insureds and requirements for health insurance coverage approved under Title 22 of the Louisiana Revised Statutes of

1950. Title 22 of the Louisiana Revised Statutes of 1950 establishes the statutory requirements that health insurance coverage must meet to be issued for delivery in Louisiana. The statutory requirements also establish the intent of the legislature to afford patients with health insurance coverage, basic rights to access covered benefits without undue delays or denials based on arbitrary determinations of medical necessity. The statutory requirements also establish the legislative intent to prohibit the use of a health insurance coverage requirement or procedure that impinges on the ability of the insured patient to receive appropriate medical advice and/or treatment from a health care provider.

B. To carry out the intent of the legislature and assure full compliance with the provisions of applicable statutory requirements, this regulation sets forth the patient rights under health insurance coverage policies or plans issued for delivery in this state.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 22:3 and R.S. 22:2014

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

§9103. Definitions

Emergency Medical Condition—means the sudden and, unexpected onset of a health condition that requires immediate medical attention, where failure to provide such medical attention could reasonably be expected to result in death, permanent disability, serious impairment to bodily functions, serious dysfunction of a bodily organ or part, or could place the person's health in serious jeopardy.

Formal Managed Care Plan—basic health coverage provided by a Health Maintenance Organization licensed to operate in Louisiana. The term does not include health insurance coverage that does not meet the same quality standards that are applied to Health Maintenance Organizations. The term does not apply to any health insurance coverage or employer benefit plan that advertises or markets coverage as "managed care" but is not required to comply with the statutory consumer protections required of formal managed care plans operated by Health Maintenance Organizations in Louisiana.

Geographic Area—a Parish.

Health Care Professional—a physician duly licensed to practice medicine by the Louisiana State Board of Medical Examiners, or other health care professional duly licensed, certified, or registered as appropriate in Louisiana, or an acute care hospital licensed to provide medical care in this state.

Health Insurance Coverage—means benefits consisting of medical care, provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical care, under any hospital or medical service policy or certificate, hospital or medical service plan contract, preferred provider organization, or health maintenance organization contract. This term shall not mean limited benefit insurance as defined in LSA-R.S. 22:6(2)(b)(i) or any short term health insurance exempt from guaranteed renewal by PL 102-191, the Health Insurance Portability and Accountability Act of 1996.

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 Plan—has the same meaning as set forth under LSA-R.S. 22:215.18A(3) and (4). This includes health insurance policies and health maintenance organization coverage. The term does not include supplemental insurance or limited benefit coverage for out of pocket expenses that is exempt from being classified as creditable coverage under Part VI-C of Chapter 1 of Title 22 of the Louisiana Revised Statutes of 1950.

Service Area—the geographic area or areas of the state served by a managed care plan.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 22:3 and R.S. 22:2014

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

§9105. Applicability and Scope

Except as otherwise specifically provided, the requirements of this regulation apply to all health insurance coverage issued for delivery in the state of Louisiana that is otherwise subject to the statutory requirements of Part VI-C of Chapter 1 of Title 22 of the Louisiana Revised Statutes of 1950.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 22:3 and R.S. 22:2014

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

§9107. Patient Rights Under Policies or Plans of Health Insurance Coverage

A. Prohibition on the Use of Gag Clauses—Applies to HMO Coverage. Patients have a right to talk freely with health care professionals about their health, medical conditions, and any treatment options that are available, including those not covered by their health plan. LSA-R.S. 22:215.18(B) prohibits a managed care plan from adopting any requirement that interferes with the ability of a health care professional to communicate with a patient regarding his or her health care. This statutory protection also includes communications regarding treatment options and medical alternatives, or other coverage arrangements. The managed care plan is only allowed to prohibit a health care professional from soliciting alternative coverage arrangements for the purpose of securing financial gain by the health care professional.

B. Prohibition on Incentives to Restrict, Delay or Deny Medically Necessary Care—Applies to HMO and Major Medical Insurance Coverage. Patients have a right to receive medically necessary and appropriate services covered under a managed care plan. LSA-R.S. 22:215.19 prohibits managed care plans from offering any financial incentives to health care professionals to deny, reduce, limit, or delay specific, medically necessary, and appropriate services.

C. Holding Managed Care Plans Liable for their Actions, Omissions, or Activities—Applies to HMO and Major Medical Insurance Coverage. Managed care plans are responsible for their actions, activities or omissions that result in harm to the patient. LSA-R.S. 22:215.18(G) prohibits managed care plans from transferring their liability related to activities, actions or omissions of the plan to a health care professional treating the insured. This right does not relieve health care professionals of their responsibilities to appropriately practice within the scope of license, certification, or registration.

D. Guaranteed Direct Access to Obstetricians/Gynecologists—Applies to HMO and Major

Medical Insurance Coverage. Women have a right to see an Obstetrician or Gynecologist for routine care. LSA-R.S. 22:215.17 requires health insurance coverage to include direct access to these health care professionals without prior authorization. In addition, health insurance coverage is required to include up to two annual routine visits and follow up treatment within sixty days of either visit if a related condition is diagnosed or treated during the visits. This requirement also applies to pregnancy related care if covered by the policy or plan.

E. Requirement for Appropriate Access to Covered Medical Services—Applies to HMO Coverage

1. Formal managed care plans operated by health maintenance organizations are required to maintain an adequate number of health care professionals to serve plan participants. Covered services must be provided within a reasonable period of time once ordered or prescribed. LSA-R.S. 22:2004, 2005, 2013, 2016, and 2021 establish requirements for HMO plans to document that their networks of primary care physicians and specialists are adequate. HMOs are allowed to use point of service options to expand networks and assure access to plan participants.

2. Other health insurance coverage is only allowed to offer managed care as a coverage option. These plans must offer traditional payment of medical claims based on the terms of the policy for deductibles and co-insurance.

F. Confidentiality of Medical Records—Applies to HMO Coverage

1. Any data or information pertaining to the diagnosis, treatment, or health of any enrollee or potential enrollee obtained from such persons or from any provider by any formal managed care plan shall be held in confidence and shall not be disclosed to any person except:

- a. to the extent that it may be necessary to carry out the purposes of operating a formal managed care plan as permitted by law;
- b. upon the express consent of the enrollee or potential enrollee;
- c. pursuant to statute or court order for the production of evidence or the discovery thereof;
- d. in the event of a claim or litigation between such person and the formal managed care plan wherein such data or information is pertinent.

2. A formal managed care plan shall be entitled to claim any statutory privileges against such disclosure which the provider who furnished such information to the formal managed care plan is entitled.

G. Prohibit Unreasonable Denial of Emergency Care—Applies to HMO and Major Medical Insurance Coverage

1. Any managed care plan that includes emergency medical services shall provide coverage and shall subsequently pay health care professionals for emergency medical services provided to a covered patient who presents himself/herself with an emergency medical condition.

2. No health insurance plan shall retrospectively deny or reduce payment to health care professionals for emergency medical services of a covered patient even if it is determined that the emergency medical condition initially

presented is later identified through screening not to be an actual emergency, except in the following cases:

- a. material misrepresentation, fraud, omission, or clerical error;
- b. any payment reductions due to applicable co-payments, co-insurance, or deductibles that may be the responsibility of the covered patient;
- c. cases in which the covered patient does not meet the emergency medical condition definition, unless the covered patient has been referred to the emergency department by the insured's primary care physician or other agent acting on behalf of the health insurance plan.

H. Appeal/Grievance Procedures for Denials of Coverage—Applies to HMO and Major Medical Insurance Coverage

1. Formal managed care plans operated by health maintenance organizations are required to have an administrative appeal or grievance process for patients. LSA-R.S. 22:2022 requires these plans to submit their appeal/grievance procedures to the Department of Insurance to verify the process or procedures used are reasonable and meet the intent of the statute.

2. In addition, where any insured patient is denied benefits under a health insurance coverage plan, a request can be made to the Department of Insurance for investigation of the denial. Where the denial is valid, the insured is so notified. Where the denial is erroneous, the health insurance coverage plan is required to institute corrective action and may be subject to fines and penalties if a statutory violation has occurred.

I. Guaranteed Continuation Of Group Insurance—Applies To HMO and Major Medical Insurance Coverage

1. LSA-R.S. 22:215.13 guarantees Louisiana residents who lose their eligibility for coverage under a group health insurance policy or plan, the right to maintain such coverage in force for up to 12 months. This guaranteed continuation of group health insurance does not include accident only coverage, specific disease coverage, limited benefit coverage for dental, vision care or any benefits provided in addition to the basic hospital, surgical, or major medical benefits of the policy. This means that additional or optional insurance coverage purchased is not guaranteed to be provided during this 12-month continuation period. This continuation of group coverage right is guaranteed for up to one year so long as the following conditions are met:

- a. the individual is not eligible for any other group health coverage plan or government sponsored health plan, such as Medicare and Medicaid;
- b. the individual timely pays the full monthly premium to keep coverage in force;
- c. the individual was not terminated from coverage for fraud or failure to pay any required contribution for the group insurance, and continues to meet the group policy's terms and conditions other than membership in that original group;
- d. all dependents covered under the group policy or plan continue to be covered;

e. the group policy has not been terminated or the employer has withdrawn participation in a multiple employer group policy; and

f. the individual continues to reside within the service area of the plan in the event that such group coverage is provided by a Health Maintenance Organization.

2. This right is not automatic and requires the employee or member who is losing coverage to make a written election of continuation on a form furnished by the group policyholder and pay for the first month's coverage prior to the date that coverage is being terminated. Written notification of termination must be provided to the individual in advance to allow election of this right.

3. Special continuation rights are provided to a surviving spouse of an individual who was covered by a group health insurance policy or plan at the time of death and is age 55 or older. Under Louisiana law the surviving spouse is guaranteed the right to continue such group coverage in effect until eligible for any other group coverage. The surviving spouse is also allowed to provide coverage to all dependents that were covered under the deceased spouse's policy or plan at the time of death so long as they remain eligible under the policy.

J. Guaranteed Renewal of Health Insurance Coverage—Applies to HMO and Major Medical Insurance Coverage

1. Under Louisiana law, once health insurance coverage has been purchased, the insurer cannot cancel the coverage unless one of the following conditions exists:

a. failure to pay premiums or contributions in accordance with the terms of the policy;

b. failure to comply with a material plan provision relating to employer contribution or group participation rules;

c. performance of an act or practice that constitutes fraud or the intentional misrepresentation of a material fact under the terms of coverage;

d. the policyholder no longer resides, lives, or works in the service area in the event the coverage is provided under a formal managed care plan operated by a Health Maintenance Organization;

e. the policyholder's coverage is purchased through a bona-fide association plan and the policyholder is no longer eligible to participate in such association;

f. the insurance company is no longer offering the type of coverage purchased and offers to replace the policy with any other type of similar coverage being marketed within 90 days of renewal; or

g. the insurance company is leaving the market and will no longer be selling any group and/or individual health insurance products in Louisiana for a period of at least five years. In such instances the insurer must give each policyholder 180 days advance notice in writing before the policy is terminated. All termination notices must be filed and approved by the Department of Insurance prior to issuance.

K. Limits on Preexisting Medical Condition Exclusions from Coverage—Applies To HMO and Major Medical Insurance Coverage. Under Louisiana law, a health insurance plan is allowed to exclude certain medical conditions from coverage for a limited period of time. All policies now being sold are prohibited from excluding

coverage for specific preexisting medical conditions for more than 12 months. Regardless of the type of coverage (group or individual), health plans are not allowed to apply an exclusion of coverage based on a preexisting medical condition for more than 12 months.

1. Group Coverage. The medical conditions that can be excluded from coverage are limited to those that were diagnosed or treated during the six month period prior to the day coverage begins under the policy. Any condition that was not being treated during the prior six months cannot be excluded from coverage.

2. Individual Coverage. The medical conditions that can be excluded from coverage are limited to those that were diagnosed, treated or reasonably should have been treated during the twelve month period prior to the day coverage begins under the policy. Any condition that was not diagnosed, treated, or reasonably should have been treated during the prior twelve months cannot be excluded from coverage.

L. Guaranteed Portability Protections—Applies to HMO and Major Medical Insurance Coverage

1. Individuals who are moving their health coverage from one employment situation to another or from one group plan to another are guaranteed the following rights provided they have enrolled in the new plan within 63 days of termination from the prior plan:

a. if the new plan imposes a 12-month preexisting exclusionary period, the individual must be given one month's credit for each month of continuous coverage under the prior plan. If the individual had 12 or more months of continuous coverage under the prior plan, the preexisting exclusionary period has been satisfied. If the individual had 6 months of continuous coverage under the prior plan, the preexisting exclusionary period is reduced by 6 months;

b. if the new employer imposes an exclusionary or waiting period for employees before coverage can begin, such periods do not count as a break in coverage for applying portability rights;

c. during any exclusionary or waiting period, no premiums can be charged to the individual;

d. during any exclusionary or waiting period the individual may maintain their prior coverage if eligible under state continuation of coverage rights, federal COBRA rights, or through purchase of an individual policy;

e. individuals, who had at least 18 months of prior coverage under a group plan, have exhausted or are not eligible for state continuation rights or COBRA rights, are guaranteed access to individual health insurance coverage through the Louisiana Health Insurance Association.

2. Any Louisiana resident who has individual health insurance coverage is guaranteed credit for prior individual coverage when replacing coverage if the insurance plan is applying the prior insurance policy's lifetime benefit usage against the replacement policy. Residents can waive credit for prior coverage to avoid any reduction in the lifetime benefit limit of the replacement coverage. However, state law no longer allows the sale of any policy of insurance that excludes coverage in excess of 12 months.

M. Prohibiting Discrimination Against Individuals Based on Health Status—Applies to HMO and Major Medical Insurance Coverage

1. State and federal law prohibit any group health coverage plan from discriminating against individuals based on their health status. This means that an individual's medical status cannot be used to determine eligibility to join a group health plan with certain exceptions. Plans are specifically prohibited from adopting any rules for eligibility or continued eligibility based on any of the following health status related factors:

- a. health status;
- b. medical condition, including both physical and mental illness;
- c. claims experience;
- d. receipt of health care;
- e. medical history;
- f. genetic information;
- g. evidence of insurability, including conditions arising out of acts of domestic violence; and
- h. disability.

2. A plan's rules for eligibility to enroll under a plan also include rules defining any applicable waiting periods for such enrollment. This means that the plan may only apply exclusionary or waiting period uniformly based on date of hire for all eligible employees. No exclusionary or waiting periods are allowed after coverage begins and premiums are being collected from the insured.

N. Prohibition on Use of Prenatal and Genetic Tests by Health Insurance Plans—Applies to HMO and Major Medical Insurance Coverage. State law prohibits health insurance plans from requiring any individual to take genetic tests or prenatal tests prior to being offered coverage. Plans are also prohibited from requesting release of any genetic or prenatal test results or using such information in the determination of benefits or rates for an insured.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 22:3 and R.S. 22:2014.

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

§9109. Patient Responsibilities

Under Louisiana law, formal managed care plans operated by health maintenance organizations are held to a higher standard than other health insurance coverage plans that include managed care options. All materials provided by a health insurance coverage plan should be carefully reviewed prior to making a purchasing decision. Managed care requirements under each health insurance coverage plan may vary significantly. For this reason, all patient requirements should be carefully reviewed to assure there is no misunderstanding regarding how medical coverage will be provided.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 22:3 and R.S. 22:2014.

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

A public hearing on the proposed regulation will be held on August 31, 1999 in the Plaza Hearing room of the Louisiana Department of Insurance located at 950 North Fifth Street, Baton Rouge, LA, at 8:30 a.m. All interested persons will be afforded an opportunity to make comments.

Interested persons may submit oral or written comments to Claire Lemoine, Senior Attorney, Division of Health, Department of Insurance, Box 94214, Baton Rouge, LA 70804-9214, telephone (225) 219-4771. Comments will be

accepted through the close of business at 4:30 p.m., August 31, 1999.

James H. "Jim" Brown
Commissioner

9907#069

NOTICE OF INTENT

Department of Labor Office of Workers' Compensation

Workers' Compensation—Hearing Rules
(LAC 40:I.5501-6627, 6637, 6639, 6662, and 6663)

Notice is hereby given, in accordance with R.S. 49:950, et seq., that the Louisiana Department of Labor, Office of Workers' Compensation, pursuant to authority vested in the Director of the Office of Workers' Compensation by R.S. 23:1310.1 and in accordance with applicable provisions of the Administrative Procedure Act, proposes to amend and reenact rules governing the procedure before the workers' compensation court, LAC 40:I, Subpart 2, Chapters 55 through 65 and Chapter 66, Sections 6601 through 6627, 6637 and 6639 and to enact Chapter 66, Sections 6662 and 6663, to provide for the procedural rules for the workers' compensation court. The proposed rules which are set forth below amend and reenact Chapters 55 through 65 and Chapter 66, Sections 6601 through 6627, 6637 and 6639 and enact Chapter 66, Sections 6662 and 6663.

In a cooperative endeavor with all users of the workers' compensation system, the Louisiana Department of Labor conducted a complete revision of the procedural rules of the workers' compensation court. Such revisions required the merger of previously enacted sections and the repeal of the merged sections. The rule establishes the procedural rules of the hearing section of the Office of Workers' Compensation Administration.

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Subpart 2. Hearing Rules

Chapter 55. General Provisions

Subchapter A. Definitions

§5501. Purpose; Definitions

A. The purpose of these Rules is to govern the practice and procedures before the Workers' Compensation Court which is a statewide court having jurisdiction of claims for workers' compensation benefits, the controversion of entitlement to benefits and other relief under the workers' compensation act. These rules are designed to facilitate the equitable, expeditious and simple resolution of workers' compensation disputed claims filed with the Court.

B. As used in these rules, unless otherwise indicated the following words shall have the following meanings:

Claimant—may, as the context requires, refer to the injured employee, the employer, the insurance carrier, the group self-insurance fund, the health care provider, or a dependant.

Court—shall mean the Office of Workers' Compensation court within the Office of Workers' Compensation Administration of the Louisiana Department of Labor.

Director—shall mean the director of the Office of Workers' Compensation Administration of the Louisiana Department of Labor.

Judge—shall mean a workers' compensation judge.

Mediator—shall mean a workers' compensation mediator.

Office—shall mean the Office of Workers' Compensation Administration of the Louisiana Department of Labor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:264 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter B. Jurisdiction

§5503. Jurisdiction Authority

Jurisdiction over workers' compensation matters is conferred upon the Office of Workers' Compensation Administration pursuant to Louisiana Constitution Article V, §16(A)(1) and R.S. 23:1310.3, et. seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5505. Jurisdiction over Subject Matter and Persons

Jurisdiction of the workers' compensation judges shall be governed by R.S. 23:1310.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter C. Commencement

§5507. Commencement of a Claim

A. "Form LDOL-WC-1008" shall be the form to initiate a claim or dispute arising out of Chapter 10 of Title 23 of the Louisiana Revised Statutes of 1950.

B. Any claim may be initiated with the director, office of worker's compensation administration, or the district office of proper venue by delivery or by mail addressed to the office of worker's compensation administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5509. Delay for Answering

A. A defendant shall file his answer within fifteen days after receipt of the citation from the mediator and in accordance with Code of Civil Procedure Articles 1001, 1005 and 1006. The defendant shall certify that a copy of the answer was sent to all parties to the claim.

B. The filing of the answer shall be deemed timely when the answer is filed as provided in R.S. 23:1310.3(D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5511. Service

Service of process in a workers' compensation claim shall be by certified mail, at mediation by the mediator, or any other manner provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5513. Persons Authorized

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter D. Venue

§5515. Proper Venue

Proper venue in a workers' compensation claim shall be governed by R.S. 23:1310.4 and Code of Civil Procedure Articles 44 and 121. When a claim has been filed in a district of improper venue, the judge shall, in the interest of justice, transfer the claim to a district of proper venue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5521. Waiver of Objections to Venue

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5523. Action Brought in Improper Venue; Transfer

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter E. Recusation of Judges

§5525. Procedure for Recusal of a Workers' Compensation Judge

A.1. Any party to a workers' compensation claim may file a written motion for recusal of the judge to whom the matter is assigned specifying the grounds for recusation. This motion shall be filed prior to trial or hearing unless the party discovers the facts constituting the ground for recusation thereafter. In such case, the motion shall be filed immediately after the facts are discovered, but in no case after judgment. Upon receipt of the motion, the judge shall withdraw without further proceedings and authority and immediately refer the matter to the Chief Judge for

appointment of an ad hoc judge for contradictory hearing on the motion. Such hearing shall be held in an expedited manner and in no event later than fourteen days following filing of the motion.

2. Qualification for appointment as an ad hoc judge shall be governed by the provisions of R.S. 23:1310.1(B).

B. Grounds for recusal shall be as provided in Code of Civil Procedure Article 151.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5527. Grounds

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5529. Recusation on Court's Own Motion

A judge may recuse himself after notifying the chief judge, whether a motion for recusation has been filed by a party or not, in any claim in which a ground for recusation exists prior to a judgment being rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5531. Authority of Judge or Mediator until Rescued

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter F. Power and Authority

§5533. General

A. Workers' compensation judges shall have the power to enforce any lawful order and the discretionary authority to use necessary sanctions, including dismissal, in order to control the orderly process of the hearing, enforce orders, and these rules.

B. Except as provided in Section 5709, a workers' compensation judge or mediator shall not refer any claimant to an attorney for representation in a workers' compensation matter unless ordered to appoint an unrepresented party by a court of competent jurisdiction. The court shall have available a list of attorneys, compiled by the Director, who have indicated a willingness to handle workers' compensation matters.

C. All workers' compensation judges shall be subject to the Code of Judicial Conduct, Civil Service Rules, the Louisiana Code of Governmental Ethics and the LSBA Code of Professional Conduct. All workers' compensation mediators shall be subject to the Civil Service Rules, the Louisiana Code of Governmental Ethics, and the LSBA Code of Professional Conduct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.3(E).

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:266 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5535. Contempt

A. Contempt of court is any act or omission tending to obstruct or interfere with the orderly administration of justice, or to impair the dignity of the court or respect for its authority.

B. Contempt proceedings in a workers' compensation proceeding shall be governed by R.S. 23:1310.7(B). This procedure is favored and shall be construed to accomplish the just, speedy, and orderly process of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5537. Procedure

A person accused of committing contempt of court may be found guilty and punished only after application to the district court as provided in R.S. 23:1310.7(B). The allegation may issue on the court's own motion or on motion of a party to the claim and shall state the facts alleged to constitute the contempt. A person accused of committing a contempt of court shall be served with a certified copy of the motion, in the same manner as a subpoena, at least forty-eight hours before the time assigned for trial of the rule in the district court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:266 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter G. Clerks

§5539. District Clerk; Pleadings Filed; Docket Books

Each workers' compensation district and the Records Management division shall have a clerk(s), who shall be an ex officio notary public. The supervisor of the Records Management division shall be the custodian of all records and documents for that district or the Office and no such records, documents, or paper shall be withdrawn.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:266 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter H. Bailiffs

§5541. Security

A. The term "Bailiff" shall refer to any peace officer or duly commissioned reserve officer assigned by the Director to maintain order at each workers' compensation court.

B. The bailiff may in his discretion inspect any object carried by any person entering the premises. No one shall enter or remain in the premises without submitting to such an inspection if requested to do so.

C. Unless authorized by the Judge, no camera, recording equipment or other type of electrical or electronic device shall be brought into the premises.

D. No person shall be admitted to or allowed to remain in the premises with any object that might be employed as a

weapon unless he or she has been authorized in writing by the Director to do so, or unless he or she is a peace officer or duly commissioned reserve officer.

E. The bailiff shall enforce the whole of this rule, and pursuant to his authority as a peace officer or duly commissioned reserve officer, shall be authorized in his discretion to take any legal action necessary to preserve the order and security of the premises.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:266 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter I. Attorneys and Other Persons Before the Court

§5543. Workers' Compensation Courtroom Decorum

A. The following shall be observed in the opening of workers' compensation court and general courtroom decorum:

1. The bailiff shall open each session of workers' compensation court with an appropriate recitation and order.

2. No tobacco in any form will be permitted at any time.

3. No food or beverage shall be brought into the courtroom.

B. As officers of the workers' compensation court, attorneys are reminded of their obligations to assist in maintaining the dignity of the court. All attorneys and other officers of the court shall dress appropriately. For gentlemen, this means a coat and tie. For ladies, this means appropriate professional attire.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:267 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5545. Attorneys

In all hearings before the Workers' Compensation Judge the parties may appear in person or by counsel licensed to practice law in the State of Louisiana. Corporate entities, unincorporated associations, insurance companies and own-risk carrier shall appear only by such counsel. Counsel who will appear before the Workers' Compensation Judge on behalf of a party in any proceeding shall notify the Office of Workers' Compensation of their appearance by filing an entry of appearance or other appropriate pleading and shall be bound by Code of Civil Procedure Article 371.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:267 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5547. Withdrawal of Counsel

A. When an attorney seeks to obtain an ex parte order to withdraw as counsel for a party, he shall include in his application the last known address of the claimant along with a statement that he has given written notice to the party he was previously representing that he is no longer of counsel to him and of the status of the case on the court's docket. The attorney shall certify to the court that he has given notice to all counsel of record at the same time and in

the same manner as notification to the court. A copy of such written notice and certification shall be attached to the application for the ex parte order for withdrawal. An attorney who has been permitted by ex parte order to withdraw shall give notice of same to all parties.

B. Counsel of record who withdraws or is discharged prior to submission of the case, and desires to assert a claim for fees, must attach a statement to that effect and set forth the period of time during which his client was under his or her representation. Counsel shall also file a lien form, to be developed by the Director, identifying any lien he may have on the pending claim for payment of attorney fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:267 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Chapter 57. Actions

Subchapter A. General Provisions

§5701. Prescription; Filing Procedure

A. Prescription periods shall be as set forth in R.S. 23:1031.1(E),(F),(I), 1209, and 1234. Time limits shall be calculated from the date of mailing as shown by the post mark, other proof of mailing, or the date a facsimile transmission is received.

B. Filing shall be deemed complete at the time that a facsimile transmission is received. A facsimile, when filed, has the same force and effect as the original. If the party fails to comply with the requirements of Paragraph (3) of Subsection C, of this Section, a facsimile filing shall have no force or effect.

C. Within five days, exclusive of legal holidays, after the district office or the records management division have received a facsimile transmission, the party filing the document shall forward the following to the district office or records manager:

1. The original signed document;
2. The applicable filing fee, if any; and
3. A transmission fee of \$5.00 (five dollars).

D. Upon receipt in the office, the pleading or forms and any other correspondence shall be stamped with the date of receipt by the appropriate court personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:267 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5703. Prematurity

Prematurity in a workers' compensation claim shall be governed by R.S. 23:1314.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:267 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5705. Abandonment

A. A claim may be dismissed by an ex parte order of the judge for lack of prosecution for the following reasons:

1. Where no service of process and/or mediation has occurred within sixty (60) days after the Form LDOL-WC-1008 has been filed;

2. Where no responsive pleadings have been filed and no default has been entered within sixty (60) days after service of process;

3. Where a claim has been pending six (6) months without proceedings being taken within such period. This provision shall not apply if the claim is awaiting action by the workers' compensation court; or

4. Where a party fails to appear for a properly noticed conference or trial.

B. Any formal discovery as authorized by these rules and served on all parties whether or not filed of record, including the taking of a deposition with or without formal notice, shall be deemed to be a step in the prosecution or defense of an action.

C. Dismissal under this Rule shall be without prejudice. Any order of dismissal shall allow for reinstatement of the action within thirty (30) days for good cause shown.

D. The failure of an attorney or pro se litigant to keep the workers' compensation court apprised of an address change may be considered cause for dismissal for failure to prosecute when a notice is returned to a party or the workers' compensation court for the reason of an incorrect address and no correction is made to the address for a period of thirty (30) days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:268 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5707. Class Actions

No class action will be permitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of workers' Compensation Administration, LR 25:268 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter B. Settlement

§5709. Joint Petition Settlements; Appointment of Counsel

A.1. A lump sum or compromise settlement shall be presented to the presiding judge in a pending disputed claim or to any judge in an undisputed claim for approval on Form LDOL-WC-1011 and upon joint petition of the parties. The employer/insurance carrier must also submit Form LDOL-WC-1007 if it has not been filed previously with the office.

2. A hearing in open court with all parties present shall be required when one or more parties is not represented by counsel. Appearance by the parties and/or their representative may be waived if all parties are represented by counsel. In special circumstances and in the interest of judicial economy, the judge may allow the unrepresented party to waive his appearance and permit the party to appear by telephone. Appearance by the represented parties and/or their representative may be waived in written form.

B. When one or more parties is not represented by counsel, the judge may appoint an attorney to assist the court in determining whether the settlement does substantial justice and is in the best interest of all parties. In such cases the court may approve an attorney's fee to be paid out of the proceeds of the settlement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:268 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5711. Conversion of Payments to Lump Sum Settlements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:268 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Chapter 58. Pleadings

Subchapter A. General

§5801. Pleadings Allowed

The pleadings allowed in workers' compensation claims, whether in a principal or incidental action, shall be in writing and shall consist of petitions, exceptions, written motions, answers, and Office of Workers' Compensation Administration forms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:268 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5803. Signing of Pleadings

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:268 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter B. Supplemental/Amended Pleadings

§5805. Amendment of Claim and Answer

Amendment of a claim and answer shall be governed by Code of Civil Procedure Article 1151.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:268 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5807. Supplemental Pleadings

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R. S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:269 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter C. Form

§5809. Forms

The Office of Workers' Compensation Administration shall prepare and adopt such forms for use in matters before the Office of Workers' Compensation Administration as it may deem necessary or advisable. Whenever Office of Workers' Compensation Administration forms are prescribed and are applicable, they shall be used. A photo ready copy of any form may be procured upon request to any District Office or the office of the Director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:269 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5811. Format of Documents

A. Any pleading or other document submitted to the Director or to any judge shall be typed or printed legibly on 8 x 11" paper and shall bear the name and signature of the person who prepared it, the firm name, if applicable, the complete address including the zip code, the telephone and facsimile number, including the area code and the docket number, if one has been assigned to the claim. All attorneys shall note their bar roll number on all documents and correspondence.

B. Copies of all correspondence and any other instruments sent to the Office of Workers' Compensation Administration shall be sent at the same time and in the same manner by the party originating the correspondence to all other parties of record in the case and a certificate to that effect shall be attached to the original and filed with the office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:269 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter D. Mediation

§5813. Informal Mediation

A. Within 15 days of receipt of a claim in a district of proper venue but with not less than 5 days notice to the parties, unless the parties agree to meet at an earlier date, the district office shall set the matter for an informal mediation conference with a mediator. The notice may be given by telephone, but shall be confirmed by United States Mail. The notice shall indicate the date, time, and place of the conference. Upon filing of the LDOL-WC-1008 any party to the claim and/or their representative may request a copy of the Form 1008 filed in the case. No such request shall be denied by an employee of the Office of Workers' Compensation Administration.

B. The purpose of the informal mediation conference shall be to mediate and encourage resolution of the dispute. As such the conference is designed for employees, employers and/or adjusters or claims managers. Within 24 hours of receipt of notice of the informal mediation conference, the employer shall notify his workers' compensation insurer or adjuster, in case of a self-insured, of the date, time and place of the conference.

C. The informal mediation conference may be held by telephone if agreed to by all parties to the claim and they are represented by an attorney or authorized claims representative. Notice should be given that such agreement has been reached no later than five (5) days prior to the mediation. The defendant must have available at the time of the mediation a facsimile machine to accept service. Telephone mediations shall not be permitted in claims where a party is unrepresented; except in special circumstances or in the interest of justice, the mediator may allow a party to appear by telephone. All parties to a telephone mediation shall provide the mediator with all information required by Subsection D of this Section prior to the scheduled mediation.

D. If available, the parties shall bring or mail to the office prior to the conference two (2) legible copies of the following: LDOL-WC-Form 1007, current medical bills and reports, information on workers' compensation benefits previously paid, wage records, vocational rehabilitation records and any other documents relevant to the issues of the claim. If the employer has failed to timely file a completed 1007, the employer shall be assessed a fine in accordance with LAC 40:109. Nothing contained in the Form LDOL-WC-1007 shall be considered as an admission of any fact contained therein.

E. No stenographic report shall be taken at the informal mediation conference and no witnesses shall be called. All statements made at the mediation conference shall be privileged and shall not be admissible in any subsequent hearing or trial.

F. Continuances of the mediation conference may be permitted for good cause shown by written request to the mediator no later than three days prior to the conference, unless exigent circumstances exist. The request shall state the reasons the continuance is necessary, that all parties have been notified of the request, and whether all parties agree to the continuance

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:269 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5815. Mediation Ordered by Judge

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:269 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5817. Conclusion of Informal Mediation Conference

A. When it becomes apparent during the course of a mediation conference that agreement on all issues cannot be reached, the mediator shall issue a report stating the result of the conference and, at the initial conference, immediately issue citations to all defendants. The report shall be issued to the parties immediately following the conference or mailed within (5) days thereof.

B. If in the mediator's judgment a follow-up mediation conference would be beneficial and would likely resolve the dispute, a date shall be set for the conference. The scheduling of an additional conference(s) shall not delay issuance of citation to the defendant(s).

C. Following a mediation conference, at which agreement is reached on all issues in dispute, a report embodying the agreement shall be issued to the parties and the judge within five (5) days thereof. The report may require dismissal of the claim or the filing of an LDOL Form 1011 within a specified period of time. Failure to timely comply with the agreement will result in issuance of citations to all defendants. When all issues in dispute are resolved at any mediation conference, the Office of Workers' Compensation Administration may waive payment of the \$30.00 filing fee.

D. If any proper party defendant is present or represented at the informal mediation conference, formal citation and service of process shall be made upon that defendant or its representative at that time. If the defendant(s) is participating by telephone, citation shall be waived and service shall be accepted by facsimile. A signed waiver form shall be returned within twenty-four hours after the conclusion of the mediation by facsimile transmission. The original signed waiver form shall be forwarded to the court no later than five days after the mediation. The original document(s) shall be mailed to the defendant(s) no later than five days following the completion of the mediation. Citation and service of process shall be proper upon any representative of the defendant appearing at the mediation conference. The affidavit of the mediator or waiver of service signed by the defendant or its authorized representative in any subsequent proceeding shall be prima facie evidence that service has been made in accordance with this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:269 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5819. Failure to Attend; Sanctions

A. If any party fails to appear at any informal mediation conference after proper notice, the judge, upon report from the mediator, may fine the delinquent party an amount not to exceed \$500.00, which shall be payable to the Office of Workers' Compensation Administrative Fund. In addition, the judge may assess against the party failing to attend, costs and reasonable attorney's fees incurred by any other party in connection with the conference. If the claimant fails to appear after proper notice, the judge may dismiss the claimant's case without prejudice. The penalties provided for in this Section shall be assessed by the judge only after a contradictory hearing which shall be held prior to the hearing on the merits of the dispute unless waived upon joint motion of the parties. Appearance by the parties and/or their representative may be waived in written form. The judge may entertain such action by telephone conference with all parties participating. Such telephone conference shall be initiated by the party requesting the telephone conference.

B. When a party without reasonable excuse, fails to appear for the informal mediation conference; the judge may apply to the District court as set forth in Section 5535 for contempt proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.3(B)(2).

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:270 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter E. Petition

§5821. Required Elements

The required elements of a workers' compensation claim shall be as provided in R.S. 23:1311.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter F. Exceptions

§5823. Exceptions; Time for Pleading; Trial; Evidence; Effects of Sustaining

Exceptions shall be governed by Code of Civil Procedure Articles 921, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5825. Trial of Exceptions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5827. Evidence on Exceptions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5829. Effects on Sustaining Exceptions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter G. Motions

§5831. Motion or Rule Day

A. Each district office shall designate a specific day of the week for the hearing of rules, motions, exceptions and arguments. A list of the rule days for each district shall be available in any district office.

B. The judge may require the parties to submit briefs in connection with any exception, rule, or motion. Briefs should be submitted forty-eight (48) hours prior to the hearing on the exception, rule or motion. A copy of the brief shall be served upon all counsel of record at the same time and in the same manner as submitted to the court.

C. In advance of the date set for the hearing of an exception, motion or rule, any counsel may notify the court that he waives his appearance and is willing to submit the matter on briefs. At the time set for the hearing, any person may waive oral argument.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5833. Written Motion Required; Exception

An application to the court for an order, if not presented in some other pleading, shall be by motion which, unless made during trial or hearing or in open court, shall be in writing. The written motion shall state the grounds therefor and the relief or order sought.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:270 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5835. Ex Parte and Contradictory Motions

Ex parte and contradictory motions shall be governed by Code of Civil Procedure Articles 963, et seq. A contradictory hearing with the adverse party may be held unless waived upon joint motion of the parties. Appearance by the parties and/or their representative may be waived in written form. The judge may entertain such motion by telephone conference with all parties participating. Such telephone conference shall be initiated by the party requesting the telephone conference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:270 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5837. Motion to Strike

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:271 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5839. Motion for Summary Judgement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:271 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5841. Same; Affidavits

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:271 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Chapter 59. Production of Evidence

Subchapter A. General

§5901. Discovery and Attendance of Witnesses

The hearing process shall be available to aid any party in pursuit of discovery and to compel attendance of witnesses or production of evidence. The judge on his own motion at any conference may order the production of discoverable material and make any other order facilitating discovery. Copies of discovery documents are to be mailed to all parties and shall not be filed in the record of the proceedings unless attached as an exhibit to a motion or ordered by the judge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:271 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5903. Objections to Evidence

Except as otherwise provided in Title 23 or by these rules, objection to any evidence shall be governed by the Louisiana Code of Evidence and Code of Civil Procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:272 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5905. Protective Orders

Upon motion by a party or by a person from whom discovery is sought, and for good cause shown after contradictory hearing, the judge may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. The judge may entertain such motion by telephone conference with all necessary parties participating. Such telephone conference shall be initiated by the party requesting the telephone conference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:272 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter B. Subpoena

§5909. Issuance; Service

A. Subpoenas issued in connection with any workers' compensation matter shall be served by the party requesting issuance of the subpoena, and may be served by certified mail return receipt requested or any other manner provided in Section 5511. Proof of service shall be the responsibility of the party requesting the subpoena. Once issued and served, a subpoena may be canceled by the requesting party only after written notice to the opposing side. It shall be the responsibility of the requesting party to provide written notification of cancellation to all opposing parties as well as the person under subpoena.

B. In order to be enforceable, subpoenas for hearing shall be served seven (7) days prior to the scheduled hearing date; subpoenas to compel attendance of medical experts shall be served ten (10) days prior to hearing. Subpoenas for hearing may be issued after expiration of these time limits only by leave of court for good cause shown or upon written consent of all parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:272 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5911. Exceptions

A. No official of the Social Security Administration shall be subject to subpoena under these rules except for good cause shown.

B. An independent medical examiner shall be subject to subpoena only as provided in R.S. 23:1317.1.

C. The subpoena of the director or any other employee of the Office of Workers' Compensation Administration shall be governed by R.S. 23:1318.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:272 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5913. Subpoena of Confidential Records

The subpoena of confidential records shall be governed by R.S. 23:1293(A)(1) and 1310.15.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:272 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter C. Discovery

§5915. Scope of Discovery

Discovery shall be governed by Code of Civil Procedure Articles 1421, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:272 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5917. Supplementation of Responses

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:273 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter D. Depositions

§5921. General; When Taken

The taking of a deposition shall be governed by Code of Civil Procedure Articles 1437, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:273 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5923. Notice; Time and Place; Subpoena Duces Tecum

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:273 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5925. Depositions in Advance of Hearing;

Perpetuation of Testimony

Depositions in advance of hearing shall be governed by R.S. 23:1319.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:273 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5927. Deposits of Medical Personnel

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:274 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5929. Objections

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:274 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter E. Interrogatories

§5931. General

Interrogatories shall be governed by Code of Civil Procedure Articles 1457, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:274 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter F. Production of Documents

§5933. Production of Documents; General; Medical Evidence

A. In general, the production of documents shall be governed by Code of Civil Procedure Articles 1461, et seq. and R.S. 23:1127.

B. Within ten (10) days of receiving a copy of another party's medical report, the recipient shall advise the judge in writing if there is an objection to the admission of the report in evidence. A copy of the objection shall be mailed to all parties of record in the suit. Unless the judge and all parties are timely notified of the objection, the recipient of the report shall be deemed to have waived the right to object and the report shall be admitted into evidence for all purposes at the trial. When a timely objection is received, the judge may set a hearing on the motion, or rule on the matter at the trial on the merits. The judge further has the discretion to order, after a contradictory hearing, a deposition of the doctor if necessary to clarify a report or to obtain additional information, during the discovery period or at the trial on the merits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:274 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5935. Production of Documents; Persons Not Parties

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:274 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5937. Requests for Medical Records

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR

25:274 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5939. Objections; Medical Evidence

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:274 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter H. Admissions

§5941. Requests for Admission

Requests for admission shall be governed by Code of Civil Procedure Articles 1466, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter H. Medical Examinations

§5943. Independent Medical Examinations; Report; Deposition of Examiner; Objections

A. The procedure for requesting an independent medical examination shall be as provided in R.S. 23:1317.1.

B. Objections to the independent medical examination shall be made on form LDOL-WC-1008 and shall be set for hearing before a judge within thirty days of receipt. No mediation shall be scheduled on disputes arising under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5945. Required Report

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5947. Deposition of Examiner

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5949. Objections

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5951. Cancellation of Independent Medical Examinations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5953. Right of an Employee to Written Report of Medical Examination.

Entitlement of an employee to the written report of a medical examination shall be as provided in R.S. 23:1125.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter I. Motion to Compel

§5955. Motion for Order Compelling Discovery

Motion for order compelling discovery shall be governed by Code of Civil Procedure Articles 1469, et seq. and R.S. 13:3715.1 and Section 5963.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5957. Order Compelling Discovery of Medical Records

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:276 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter J. Sanctions

§5959. Withheld Medical Report

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:276 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5961. Refusal to Obey Subpoena

When a person who, without reasonable excuse, fails to obey a subpoena, the judge may apply to the judge of the appropriate district court as set forth in Section 5535 for contempt proceedings against such person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:276 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5963. Failure to Comply With Order Compelling Discovery

Failure to comply with order compelling discovery shall be governed by Code of Civil Procedure Article 1471. In addition, the judge may make an application for contempt proceedings as set forth in Section 5535 except in cases of an order to submit to a physical or mental examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:276 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5965. Health Care Providers; Penalties

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:276 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Chapter 60. Pretrial Procedure

§6001. Scheduling Conference

A. Within sixty days following receipt of the answer a judge shall conduct a scheduling conference for the purpose of setting pre-trial deadlines. Such conference shall be held by telephone.

B. Issues to be considered and determined at the scheduling conference shall include:

1. The necessity or desirability of amendments to pleadings.
2. Discovery anticipated by the parties.
3. Deadlines for amendments to pleadings; completion of discovery and scheduling of pre-trial motions.
4. Scheduling of the pre-trial conference and if the mediator's schedule permits, the scheduling of a Section 6009 mediation.
5. Scheduling of the trial.
6. Such other matters as may aid in the disposition of the action.

C. At the conclusion of the scheduling conference and no longer than fourteen days following the conference, a scheduling order, developed by the director, shall be issued by the judge setting forth the actions taken and deadlines set at the conference. Such order shall control the subsequent course of the claim, unless modified to prevent manifest injustice upon motion of a party or by order of the court.

D. The judge in his discretion may waive the requirement of a pre-trial conference. If so waived, the pre-trial statement required by Section 6007 shall be filed as ordered by the judge. The pre-trial conference should be held no less than forty-five days prior to trial.

E. The trial date should not be more than six months from the scheduling conference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:276 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6003. Statement of Evidence

A. Each party to the dispute shall file a statement of evidence with the appropriate district office ten (10) days prior to the scheduling conference.

B. The statement of evidence shall be signed by the party, its representative, or counsel preparing it and shall set forth:

1. A list and brief description of all exhibits to be offered into evidence. Exhibits to be used for impeachment or rebuttal need not be included on the list. Impeachment evidence shall include, but not be limited to, witnesses, documents, photographs, or films. Proposed stipulations as to exhibit authenticity and/or admissibility shall be noted on the exhibit list.

2. A list of witnesses each party may call and a short statement as to the nature but not to the content of their testimony, and whether their testimony will be offered live or by deposition. Except for the witnesses listed, no other witnesses may be called to testify except for good cause shown. This requirement shall not apply to impeachment and rebuttal witnesses.

3. Outstanding discovery and depositions to be taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:276 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6005 Pretrial Conference

A. Each party to the dispute shall file a pre-trial statement with the appropriate district office ten (10) days prior to the pretrial conference. The pre-trial statement shall update and finalize all items originally submitted statement of evidence pursuant to Section 6003.

B. The party or counsel who prepared and submitted the pre-trial statement to the workers' compensation court should attend the pretrial conference. Any substitute permitted by the court to attend the conference shall be knowledgeable of all aspects of the case and shall possess the necessary authority to commit his client or associate regarding changes, stipulations, compromise/settlements, and trial dates.

C. The pretrial conference shall be held by telephone.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:277 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6007. Pre-trial Statement

A. The pre-trial statement shall include:

1. Stipulations agreed to by all parties.
2. Issues to be litigated.
3. Contentions.
4. A list and brief description of all exhibits to be offered at trial.
5. A list of all witnesses to be called at trial.
6. Desirability of mediation.

B. Amendments to the pre-trial statement shall only be by written motion and permitted only for good cause shown.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor Office of Workers' Compensation Administration, LR 25:277 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6009. Pre-Trial Mediation

If scheduled, the pre-trial mediation conference should be held no later than fifteen days prior to the scheduled trial date. The judge shall set the matter for a mediation conference with the mediator who originally heard the claim or a duly qualified mediator in the absence of the original mediator. The notice may be given by telephone, but shall be confirmed in written form. The judge shall provide notice of the date, time, and place of the conference to all parties at the same time and in the same manner. The rules of

mediation found in Sections 5813 - 5819 shall apply except that the parties shall appear in person. Only two mediation conferences may be held pursuant to this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:277 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Chapter 61. Hearings

Subchapter A. Expedited Hearings

§6101. Examination of an Injured Employee

The examination of an injured employee shall be governed by R.S. 23:1121 and 1124.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:277 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter B. Continuance

§6103. General

A. Continuances shall be as provided in Code of Civil Procedure Articles 1601, et seq.

B. A continuance shall not be granted for the absence of a subpoenaed witness if the subpoena was not issued in accordance with Section 5909 of these rules.

C. A continuance will not be entertained based upon a conflict in the schedule of any party or attorney if the conflict arose after the date of the scheduling conference, except for good cause shown or in cases of criminal assignments.

D. If uncontested, the moving party shall certify to the court that he has spoken to opposing counsel, that no opposition exists and that all witnesses have been timely notified of the continuance. The uncontested motion shall be granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:277 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6105. Form Required

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:277 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6107. Preemptory Grounds

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:277 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Chapter 62. Trial

Subchapter A. Trial Procedure

§6201. General

Only those issues listed in the pretrial statements shall be litigated at trial. No new issues shall be raised except by

written order of the judge for good cause or upon mutual agreement of the parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:278 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6203. Trial on the Merits

The trial of a workers' compensation claim shall be governed by R.S. 23:1317.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:278 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6205. Cumulative Medical Testimony

The introduction of medical testimony in a hearing or trial shall be governed by R.S. 23:1124.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:278 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6207. Evidence Held Inadmissible

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:278 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6209. Testimony of Medical Personnel

Expert medical testimony may be admitted by:

A. Reports of any health care provider certified as a true copy in accordance with the Louisiana Revised Statutes 13:3715.1.

B. Deposition.

C. Oral examination in open court proceedings; however, no more than two physicians may present testimony for either party except by order of the judge.

D. Any other manner provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:278 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter B. Dismissal

§6211. Dismissal; Voluntary; Involuntary

Dismissal shall be governed by Code of Civil Procedure Articles 1671, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:278 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6213. Involuntary Dismissal

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:278 (February

1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter C. Assessment of Costs

§6215. Assessment of Costs

The determination of whether costs shall be assessed against a party shall be governed by R.S. 23:1310.9.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Chapter 63. Judgments

Subchapter A. General

§6301. Submission of Evidence

A case or other matter shall be considered as having been fully submitted for decision immediately upon the conclusion of trial or hearing or final submission of all evidence. The parties shall file in to the record all evidence at the time of trial or hearing unless an extension is granted by the court, for good cause shown. In instances where the judge allows briefs, the parties shall be allowed a maximum of fifteen working days from the conclusion of the trial or hearing to file post trial memoranda.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6303. Completion of Trial; Pronouncement of Judgment

A. The procedures for completion of trial and pronouncement of judgement shall be governed by R.S. 23:1310.5(A)(1) and 1201.3(A). All such orders, decisions, or awards shall be rendered no later than thirty calendar days after conclusion of trial.

B. Written reasons shall only be rendered if requested in written form by any party to the claim within ten days of the signing of the judgment. The written reasons shall be issued by the judge not later than thirty days following the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter B. Default

§6305. Default; General Provisions; Scope of Judgment

The general rule regarding default in a workers' compensation claim shall be governed by R.S. 23:1316 and 1316.1 and Code of Civil Procedure Article 1703.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6307. Confirmation of Judgement by Default

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR

25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6309. Scope of Judgement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter C. Modification

§6311. General

The modification of an award shall be governed by R.S. 23:1310.8(A)(1) and (B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6313. Amendment of Judgment

Amendments of judgment shall be governed by Code of Civil Procedure Article 1951.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6315. Request for Modification

Any party to the claim may apply for modification pursuant to Section 6311 by filing a Form LDOL-WC-1008. If the original decision or award was made by a District Court Judge, the party seeking the modification shall furnish the workers' compensation judge with the appropriate evidence and documents from the district proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6317. Exception

A motion for new trial shall not be permitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Chapter 64. Appellate Procedure

§6401. General

All appeals shall be taken in accordance with the procedures set forth in R.S. 23:1310.5 and, where not in conflict, the Louisiana Code of Civil Procedure and the relevant rules of the appropriate circuit court of appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6405. Payment of Appellate Costs

Payment of appellate costs shall be governed by Code of Civil Procedure Articles 2126, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6407. Record on Appeal; Preparation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:280 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6409. Same; Preparation and Delivery of Transcript

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:280 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6411. Same; Contempt

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:280 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Chapter 65. Special Disputes

Subchapter A. Attorney Fees

§6501. Disputed Attorney Fees

When a dispute arises among several attorneys as to the identity of claimant's counsel of record, or when several successive attorneys lay claim to a fee in the same case, the judge shall decide the issues raised and allocate the fee allowed in proportion to the services rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of labor, Office of Workers' Compensation Administration, LR 25:280 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6503. Attorney Fees; Application, Review and

Approval

A. Whenever the judge renders an award of penalties or attorney fees due to the conduct of the other party under any provision authorized by the Workers' Compensation Act, the judgment shall state the specific acts or omissions of the party which gave rise to the award of a penalty or attorney fee. When attorney fees are awarded due to the conduct of a party the judgment shall state the basis for the amount of the award.

B. Attorney fee claims under R.S. 23:1141 for allowable portions of periodic payments of indemnity benefits recovered by claimants shall only be authorized after approval by the presiding judge upon filing of a motion for such fees filed by the claimant's attorney.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6505. Reserved.

Subchapter B. Offsets

§6507. Offsets

A. A request for offsets pursuant to R.S. 23:1225 made in connection with a disputed claim shall be made by filing Form LDOL-WC-1008 or by responsive pleading. An order shall be issued recognizing the entitlement to the offset for social security benefits from the date of judicial demand, and setting the amount of the offset after a determination of the character of the disability, the right to the offset, and calculation of the offset. A contradictory hearing may be set by the judge for this determination. Notice shall be provided to the claimant or his representative prior to issuance of the order. The order shall be served by certified mail upon all parties and the Social Security Administration. Such offsets may be taken upon receipt of proof of service of the order upon the Social Security Administration by the Office of Workers' Compensation Administration.

B. A request for offsets pursuant to R.S. 23:1225 made in connection with a claim not in dispute may be made by motion on form LDOL-WC-1005(A) or by letter, filed in the appropriate district office. When properly filed, the motion or letter requesting an offset may be granted ex parte from date of filing. Such offsets shall not be taken unless the social security offset has been removed. No fee shall be charged in connection with a request made under this Subsection.

C. A unilateral reverse offset shall not be recognized by this office after March 20, 1993. A unilateral offset under any other Subsection of R.S. 23:1225 shall not be recognized by this office after January 1, 2000.

D. Information concerning receipt of social security benefits and the amounts thereof shall be obtained on Form LDOL-WC-1004, which shall be properly executed by an official designated by the Social Security Administration.

E. An official of the Social Security Administration shall not be subject to subpoena under this rule unless for good cause shown.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter C. Financial and Compliance Hearings

§6509. Financial and Compliance Hearings

A. An informal mediation conference shall be held within fifteen days of the filing of an appeal for financial and compliance matters.

B. If a resolution is not reached, a hearing on the appeal held pursuant to R.S. 23:1171 shall be held within 15 days of the conclusion of the informal mediation conference, and shall be conducted in accordance with the provisions of the Administrative Procedure Act.

C. Suspensive appeals of a determination of the financial and compliance officer will not be entertained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Chapter 66. Miscellaneous

Subchapter A. General

§6601. Other Applicable Rules

Unless otherwise provided for in these rules, any practice or procedure not in conflict with either the Workers' Compensation Act or these rules will be guided by practice and procedure provided for in the Louisiana Code of Civil Procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6603. Local rules prohibited

Local rules by any district office of the Office of Workers' Compensation Administration are prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6605. Fees

The clerks for the Office of Workers' Compensation Administration shall be entitled to demand and receive the following fees in a Workers' Compensation dispute:

- A. Filing of 1008 or 1011 - \$30.00
- B. Service of Process on Secretary of State - \$25.00
- C. Copies of any paper in any suit record - \$0.25 per page
- D. For each certification - \$1.00
- E. Filing by facsimile transmission - \$5.00
- F. Cost of preparation of record for appeal - available upon request from the district offices.
- G. Cost of service by certified mail - available upon request from the district offices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:281 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6607. Posting of Docket

The clerk of the district office shall keep a docket upon which shall be entered all matters set for mediation, hearing, or trial. The docket shall be posted in a conspicuous location of the district office on the first work day of each week for that week.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter B. Costs

§6609. General

A. The awarding of costs shall be governed by R.S. 23:1317(B) and Code of Civil Procedure Article 1920.

B. The costs of preparing an appeal shall be initially sustained by the appellant. In the case of pauper, the costs incurred by the Office of Workers' Compensation Administration in preparing the transcript shall be sustained

by the Office of Workers' Compensation Administration only where the pauper is the losing party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6611. Medical Costs

The determination of all medical reimbursement shall be based upon the reimbursement schedule in effect at the time the services are rendered. Every attempt to resolve disputes over medical reimbursement shall be made by applying said schedule(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter C. Waiver of Costs for Indigent Party

§6613. Waiver of Costs for Indigent Party

Waiver of costs for indigent party shall be governed by Code of Civil Procedure Articles 5181, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6615. Restrictions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6617. Affidavits of Poverty; Documentation; Order

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6619. Traverse of Affidavits of Poverty

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6621. Account and Payment of Costs

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:283 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6623. Compromise; Dismissal of Proceedings Prior to Judgement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:283 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6625. Unsuccessful Party Condemned to Pay Costs

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:283 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter D. Severability of Sections

§6627. General

If any provision or item of a section, or the application thereof, is held to be invalid, such invalidity shall not affect other provisions, items, or applications of the section which can be given effect without the invalid provision, item or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:283 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter E. Forms

* * *

§6637. Motion for Recognition of Right to Offset; Form LDOL-WC-1005A

Attached hereto and designated as "Attachment Number 5".

STATE OF LOUISIANA
DEPARTMENT OF LABOR
OFFICE OF WORKERS' COMPENSATION

_____* SS#:_____
VERSUS * DOCKET NO:_____
_____* DISTRICT:_____

MOTION FOR RECOGNITION OF RIGHT TO SOCIAL SECURITY OFFSET

NOW INTO COURT as undersigned comes _____, employer/insurer in the referenced case, and requests the Workers' Compensation Judge to enter an order recognizing its right to take the reverse offset, since the claimant in this matter is receiving permanent total disability benefits under the Louisiana Workers' Compensation Act in addition to benefits under 42 U.S.C. Chapter 7, Subchapter II, entitled Federal Old Age, Survivors, and Disability Insurance Benefits.
SIGNED this the _____ day of _____, 19__.

(PRINT NAME)
Agent for _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:293 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6639. Order Recognizing Right to Offset; Form LDOL-WC-1005B

Attached hereto and designated as "Attachment Number 6".

STATE OF LOUISIANA
DEPARTMENT OF LABOR OFFICE OF WORKERS' COMPENSATION

_____* SS#:_____
VERSUS * DOCKET NO:_____
_____* DISTRICT:_____

ORDER RECOGNIZING RIGHT TO SOCIAL SECURITY OFFSET

This matter is before the Workers' Compensation Judge on the motion of the employer/insurer for recognition of its right to claim the social security reverse offset in this case. The Workers' Compensation Judge finds that the claimant is receiving permanent total disability benefits under the provisions of the Louisiana Workers' Compensation Act in addition to benefits under 42 U.S.C. Chapter 7, Subchapter II, entitled Federal Old Age, Survivors, and Disability Insurance Benefits. The Workers' Compensation Judge further finds the under that provisions of L.R.S. 23:1225(A) the employer/insurer has claimed and is entitled to a reduction in the Workers' Compensation benefits paid to claimant in the amount of _____.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the employer/insurer is hereby allowed to offset the Workers' Compensation benefits paid to claimant in the amount of _____, beginning on _____, 19__, the date of employer/insurer's judicial demand.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Social Security Administration reverse its social security offset effective _____, 19__, the date of employer/insurer's judicial demand.

READ, RENDERED AND SIGNED this _____ day of _____, 19__ at _____ Parish, Louisiana.

WORKERS' COMPENSATION JUDGE

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:293 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

* * *

§6662. Attorney Fee Notice of Lien; Form LDOL-WC-1027

Attached hereto and designated as "Attachment Number 16".
DOCKET NO.: _____

CLAIMANT: _____
REPRESENTATIVES: _____
EMPLOYER: _____

NOTICE OF LIEN

Pursuant to Section 5547(B) of the hearing rules of the Office of Workers' Compensation Administration, _____ serves notice upon this Honorable Court and all parties to the above entitled claim that (he/she/it) represented the claimant from (date) to (date) and hereby asserts a lien on the proceeds of the claim for unpaid attorney fees.

Respectfully submitted,

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6663. Scheduling Order; Form LDOL-WC-1028

Attached hereto and designated as "Attachment Number 17".

CLAIMANT DOCKET NUMBER:
OFFICE OF WORKERS' COMPENSATION
VERSUS
DISTRICT - _____
EMPLOYER STATE OF LOUISIANA
SCHEDULING ORDER

On _____, a scheduling conference was held pursuant to Section 6001 of the hearing rules of the Office of Workers' Compensation Administration.

PRESENT:

_____ representing _____
_____ representing _____
_____ representing _____

IT IS ORDERED:

1. Amendment to pleadings:
2. Discovery anticipated by the parties:
3. All amendments to pleadings are to be filed by _____.
4. The cut-off date for discovery is _____.
5. All pre-trial motions are to be filed by _____.
6. The pre-trial conference is scheduled on _____ at ____ M.
7. The pre-trial mediation will be held on _____.
8. Trial is scheduled for _____.

IT IS FURTHER ORDERED that a pre-trial statement shall be filed ten days prior to the pre-trial conference. The attorneys who will try the case shall participate in the pre-trial conference unless prior to the conference the Judge grants permission for other representatives to attend. Whoever participates in the conference must be familiar with the case and have authority to discuss the possibilities of settlement and stipulations. _____, LOUISIANA, THIS ____ DAY OF _____, 199__

Judge
Office of Workers' Compensation
District _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Garey Forster
Secretary of Labor

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Worker's Compensation—Hearing Rules**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will not result in any implementation costs (or savings) to the state or local governmental units other than those costs directly associated with the publication of these rules. The rules are a recodification of existing procedures and practices, which have not been rewritten since 1990; and will allow for a set of complete and consistent procedures for use by all offices. There is no anticipated impact on local governmental units before the Hearings Section for resolution of disputed workers' compensation claims.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no direct effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no cost or economic benefits to directly affected persons or nongovernmental groups. This is simply a recodification of the existing procedures and practices.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule(s) should not affect compensation among the participants in the workers' compensation system. However, a more accountable and accessible resolution process for disputed workers' compensation claims would create a more productive and cost effective workplace, whether public or private for the increased safety of employees throughout the state.

Garey Forster
Secretary of Labor
9907#031

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Fees (LAC 43:XIX.Chapter 7)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation hereby proposes to amend the established fees.

**Title 43
NATURAL RESOURCES
Part XIX. Office of Conservation - General Operations
Subpart 2. Statewide Order No. 29-R-99/00
Chapter 7. Fees
§701. Definitions**

Annual Inspection Fee—repealed.

[See Prior Text *Application Fee—Application to Process Form R-4*
BOE—annual barrels oil equivalent. Gas production is converted to BOE by dividing annual mcf by a factor of 7.

Capable Gas—natural and casinghead gas not classified as incapable gas well gas or incapable oil well gas by the Department of Revenue and Taxation.

Capable Oil—crude oil and condensate not classified as incapable oil or stripper oil by the Department of Revenue and Taxation.

Class I Well—a Class I injection well used to inject hazardous, industrial, or municipal wastes into the subsurface, which falls within the regulatory purview of Statewide Order Nos. 29-N-1 or 29-N-2.

Class I Well Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on permitted Class I wells in an amount not to exceed \$336,000 for Fiscal Year 1997-1998, and may increase by a sum not to exceed 3 1/2% annually for Fiscal Years 1998-1999 and 1999-2000.

Class II Well—a Class II injection well which injects fluids which are brought to the surface in connection with conventional oil or natural gas production (Status 63,67), for annular disposal wells (Status 64), for enhanced recovery of oil or natural gas (Status 41, 42, 43), and for storage of hydrocarbons which are liquid at standard temperature and pressure (Status 44, 45). For purposes of administering the exemption provided in LSA-R.S. 30:21(B)(1)(c), such exemption is limited to operators who operate Class II wells serving a stripper oil well or an incapable gas well certified pursuant to R.S. 47:633 by the severance tax division of the Department of Revenue and Taxation and located in the same field as such Class II well.

Class II Well Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on non-exempted Class II wells in an amount not to exceed \$493,000 for Fiscal Year 1997-1998, and may increase by a sum not to exceed 3 1/2% annually for Fiscal Years 1998-1999 and 1999-2000.

[See Prior Text *Emergency Clearance*]

Production Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, by oil and gas operators on capable oil wells and capable gas wells based on a tiered system to establish parity between the producing wells. The tiered system shall be established annually by rule on annual volumes of capable oil and capable gas production in an amount not to exceed \$1,918,600 for Fiscal Year 1997-1998, and may increase by a sum not to exceed 3 1/2% annually for Fiscal Years 1998-1999 and 1999-2000. Incapable oil, stripper oil, incapable gas well gas and incapable oil well gas shall be exempt from this fee.

[See Prior Text *Production Well-Type B Facility*]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:542 (August 1988), amended LR 15:551 (July 1989), LR 21:1249 (November 1995), LR 24:758 (March, 1998), LR 24:2127 (November 1998), LR 25:

§703. Fee Schedule for Fiscal Year 1999-00

A. Application Fees

Application for Unit Determination	\$210
Application for Substitute Unit Well	\$210
Application for Public Hearing	\$630
Application for Multiple Completion	\$105
Application to Commingle	\$210
Application for Automatic Custody Transfer	\$210
Application for Noncommercial Injection Well	\$210
Application for Commercial Class I Injection Well	\$1,050
Application for Commercial Class I Injection Well (Additional Wells)	\$525
Application for Commercial Class II Injection Well	\$525
Application for Commercial Class II Injection Well (Additional Wells)	\$262
Application for Permit to Drill - Minerals: 0' - 3,000'	\$105
Application for Permit to Drill - Minerals: 3,001' - 10,000'	\$525
Application for Permit to Drill - Minerals: 10,001' +	\$1,050
Application to Amend Permit to Drill - Minerals	\$105
Application to Amend Permit to Drill - Injection or Other	\$105
Application for Surface Mining Exploration Permit	\$52
Application for Surface Mining Development	\$78

Operations Permit	
Application for Surface Mining Permit	\$1,837
Application to Process Form R-4	\$26
Application to Reinstate Suspended Form R-4	\$52
Application for Emergency Clearance Form R-4	\$52

B. Regulatory Fees

1. Operators of each permitted Type A Facility are required to pay an annual Regulatory Fee of \$5,250 per facility. Such payments are due within the timeframe prescribed by the Office of Conservation.

2. Operators of each permitted Type B Facility are required to pay an annual Regulatory Fee of \$2,625 per facility. Such payments are due within the timeframe prescribed by the Office of Conservation.

3. Operators of record of permitted Class I wells are required to pay \$8,280 per well.

4. Operators of record of nonexempt permitted Class II wells are required to pay \$425 per well.

C. Production Fees. Operators of record of capable oil wells and capable gas wells are required to pay according to the following annual production fee tiers:

	Annual Production (Barrel Oil Equivalent)	Fee (\$ Per Well)
Tier 1	0	10
Tier 2	1 - 5,000	50
Tier 3	5,001 - 15,000	150
Tier 4	15,001 - 30,000	250
Tier 5	30,001 - 60,000	400
Tier 6	60,001 - 110,000	550
Tier 7	110,001 - 9,999,999	675

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:543 (August 1988), amended LR 15:552 (July 1989), LR 21:1250 (November 1995), LR 24:758 (March 1998), LR 24:2128 (November 1998), LR 25:

§705. Failure to Comply

A. Operators of operations and activities defined in §701 are required to timely comply with this Order. Failure to comply within 30 days past the due date of any required fee payment will subject the operator to civil penalties under the provisions of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, as well as penalties provided in other sections of Title 30, including LSA- R.S. 30:18.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:759 (March 1998), LR 24:2128 (November 1998), LR 25:

§707. Severability and Effective Date

A. The fees set forth in §703 are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order No. 29-R-99/00, and if any such individual fee is held to be unacceptable, pursuant to LSA-R.S. 49:968(H)(2), or held to be invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This Order (Statewide Order No. 29-R-99/00) supercedes Statewide Order No. 29-R-98/99.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:21:1251 (November 1995), LR 24:759 (March 1998), LR 24:2128 (November 1998), LR 25:

Comments and views regarding the proposed fees will be accepted until 4:30 p.m., Wednesday, September 1, 1999. Comments should be directed, in writing, to Philip N. Asproditis, Commissioner of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275.

A public hearing will be held at 9:00 a.m., Wednesday, August 25, 1999, in the Conservation Auditorium, located on the First Floor, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, Louisiana.

Philip N. Asproditis
Commissioner of Conservation

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Fees

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no implementation costs (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Statewide Order No. 29-R-99/2000 will result in collection of approximately \$2.7 million by the Office of Conservation. Local governmental units will not be affected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Statewide Order No. 29-R-99/2000 will result in the collection of \$2.7 million of production fees during FY 99/2000. Fees will be paid by operators of capable oil and capable gas wells, Class I injection wells and non-exempt Class II injection wells.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition and employment.

Philip N. Asproditis Commissioner 9907#055	Robert E. Hosse General Government Section Director Legislative Fiscal Office
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NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services**

**Forfeiture of Good Time; Penalty Schedule
(LAC 22:I.333 and 359)**

In accordance with the Administrative Procedure Act LSA-R.S. 49:953(B) and in order to implement LSA-R.S. 15:571.4, the Department of Public Safety & Corrections, Corrections Services hereby gives notice of intent to repeal and promulgate LAC 22:I.333 regarding forfeiture of good time for escape or battery of an employee of the Department

of Public Safety and Corrections and to amend LAC 22:I.359 regarding the penalty schedule for custody change from minimum or medium custody to maximum custody status.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 3. Adult and Juvenile Services

Subchapter A. General

**§333. Forfeiture of Good Time for Escape or Battery
on an Employee of the Department**

A. Purpose. To provide for rules related to the forfeiture of good time from inmates who escape or commit battery on an employee of the Department.

B. Applicability. Assistant Secretary, Office of Adult Services, all Wardens of adult institutions, Directors of Community Rehabilitation Centers and local detention facilities.

C. Definitions

Aggravated Escape—The intentional, unauthorized departure under circumstances wherein human life was endangered of an inmate from the grounds of an institution, a designated area or place within an institution, the custody of Corrections' personnel while off the grounds of an institution, the custody of any law enforcement officer, or the departure of a work release inmate from the designated area where he is legally confined; the failure of an inmate participating in a work release program to report or return from his planned employment or other activity at the appointed time; or the failure of an inmate on furlough to return to his place of confinement at the appointed time. For the purpose of this regulation, the commission of a crime while on escape constitutes aggravated escape.

Battery of an Employee—Battery of an employee is a battery committed without the consent of the victim when the inmate has reasonable grounds to believe the victim is an employee acting in the performance of his duties. This includes the use of force or violence upon the person of an employee by throwing feces, urine, blood, saliva, or any form of human waste by an inmate.

Simple Escape—The intentional, unauthorized departure under circumstances wherein human life was not endangered of an inmate from the grounds of an institution, a designated area or place within an institution, the custody of Corrections personnel while off the grounds of an institution, the custody of any law enforcement officer, or the departure of a work release inmate from the designated area where he is legally confined; the failure of an inmate participating in a work release program to report or return from his planned employment or other activity at the appointed time; or the failure of an inmate on furlough to return to his place of confinement at the appointed time.

D. Policy. It is policy of the Secretary that procedures be established for the forfeiture of earned good time from inmates who escape or commit battery on an employee as set forth in LSA-R.S. 15:571.4(B) and (C). Forfeiture of good time for inmates who escape after August 30, 1986, or commit battery on an employee is governed by this regulation. Forfeiture of good time for escape prior to

August 30, 1986, is computed in accordance with Department Regulation No. B-04-001, Section 9.G.

E. Procedures

1. Notification. An inmate charged with escape or battery on an employee for which the loss of good time in excess of 30 days is contemplated, shall be given written notification of the forfeiture of good time using the attached "Forfeiture of Good Time" memorandum.

2. Request for a "Forfeiture of Good Time" Hearing The inmate must, within 15 days of receiving the notification, submit to the Warden a written request for a "Forfeiture of Good Time" hearing. This hearing may be conducted by a Disciplinary Board and would generally follow the disciplinary hearing at which guilt or innocence for the offense itself is established and normal disciplinary penalties assessed.

a. If the inmate is found "not guilty" during the normal disciplinary hearing, the "Forfeiture of Good Time" hearing would not be held.

b. If the request is not made in a timely manner, it will be deemed that the inmate waives his right to a Forfeiture of Good Time hearing. In such cases, the institution may impose the maximum loss of good time without additional proceedings.

c. If the inmate requests a "Forfeiture of Good Time" hearing, then such a separate and distinct hearing will be conducted to make a determination to either affirm, modify or reject the:

i. forfeiture of up to all good time earned on that portion of his sentence served prior to escape;

ii. forfeiture of all good time up to a maximum of 180 days on that portion of his sentence served prior to committing the battery.

F. Forfeiture of Good Time Form

MEMORANDUM

DATE:

TO:

RE: Forfeiture of Good Time

In accordance with Department Regulation No. B-04-005 based on La. R.S. 15:571.4(B) and (C):

Any inmate who escapes may forfeit all good time earned on that portion of his sentence served prior to the escape.

Any inmate who commits a battery on an employee of the Department may forfeit all good time up to a maximum of 180 days on that portion of his sentence served prior to committing the battery.

You have been provided a copy of the rule violation report charging you with escape or battery on an employee which contains a description of the evidence against you.

You are hereby advised of your right to request a "Forfeiture of Good Time" hearing before the Disciplinary Board within 15 days of this date. You also have the right to be represented by counsel, to be present at the hearing, and to present exculpatory evidence or evidence in mitigation. Upon a finding of guilt after normal disciplinary proceedings, the Disciplinary Board shall make a determination to either affirm, modify, or reject the recommended forfeiture of good time in the "Forfeiture of Good Time" hearing.

Your request for hearing must be submitted to the Warden, in writing, and must contain the following:

A statement setting out the facts upon which you are relying;

A list of witnesses with the reason for the witnesses and the expected testimony;

A list of documents with the reason for each document and the expected information;

A statement as to whether you are challenging the charge or only attempting to mitigate the action, or both;

A statement as to whether you will represent yourself, retain counsel or if you wish to have an inmate counsel substitute.

The contents of your request shall be binding and shall not be expanded unless good cause is shown why it should be expanded. If you fail to make a timely request, it will be deemed that you waive your right to a hearing on the issue of guilt and the action to be taken.

WITNESS Inmate Signature

WITNESS DATE

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:571.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 25:

§359. Penalty Schedule. Disciplinary Report (Heard by Disciplinary Board)

A. - A.2.i. ...

j. Custody change from minimum to medium custody status (imposition of this penalty may include transfer to another institution. Any job change resulting from imposition of this penalty is not a separate penalty for purposes of this section, unless expressly indicated as a penalty).

k. Custody change from minimum or medium custody status to maximum custody status (working cell block or disciplinary detention/extended lockdown). (Imposition of this penalty may include transfer to another institution. Any job change resulting from imposition of this penalty is not a separate penalty for purposes of this section, unless expressly indicated as a penalty).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:571.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 17:670 (July 1991), amended LR 25:

Interested persons may submit oral or written comments to Richard L. Stalder, Department of Public Safety and Corrections, Box 94304, Capitol Station, Baton Rouge, Louisiana 70804-9304, (225) 342-6741. Comments will be accepted through the close of business at 4:30 p.m. on August 20, 1999.

Richard L. Stalder
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Forfeiture of Good Time; Penalty Schedule

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no estimated costs associated with this amendment as the rule has been previously adopted and implemented pursuant to LSA-R.S. 15:571.4(B).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no additional costs or economic benefits directly affecting persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment.

Bernard E. "Trey" Boudreaux
Undersecretary

9907#021

Robert E. Hosse
General Government
Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Donations to Public Schools; Problem Gambling
(LAC 42:III.117 and 118)

The Louisiana Gaming Control Board hereby gives notice that it intends to add LAC 42:III.117 and 118 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 42
LOUISIANA GAMING
Part III. Gaming Control Board**

Chapter 1. General Provisions

§117. Donations to Public Schools

A. The term "licensee" as used in this Section shall include all persons licensed pursuant to the provisions of the Gaming Control Law, R.S. 27:1 et seq. but shall not include establishments licensed to conduct video draw poker gaming operations as a restaurant, bar, lounge, hotel or motel. The term "permittee" as used in this section shall include all persons permitted pursuant to the provisions of the Gaming Control Law, R.S. 27:1 et seq. but shall not include gaming employees or nongaming vendors.

B. No casino gaming operator, licensee or permittee shall offer to make donations or contributions to public, private or parochial elementary schools or youth groups without solicitation of the donation by the public, private or parochial elementary school or youth group.

C. No educational aid, clothing, recreational or amusement item or other article donated or otherwise provided by a casino gaming operator, licensee or permittee to any public, private or parochial elementary or secondary school shall contain a logo, symbol or language related to gaming or gambling or which bears the actual or commonly known name of the casino gaming operator, licensee or permittee.

D. No donations or contributions shall be made by a casino gaming operator, licensee or permittee to:

1. a public elementary or secondary school without prior written notification by the proposed donee or recipient to the school board having jurisdiction over the proposed donee or recipient;

2. a private or parochial elementary or secondary school without prior written notification by the proposed donee or recipient to the governing body of the proposed donee or recipient.

E. All donations and contributions made as provided in Subsection D shall be in compliance with all applicable school board or school governing body rules, regulations and policies concerning donations and contributions.

F. All donations or contributions made in conjunction with an "Adopt A School Program" shall be conducted in accordance and in compliance with all applicable school board or school governing body rules, regulations and policies concerning such programs, and other rules, regulations and policies concerning donations and contributions.

G. Failure of a casino gaming operator, licensee or permittee to comply with Subsections B through D or with the school board or school governing body rules, regulations or policies as provided in Subsections E and F shall constitute a violation of these rules and subject the casino gaming operator, licensee or permittee to administrative action including but not limited to revocation, suspension or civil penalty.

H. A copy of this rule shall be provided to all school board and school governing bodies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§118. Programs to Address Problem Gambling

A. As used in this section "licensee" means each person who is licensed or otherwise authorized to conduct gaming operations.

B. Each licensee shall post or provide in conspicuous places in or near gaming areas and areas where cash or credit is made available to patrons including cash dispensing machines written materials concerning the nature and symptoms of problem gambling and the toll-free telephone number of the Louisiana Problem Gambling Hot Line or similar entity approved by the board.

C. All licensees other than video draw poker establishments shall implement procedures and training for all employees who directly interact with gaming patrons in gaming areas. Such training shall, at a minimum, consist of information concerning the nature and symptoms of problem gambling behavior and assisting patrons in obtaining information about problem gambling programs. This Subsection shall not be construed to require employees of licensees to identify problem gamblers. Each licensee shall designate personnel responsible for maintaining the program and addressing the types and frequency of such training and procedures. Training programs conducted or certified by the Office of Alcohol and Drug Abuse are presumed to provide adequate training for the period certified.

D. Licensed video draw poker establishments shall comply with procedures and training requirements developed by the division and approved by the board.

E. Each licensee that engages in the issuance of credit, check cashing, or the direct mail marketing of gaming opportunities, shall implement a program containing the

elements described below, as appropriate, that allows patrons to self-limit their access to the issuance of credit, check cashing, or direct mail marketing by that licensee. As appropriate, such program shall contain, at a minimum, the following:

1. the development of written materials for dissemination to patrons explaining the program;
2. the development of written materials for dissemination to patrons explaining the Excluded Persons provisions of R.S. 27:1 et seq. and the administrative rules of the board;
3. the development of written forms allowing patrons to participate in the program;
4. standards and procedures that allow a patron to be prohibited from access to check cashing, the issuance of credit, and the participation in direct mail marketing of gaming opportunities;
5. standards and procedures that allow a patron to be removed from the licensee's direct mailing and other direct marketing regarding gaming opportunities at that licensee's location; and
6. procedures and forms requiring the patron to notify a designated office of the licensee within 10 days of the patron's receipt of any financial gaming privilege, material or promotion covered by the program.

F. The chairman may request that any licensee submit any of the elements of the licensee's program described in Subsections B, C, and E to the board for review. If the board makes an administrative determination that the licensee's program does not adequately address the standards as set forth in Subsections B, C and E above, then the board may issue such a determination identifying the deficiencies and specifying a time certain within which such deficiencies must be corrected.

G. Failure by the licensee to establish the programs set forth in Subsections C and E, to comply with the procedures and training requirements established under Subsection D, or to cure a deficiency identified pursuant to subsection F, shall constitute a violation of these rules, and may result in administrative action including but not limited to revocation, suspension or civil penalty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 342-2465, and may submit written comments relative to these proposed rules, through August 9, 1999, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Donations to Public Schools; Problem Gambling

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that there will be no direct implementation costs or savings to state or local government units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that there will be no direct effect on revenue collections of state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No significant costs and/or economic benefits are estimated from providing programs to address problem gambling.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
9907#030

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Black Bass Regulations—Spanish Lake (LAC 76:VII.191)

The Wildlife and Fisheries Commission hereby advertises its intent to establish the following rule on black bass (*Micropterus* spp.) on Spanish Lake, located between the cities of New Iberia and Lafayette in Iberia and upper St. Martin Parishes, Louisiana.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and the final Rule, including, but not limited to, the filing of the fiscal and economic impact statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§191. Black Bass Regulations—Spanish Lake

The harvest regulations for black bass (*Micropterus* spp.) on Spanish Lake, located between the cities of New Iberia and Lafayette, in Iberia and upper St. Martin Parishes, Louisiana is as follows:

1. Size limit: 16 inch - 21 inch slot. A 16-21 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 16 inches and 21 inches, both measurements inclusive.
2. Daily take: 8 fish of which no more than two fish may exceed 21 inches maximum total length.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), R.S. 56:325(C) and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:

Interested persons may submit written comments of the proposed rule to Mr. Mike Walker, Biologist Supervisor, Inland Fisheries Division, Department of Wildlife and

Fisheries, 2415 Darnall Road, New Iberia, LA 70560 no later than 4:30 p.m., Wednesday, September 8, 1999.

Bill A. Busbice, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Black Bass Regulations—Spanish Lake**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will have no implementation costs. Enforcement of the proposed rule will be carried out using existing staff. Iberia and St. Martin Parish Enforcement Agents are presently employed to patrol Spanish Lake as part of their duties.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on revenue collections of State and Local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Sport fishermen who fish in Spanish Lake will be affected by the proposed action, since they will have to release back to the water black bass between 16 and 21 inches in total length. The implementation of a 16 to 21 inch slot limit should result in an increase in largemouth black bass between 16 and 21 inches. The proposed rule will have no effect on costs to sport fishermen at Spanish Lake.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no effect on competition and employment in the private or public sectors.

James L. Patton
Undersecretary
9907#028

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Turkey Hunting Season—2000
(LAC 76:XIX.113, 115, and 117)

The Wildlife and Fisheries Commission at its July meeting does hereby give notice of its intent to promulgate rules and regulations governing the hunting of wild turkeys. The promulgation of this rule repeals and replaces previous turkey hunting regulations.

**Title 76
WILDLIFE AND FISHERIES
Part XIX. Hunting**

Chapter 1. Resident Game Hunting Season

§113. Turkey Hunting Regulations

A. Daily limit is one gobbler, three gobblers per season. Still hunting only. Use of dogs, baiting, electronic calling devices and live decoys is illegal. Turkeys may be hunted with shotguns, including muzzleloading shotguns, using shot not larger than #2 lead or BB steel shot, and bow and arrow but by no other means. Shooting turkeys from a moving or

stationary vehicle is prohibited. Shotguns capable of holding more than three shells prohibited.

B. No person shall hunt, trap or take turkeys by the aid of baiting or on or over any baited area. Baiting means placing, exposing, depositing or scattering of corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed so as to constitute a lure, attraction or enticement to, on or over any areas where hunters are attempting to take turkeys.

C. A baited area is any area where corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed capable of luring, attracting or enticing turkeys is directly or indirectly placed, exposed, deposited, distributed or scattered. Such areas remain baited areas for 15 days following complete removal of all such corn, wheat or other grain, salt, or other feed.

D. Wildlife agents are authorized to close such baited areas and to place signs in the immediate vicinity designating closed zones and dates of closure.

E. The Department of Wildlife and Fisheries strongly discourages "feeding" agricultural grains to wild turkeys as this practice increases the risk of birds contracting potentially lethal diseases. Repeatedly placing grain in the same area may expose otherwise healthy birds to disease contaminated soils, grain containing lethal toxins and other diseased turkeys using the same feeding site. Properly distributed food plots (clovers, wheat, millet and chufa) are far more desirable for turkeys and have the added benefit of appealing to a wide variety of wildlife.

F. It is unlawful to take from the wild or possess in captivity any live wild turkeys or their eggs. No pen raised turkeys from within or without the state shall be liberated (released) within the state.

G. All licensed turkey hunters are required to have a Turkey Stamp in their possession while turkey hunting in addition to basic and big game licenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 25:

§115. Statewide Turkey Hunting Areas—Resident Game Birds And Animals

A. Shooting Hours: one-half hour before sunrise to one-half hour after sunset.

Species	Season Dates	Daily Bag Limit	Possession Limit
Turkey	See Schedule	1	3/season

B. 2000 Turkey Hunting Schedule

Area	Season Dates
A	March 25-April 23
B	April 1-16
C	March 25-April 2

C. 2000 Turkey Hunting Season—Open Only in the Following Areas

1. Area A - March 25-April 23
 - a. All of the following parishes are open:
 - i. East Baton Rouge;
 - ii. East Feliciana;
 - iii. LaSalle;
 - iv. Livingston;

- v. Natchitoches (Exception: See Kisatchie National Forest hunting schedule for National Forest dates);
 - vi. St. Helena;
 - vii. St. Tammany;
 - viii. Tangipahoa;
 - ix. Washington;
 - x. West Baton Rouge;
 - xi. West Feliciana (including Raccourci Island).
- b. Portions of the following parishes are also open:
- i. Allen: north of La. 26 from DeRidder to the junction of La. 104 and north of La. 104;
 - ii. Avoyelles: that portion bounded on the east by the Atchafalaya River northward from Simmesport, on the north by Red River to the Brouillette Community, on the west by La. 452 from Brouillette to La. 1 eastward to Simmesport, and that portion surrounding Pomme de Terre WMA, bounded on the north, east and south by La. 451, on the west by the Big Bend Levee from its junction at the Bayou des Glaise structure east of Bordelonville southward to its junction with La. 451;
 - iii. Beauregard: north of La. 26 east of DeRidder, north and east of U.S. 171-190 from the junction of La. 26 to DeRidder, and north of U.S. 190 from DeRidder to Texas state line;
 - iv. Caldwell: west of Ouachita River southward to Catahoula Parish line, east of La. 165 from LaSalle Parish line to the junction of La. 126, north of La. 126 westward to the Winn Parish line;
 - v. Catahoula: west of Ouachita River southward to La. 559 at Duty Ferry, north of La. 559 to La. 124, south and west of La. 124 from Duty Ferry to La. 8 at Harrisonburg and north of La. 8 to La. 126, north and east of La. 126. ALSO that portion lying east of La. 15;
 - vi. Concordia: that portion east of Hwy. 15 and west of Hwy. 65 from its juncture with Hwy. 15 at Clayton;
 - vii. Evangeline: north and west of La. 115, north of La. 106 from St. Landry to La. 13, west of La. 13 from Pine Prairie to Mamou and north of La. 104 west of Mamou;
 - viii. Franklin: that portion lying east of Hwy. 17 and east of Hwy. 15 from its juncture with Hwy. 17 at Winnsboro;
 - ix. Grant: all of the parish except that portion of land that lies north of the Red River between U.S. 71 and La. 8;
 - x. Iberville: west of La. Hwy. 1. Exception: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;
 - xi. Madison: that portion lying west of U.S. Hwy. 65 and south of U.S. Hwy. 80;
 - xii. Pointe Coupee: all except that portion bounded on the west by La. 77 and La. 10, northward from U.S. 190 to La. 1 at Morganza, on the north and east by La. 1 to its junction with La. 78 and by La. 78 from Parlange to U.S. 190. Further Exception: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;
 - xiii. Rapides: all of the parish except that portion of lands that lies north of the Red River and south of U.S. Hwy. 71 from its juncture with the Red River northward to the Grant Parish line;
 - xiv. Richland: that portion south of U.S. Hwy. 80 and east of Hwy. 17;

- xv. Sabine: that portion north of Hwy. 6 from Toledo Bend Lake to Many; east of Hwy. 171 from Many to the Vernon Parish line;
 - xvi. St. Landry: that portion bounded on the north by U.S. 190, west by the West Atchafalaya Basin Protection Levee. ALSO that portion of the parish bounded on the north by La. 10 from the West Atchafalaya Basin Protection Levee to Burton s Lake, on the east by Burton s Lake, on the south by Petite Prairie Bayou to its junction with the old O.G. Railroad right-of-way then by the O.G.R.R. right-of-way westward to U.S. 71 and on the west by the West Atchafalaya Guide Levee to its junction with La. 10, Except the Indian Bayou tract owned by the U.S. Corps of Engineers;
 - xvii. Upper St. Martin: all within the Atchafalaya Basin. Exception: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;
 - xviii. Tensas: that portion west of Hwy. 65 from the Concordia Parish line to its juncture with Hwy. 128, north of La. 128 to St. Joseph; west and north of La. 605, 604 and 3078 northward to Port Gibson Ferry. Also all lands lying east of the main channel of the Mississippi River;
 - xix. Vernon: that portion east of Hwy. 171 from the Sabine Parish line to the junction of Hwy. 111, south of Hwy. 111 westward to Hwy. 392, and south of Hwy. 392 westward to the Sabine Parish line. Exception: See Kisatchie National Forest hunting schedule for season dates.
2. Area B—April 1-April 16
- a. All of the following parishes are open:
 - i. Bienville;
 - ii. Bossier;
 - iii. Claiborne;
 - iv. Lincoln;
 - v. Red River;
 - vi. Webster, including Caney Ranger District of Kisatchie National Forest.
 - b. Portions of the following parishes are open:
 - i. Caddo: that portion north of La. 2 from the Texas state line to U.S. 71, east of U.S. 71 from La. 2 to I-20, south of I-20 from U.S. 71 to U.S. 171, and east of U.S. 171 to the DeSoto Parish line;
 - ii. DeSoto: that portion east of U.S. 171 from the Caddo Parish line to U.S. 84 and south of U.S. 84;
 - iii. East Carroll: east of U.S. 65 from Arkansas state line to Madison Parish line;
 - iv. Jackson: west of Parish Road 243 from Lincoln Parish line to Parish Road 238, west and south of Parish Road 238 to La. 144, west of La. 144 to La. 34, west of La. 34 to Chatham, north and west of La. 4 from Chatham to Weston, north and west of La. 505 from Weston to Wyatt, west of U.S. 167 from Wyatt to Winn Parish line;
 - v. Ouachita: east of La. 143 from Union Parish line to Bayou Darbonne, north of Bayou Darbonne to the Ouachita River, west of the Ouachita River from the mouth of Bayou Darbonne northward to the Union Parish line;
 - vi. Morehouse: west of U.S. 165 from the Arkansas line to Bonita, north and west of La. 140 to junction of La. 830-4 (Cooper Lake Road), west of La. 830-4 to Bastrop, north of U.S. 165 from Bastrop to Ouachita Parish line;

vii. Union: west of La. 15 from Ouachita Parish line to La. 33 west of Farmerville, north of La. 33 to La. 2 at Farmerville, north and east of La. 2 to La. 143 at Crossroads, east of La. 143 to the Ouachita Parish line.

3. Area C—March 25-April 2

a. All of the following parish is open:

i. Winn

b. Portions of the following parishes are open:

i. Ascension: all east of the Mississippi River;

ii. Allen: south of La. 26 from DeRidder to Oberlin, west of U.S. 165 south of Oberlin;

iii. Avoyelles: south of La. 1 to West Protection Levee, south to Avoyelles Parish line;

iv. Beauregard: south of La. 26 east of DeRidder, east of U.S. 171 from the junction of La. 26 to Ragley, south of La. 12 west to Ragley;

v. Calcasieu: south of La. 12 east of Dequincy, east of La. 27 from Dequincy to I-10, and north of I-10 east of Sulphur;

vi. Concordia: north and east of Sugar Mill Chute (Concordia Parish) from the state line westward to Red River, east of Red River northward to Cocodrie Bayou, east of Cocodrie Bayou northward to U.S. Hwy. 84, south of U.S. Hwy. 84 eastward to La. Hwy. 15 (Ferriday), east of La. Hwy. 15 northward to U.S. Hwy. 65 (Clayton), east of U.S. Hwy. 65 northward to Tensas Parish line;

vii. Iberville: all east of the Mississippi River;

viii. Jefferson Davis: west of U.S. 165 and north of I-10;

ix. Madison: south of Hwy. 80 and east of U.S. Hwy. 65 to Tensas Parish line and all lands lying east of the main channel of the Mississippi River;

x. St. Landry: that portion bounded on the south by La. 10, on the west by the West Atchafalaya Basin Protection Levee, on the east by La. 105, and on the north by the Avoyelles Parish line;

xi. Tensas: east and south of U.S. Hwy. 65 from Concordia Parish line to Hwy. 128, south of Hwy. 128 to St. Joseph, east and south of La. Hwy. 605, 604 and 3078 northward to Port Gibson Ferry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 25:

§117. 2000 Wildlife Management Area Turkey—Hunting Regulations

A. General

1. The following rules and regulations concerning management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject the individual to citation and/or expulsion from the management area.

2. Only those Wildlife Management Areas listed are open to turkey hunting.

3. All trails and roads designated as ATV Only shall be closed to ATVs from March 1 through September 15. ATV off-road or trail travel is prohibited. Walk-in hunting only (bicycles permitted), unless opened by sign on trail.

4. Bag limits on WMAs are part of the season bag limit. The bag limit for turkeys on Wildlife Management

Areas is two per area, not to exceed two per season for all WMAs. Only one turkey allowed to be taken during special lottery hunts. The bag limit for turkeys is one gobbler per day and three gobblers per season including those taken on WMAs.

B. Permits

1. Self-Clearing Permits. All turkey hunts, including lottery hunts, are self-clearing and all hunters must check in daily by picking up a permit from a self-clearing station. Upon completion of each daily hunt, the hunter must check out by completing the hunter report portion of the permit and depositing it in the check-out box at a self-clearing station before exiting the WMA.

2. Lottery Hunts: Bayou Macon, Dewey Wills, Georgia-Pacific, Loggy Bayou, Sabine, Sherburne, Sicily Island and Tunica Hills WMAs are restricted to those persons selected as a result of the pre-application lottery. Deadline for receiving applications is February 15, 2000. Application fee of \$5 must be sent with each application. Applicants may submit only one application and will be selected for one WMA Turkey Lottery Hunt annually. Submitting more than one application will result in disqualification. Contact any district office for applications. Hunters must abide by self-clearing permit requirements.

3. Requests for information on WMA regulations, permits, lottery hunt applications and maps may be directed to any district office: [District 1 — P.O. Box 915, Minden, 71055; 318/371-3050]; [District 2 — 368 Century Park Drive, Monroe, 71203; 318/343-4044]; [District 3 — 1995 Shreveport Hwy., Pineville, 71360; 318/487-5885]; [District 4 — P.O. Box 426, Ferriday, 71334; 318/757-4571]; [District 5 — 1213 N. Lakeshore Dr., Lake Charles, 70601; 318/491-2575]; [District 6 — 5652 Highway 182, Opelousas, 70570; 318/948-0255]; [District 7 — P.O. Box 98000, Baton Rouge, 70898; 225/765-2360].

C. Wildlife Management Area Turkey Hunting Schedule*

WMA	Season Dates	Permit Requirements	Lottery Dates**
Bayou Macon	April 1-April 2	Self-clearing	April 1-2
Bens Creek	March 25-April 16	Self-clearing	None
Big Lake	March 25-April 2	Self-clearing	None
Bodcau	April 1-April 16	Self-clearing	None
Boeuf	March 25-April 2	Self-clearing	None
Boise Vernon	March 25-April 16	Self-clearing	None
Camp Beauregard	March 25-April 9	Self-clearing	None
Dewey Wills	March 25-26 April 1-2	Self-clearing	March 25-26 April 1-2
Fort Polk	March 25-April 23	Self-clearing	None
Georgia-Pacific	April 1-April 9	Self-clearing	April 1-2
Grassy Lake	March 25-April 2	Self-clearing	None
Jackson-Bienville	April 1-April 16	Self-clearing	None
Little River	March 25-April 9	Self-clearing	None
Loggy Bayou	April 8-9 April 15-16	Self-clearing	April 8-9 April 15-16
Pearl River	March 25-April 9	Self-clearing	None

Peason Ridge	March 25-April 23	Self-clearing	None
Pomme de Terre	March 25-April 2	Self-clearing	None
Red River	March 25-April 2	Self-clearing	None
Sabine	March 25-March 26 April 1-April 2	Self-clearing	March 25-26 April 1-2
Sandy Hollow	March 25-April 16	Self-clearing	None
Sherburne	March 25-April 2	Self-clearing	March 25-26 March 27-29
Sicily Island	March 25-26 April 1-2 April 8-9	Self-clearing	March 25-26 April 1-2 April 8-9
Three Rivers	March 25-April 2	Self-clearing	None
Tunica Hills	March 25-26 April 1-2 April 8-9 April 15-16	Self-clearing	March 25-26 April 1-2 April 8-9 April 15-16

*Only those Wildlife Management Areas listed have a turkey hunting season. All other areas are CLOSED. For seasons on other lands managed by the Department of Wildlife and Fisheries, contact the local district office.

** The deadline for receiving applications for all Turkey Lottery Hunts on WMAs is February 15, 2000.

No turkey hunting within 100 yards of food plots identified by two yellow paint rings around the nearest tree.

Kisatchie National Forest (KNF) Turkey Hunting Schedule: Caney Ranger District, April 1-16; KNF lands in Winn Parish, March 25-April 2; All remaining KNF lands, March 25-April 16.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 25:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondences to other agencies of government.

Additionally, interested persons may submit written comments relative to the proposed rule until September 23, 1999 to Mr. Tommy Prickett, Administrator, Wildlife

Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898.

Bill A. Busbice, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Turkey Hunting Season—2000**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Establishment of hunting regulations is an annual process. The cost of implementing the proposed rules to the state, aside from staff time, is the production of the turkey regulation pamphlets and the turkey stamps which are estimated to cost \$6,500. The state agency currently has sufficient funds to implement the proposed action and no implementation costs or savings will be incurred by local governmental units resulting from the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

License revenue from the sale of the turkey stamps is estimated to be \$53,807. Failure to adopt this rule would result in no turkey hunting seasons being established and loss of state revenues from sale of turkey stamps. In addition, loss of tax revenues of an undeterminable amount may occur to both state and local governmental units from the sale of supplies and equipment used in the pursuit of turkeys.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Approximately 9,700 resident and nonresident sportsmen and an undeterminable amount of sporting good distributors, retail outlets and landowners are directly affected by this proposal. Turkey hunters in Louisiana generate income to retail outlets, landowners and commercial operations that cater to the hunting public through hunting leases and the sale of outdoor related equipment and associated items (food, fuel, clothing, shotgun shells, etc.). These land and business owners will be negatively impacted if turkey hunting seasons, rules and regulations are not established and promulgated. The actual amount of this impact is not estimable at this time. Both resident and nonresident turkey hunters will incur an additional cost of \$5.50 and \$10.50, respectively from the required purchase of a Wild Turkey Stamp.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Hunting supports approximately 15,271 full and part-time jobs in Louisiana of which a proportion is directly related to turkey hunting. Failure to establish turkey hunting seasons may have a negative impact on some of these jobs. It is also anticipated that there will be little or no effect on competition in both the public and private sectors resulting from the proposed action.

James L. Patton
Undersecretary
9907#029

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

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