

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Seed Commission

Fees; Bulk Certification Requirements
(LAC 7:XIII.143 and 147)

In accordance with the provisions of the Administrative Procedure Act, La. R.S. 49:950 et seq., The Department of Agriculture & Forestry, Office of the Louisiana Seed Commission, proposes to amend the bulk certification requirements and fees assessed for bulk certification.

The Department of Agriculture and Forestry, Louisiana Seed Commission intends to adopt these rules and regulations for the purpose of allowing rice seed to be certified in bulk as opposed to limiting rice seed certification to small containers.

These rules are enabled by R.S. 3:1433.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 1. Louisiana Seed Law

§143. Fees

A. - E. ...

F. Fees for Bulk Seed Certification. The fee for issuance of a Bulk Certified Seed Form or Certificate shall be eight cents per hundred-weight.

G. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), amended LR 10:495 (July, 1984), repealed and readopted by the Department of Agriculture and Forestry, Seed Commission LR 12:825 (December 1986), amended LR 14:604 (September 1988), LR 16:847 (October 1990), LR 25:

§147. Bulk Certification Requirements

A. Limitations

1. Bulk certification shall be limited to the certified class of the following commodities:

- a. small grains (wheat and oats);
- b. rice.

2. - 3. ...

4. Seed certified in bulk shall only be sold by the applicant producer or by an approved retail facility. Each retail outlet must have an acceptable procedure for handling bulk certified seed to assure genetic purity and identity are maintained.

B. ...

C. Storage Requirements

1. A separate storage bin must be available for each variety that will be sold in bulk.

2. Storage bins must be constructed so that all bin openings can be sealed to prevent contamination and maintain genetic purity.

3. All bins must be clearly and prominently marked to show crop and variety, until disposal of the entire lot.

D. Sampling of Seed to be Certified in Bulk. Seed sampling shall be conducted as provided in §137.D, except that, at the option of the applicant, the sample to determine germination is drawn.

E. Certification

1. No certified seed tags will be issued for seed certified in bulk, except as provided by §147.F.

2. For sales to an approved retail facility within the state, a Bulk Certified Seed Transfer Form will be issued to cover all bulk certified seed which meets the general requirements for seed certification and the specific requirements for the crop/variety being certified.

a. The seller shall provide a copy of the Bulk Certified Seed Transfer Form to each purchaser at time of delivery.

b. The seller shall provide a copy of each issued Bulk Certified Seed Transfer Form to the Department of Agriculture and Forestry.

c. The seller shall maintain a copy of each issued Bulk Certified Seed Transfer Form in his file, which shall be available for examination by the Department of Agriculture and Forestry upon reasonable request.

3. For sales to its final disposition, a Bulk Certified Seed Sales Certificate will be issued to cover all bulk certified seed which meets the general requirements for seed certification and the requirements for the crop/variety being certified.

a. The seller shall provide a copy of the Bulk Certified Seed Sales Certificate to each purchaser at the time of delivery.

b. The seller shall provide a copy of each issued Bulk Certified Seed Sales Certificate to the Department of Agriculture and Forestry.

c. The seller shall maintain a copy of each issued Bulk Certified Seed Sales Certificate in his file, which shall be available for examination by the Department of Agriculture and Forestry upon reasonable request.

F. Subsequent Packaging of Seed Certified in Bulk

1. If the owner of seed certified in bulk later elects to package any remaining portion of the lot, the owner must give prior notification of his intention to package the seed to the Department of Agriculture and Forestry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 3:1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), repealed and readopted LR 12:825 (December 1986), amended LR 23:1283 (October 1997), LR 25:

All interested persons may submit written comments on the proposed rules through November 24, 1999, to Benjy Rayburn, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data,

views or arguments in writing at the address above. No preamble concerning the proposed rules is available.

Family Impact Statement

The proposed amendments to rules LAC 7:XIII.143 and 147 regarding bulk certification requirements for rice and small grains should not have any known or foreseeable impact on any family as defined by R.S. 49:972 D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Fees; Bulk Certification Requirements

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

There will be no costs or savings to local governmental units. The Louisiana Department of Agriculture and Forestry intends to amend the rules and regulations for the purpose of allowing rice seed to be certified in bulk as opposed to limiting rice seed certification to small containers. The proposed rule change will result in a minimal increase in the expenditure of funds due to the printing of forms which will be used for the certification of bulk seed. Expenditures will be offset by the fees collected for bulk certification.

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

The Department should collect additional revenues due to the assessment of an \$.08 per hundred-weight fee on bulk certified rice and small grain seed. An exact amount is not ascertainable at this time. The increase in revenue could be offset by decreases in revenue due to fewer certifications for seeds in containers.

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

The cost to certified rice and small grains seed producers will be \$.08 per hundred pounds bulk certified. There will be an economic benefit derived from growers producing seed certified under this program, because they will be able to obtain maximum market price for their product. Also, bulk certification makes the seed more marketable, because commercial rice producers prefer to take delivery of seed in bulk. There is no estimate at this time of the economic benefit to these seed producers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Certified rice and small grains seed producers in Louisiana will be more competitive with those in other states who already have similar standards in place.

Skip Rhorer
Assistant Commissioner
9910#041

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Culture, Recreation and Tourism Office of State Parks

Rules and Regulations (LAC 25:IX.303-331 and 501-507)

The Office of State Parks proposes to amend LAC 25:IX.303-331 and 501-507 in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and the statutory provisions of R.S. 56:1681 et seq.

The proposed amendments amend the reservation procedure and simplify rate structure to accommodate the introduction of the agency's new automated reservation system. The amendments also organize and clarify the rules, reflect the statutory name change of state commemorative areas to state historic sites, and provide for related matters.

The proposed rule will have no anticipated impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 25

CULTURAL RESOURCES

Part IX. Office of State Parks

Chapter 3. Rules and Regulations

§303. Park Property and Environment

A. The provisions of the Louisiana Criminal Code (R.S. 14:1 et seq.) shall be enforced on state park property.

B. No person shall intentionally remove, damage disturb, or destroy state park property or the property of another person, without the consent of the owner. "Property" shall include structures, watercraft, movables, signs, markers, natural features, wildlife, and plants.

C. No timber may be cut, destroyed, or damaged except as necessary to meet established park management criteria, including insect control, public safety, and approved park construction. No timber cutting or removal may occur without the written permission of the assistant secretary or his designee.

D. No building, structure, or other park feature may be altered, erected, or constructed without written consent of the assistant secretary or his designee.

E. The assistant secretary shall, upon recommendation of the site manager, approve a carrying capacity for each state park area. Once a carrying capacity has been reached, or when additional visitors would adversely impact the park, the site manager is authorized to close the park site to incoming visitors.

F. Food, beverages, and smoking are prohibited in structures or areas containing historical furnishings or displays except in designated meeting rooms and assembly locations, or in conjunction with park programs.

G. ...

H. No person may excavate, remove, damage, or otherwise alter or deface any archaeological resource located on any park.

I. No plant material may be planted or otherwise introduced on any state park without the written approval of the assistant secretary or his designee.

J. Visitors to historic sites are prohibited from leaving designated interpretive trails and may not walk on historic earthworks, fortifications, mounds or like features without specific permission of the site manager.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 16:1051 (December 1990), LR 25:

§305. Vehicle Use

A. The provisions of the Louisiana Highway Regulatory Act (R.S. 32:1 et seq.) and any rules and regulations promulgated thereunder shall be enforced on state park property.

B. Automobiles, trucks, motorcycles, bicycles, recreation vehicles, or any other wheeled vehicles must be operated only on those roads, lanes, or byways designated for vehicular park traffic unless otherwise authorized by the site manager.

C. Vehicles, including recreational vehicles, motorcycles, and boat trailers, shall be parked only in designated parking areas unless otherwise authorized by the site manager.

D. No person shall operate a vehicle in excess of 15 miles per hour on park property unless otherwise posted.

E. Only vehicles that have been properly licensed by the appropriate regulatory agencies may be operated on the public roads of state parks. Exceptions to this provision may be granted in advance on a case by case basis by the site manager.

F. No person shall clean, service and/or repair any vehicle on state park property except in emergency situations and in designated areas.

G. Vehicles will be considered abandoned when left unattended for more than seven consecutive days unless the proper permit or advanced written approval is granted by the site manager.

H. No person shall remove any barrier to gain access to a restricted area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 25:

§307. Water Craft

A. Federal, state, and local laws, rules and ordinances related to the use of water craft shall be enforced. The operation of all water craft in and on all waters or streams, on or adjacent to park property, must be done in a careful and reasonable manner, and is subject to the rules of safety imposed by the laws of Louisiana and by the United States Coast Guard.

B. Every owner and operator of a motor boat, vessel or other water craft shall carry at least one life preserver, life belt, ring buoy, or other device of the sort prescribed by state and federal law for each person on board so placed as to be readily accessible.

C. Boats shall be launched only from designated boat ramps or launching areas within a park.

D. Persons renting boats must return the boat to the original docking location after use, and secure from unauthorized use.

E. No boat may be operated in a designated swimming area or in any other area designated by signs or any area restricted from boat operation or docking.

F. Boats left docked and unattended must be properly secured in designated areas only. The Office of State Parks will not be responsible for theft or damage to boats, equipment or supplies left unattended.

G. Boats will be considered abandoned when left unattended for more than seven consecutive days unless the proper permit or advanced written approval is granted by the site manager.

H. Commercial boats (defined as any craft capable of carrying five or more persons for hire, any craft having a water displacement of five tons or more, whatever the length, or any craft from which commercial activities are conducted involving shrimping, crabbing, fishing, etc.) are prohibited from using any state park facility without the written consent of the assistant secretary. Loading or unloading of materials, boarding of persons, operating power equipment and non-emergency repair work are prohibited.

I. All or portions of water bodies adjacent to boat ramps, docks, swimming areas, boathouses, cabins, picnic shelters, pavilions, or other facilities shall be designated No WAKE AREAS. Signs and/or buoys will mark the water bodies or portions thereof so designated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 16:1051 (December 1990), LR 25:

§309. Horseback Riding, Livestock, Animals and Pets

A. Horseback riding is allowed only in specially designated areas and/or as part of special program events approved in advance by the assistant secretary.

B. Dogs and other pets are not allowed to run at liberty in the parks. Any pet brought within the park area must be leashed, caged or crated, and will not be permitted within buildings or other enclosed structures of the park (the leash is not to exceed five feet in length). Only seeing-eye dogs will be permitted near designated swimming areas and in overnight facilities. Owners of pets causing any injury or damage will be fully responsible.

C. No person shall allow his livestock to run or graze on park property, except in specially designated areas and/or as part of special programs or events approved in advance by the assistant secretary.

D. No pets are allowed on state preservation areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks in LR 8:633 (December 1982), LR 12:89 (February 1986), amended LR 14:772 (November 1988), LR 25:

§310. Litter, Sanitation and Health

A. No person shall throw, drop, deposit, discard, permit the intentional or accidental ejection, emission, or escape of, or otherwise dispose of litter upon any state park property, except: When litter is placed into a litter receptacle in such a manner that the litter will be prevented from being carried away or deposited by the elements upon state park property or water bodies.

B. No person shall drain or dump refuse waste from any trailer or other vehicle except in places or receptacles provided for such uses.

C. Cleaning fish or food, or washing clothing or articles of household use can only be done at designated areas.

D. No person shall discharge or allow to be discharged into any waters of the state any waste or substance of any kind that will tend to cause pollution of water used for human consumption or swimming.

E. Depositing, except into receptacles provided for that purpose, any body waste in or on any portion of any comfort station or any public structure, or depositing any bottles, cans, cloth, rags, metal, wood, stone, or other damaging substance in any of the fixtures in such stations or structures is prohibited.

F. No person shall use refuse containers or other refuse facilities for dumping household or commercial garbage or trash brought to a park.

G. Burial of garbage, litter, or dead animals on park property is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 25:

§311. Repealed. (provisions moved and amended in §331)

§312. Fires

Fires shall be built only in places specifically designated for that purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 25:

§314. Swimming

A. Swimming is permitted only at designated places, and at the swimmer's own risk.

B. All children under 12 years of age must be accompanied by an adult at any swimming area.

C. The capacity of all pools and beach areas is determined, regulated and enforced by the site manager.

D. Glass containers of any kind are prohibited within any perimeter boundaries of pools, enclosed swimming areas, enclosed beach areas, and beach parks.

E. No food or drinks are allowed within enclosed pool and enclosed beach areas with the exception of concessions sold at the Bayou Segnette State Park wave pool.

F. Only Coast Guard approved Type I or Type II Personal Flotation Devices are allowed at swimming areas with the exception of flotation devices provided by the Office of State Parks at the Bayou Segnette State Park wave pool.

G. No swimming at any beach will be permitted from sunset to sunrise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 16:1051 (December 1990), LR 25:

§315. Amplified Sound Equipment

A. No person shall play amplified musical instruments within park areas except when approved by the assistant secretary or his designee. No person shall play non-amplified musical instruments, radios, televisions, tape

players and similar equipment in such a manner which could disturb other visitors

B. No person shall operate or use any public address systems, whether fixed, portable, or vehicle mounted, without prior approval of the assistant secretary or his designee.

C. Remote public broadcast activities must be approved by the assistant secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 25:

§317. Disorderly Conduct

A. Disorderly or boisterous conduct is forbidden.

B. The site manager and his designees are authorized to control the use and consumption of alcoholic beverages in a park. The consumption of alcoholic beverages may be allowed to the extent that such activity does not adversely affect the use and enjoyment of the park by other park users.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 25:

§319. Business Activities

A. No one may sell or offer for sale any merchandise or service in a park area without the written consent of the assistant secretary or his designee.

B. No one may distribute, post, place, or erect any advertising device in the park area without the written consent of the Assistant Secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 25:

§321. Fines and Enforcement of the Rules and Regulations

A. In addition to any other penalty provided by law, persons violating these rules and regulations are subject to administrative fines for each violation of not less than \$15 nor more than \$250 (R.S. 56:1689), eviction from the park, and/or restitution to the state for damages incurred.

B. Site managers and other park agents, including rangers, watchmen, and guards, may be certified as "Park Wardens." State Park wardens, in addition to the authority otherwise conferred by law upon such officers, are vested with the same authority and powers conferred by law upon regular law enforcement officers of this state. State park wardens have specific authority and responsibility to enforce all rules, regulations, and laws within the limits of their jurisdiction.

C. No person shall enter a park:

1. when the park is closed;

2. without proper registration;

3. in addition to any penalties otherwise provided by law, any person violating this subsection will be subject to an administrative fine of not less than \$25.

E. Park users may be required to furnish specific information upon registration, including but not limited to, vehicle license plate number, a driver's license number, state of residency, place of employment, date of birth, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 25:

§323. Repealed. (provisions moved and amended in §315)

§325. Repealed. (provisions moved and amended in §317)

§327. Repealed. (provisions moved and amended in §319)

§321. Repealed. (provisions moved and amended in §321)

§330. Day Use

A. Day-use facilities such as barbecue pits, tables, etc., which do not require prior reservations shall not be reserved by placing personal articles at these facilities prior to their immediate use. This includes firewood, ice chests, or any other personal property. The use of all such facilities is on a first come, first served basis.

B. The use of any facility in a park area is subject to certain conditions or policies set down on an individual facility basis by the site manager. These conditions or policies must be approved in writing by the assistant secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 25:

§331. Overnight Use

A. General Provisions - Overnight Use

1. Any overnight use of a park requires a written permit or cash receipt from the park. Overnight facilities are reserved for the exclusive use of persons properly permitted for the use of overnight facilities and their guests. An exception to this rule will be made for volunteers camping at a state historic site as part of an approved overnight encampment program.

2. Permittee may not transfer or assign any use permit nor sublet any facility or part thereof.

3. The site manager has the authority to require registration of every person occupying a campsite or overnight facility.

4. Any permit may be terminated by the assistant secretary or by the site manager upon the violation of any established park rule, regulation, or any condition of the permit.

5. Lock combinations are issued for the personal use of the permittee, who is prohibited from allowing others to use the lock combination, or otherwise making the facilities open so that others not covered by the permit may enter or leave the facility or area.

6. All overnight facilities have a check in time of 3 p.m. and a check out time of 11 a.m., except campsites, which have a check out time of 1 p.m. Extensions may be approved by the park manager. Subject to availability, overnight facilities may be available to the user before the check in time.

7. Established time schedules (check in and check out) are strictly enforced. Failure to comply without advanced approval of the park manager may result in additional charges and denial of any future use of the facility.

8. Overnight users must maintain a reasonably quiet facility between the hours of 10 p.m. and 6 a.m.

9. No overnight user may erect or display unsightly or inappropriate structures or features which, in the opinion of the park manager, may create a disturbing or otherwise unpleasant condition detrimental to the general park use.

10. No permittee may repair or install any park equipment or furnishings unless authorized and supervised by the park manager.

11. In no case will public residency be allowed in a state park.

12. Parking for boat trailers and additional vehicles may be allowed at the discretion of the site manager or his designee, subject to individual site suitability for such purposes.

13. Permittee waives and releases all claims against the state of Louisiana for any damage to person or property arising from the privileges granted by any use permit.

B. Camping

1. With the exception of a campground host, overnight camping and group camp, lodge and cabin use are limited to fifteen (15) consecutive days. At the site manager's discretion, and subject to availability, overnight camping may be extended on a weekly basis. No campsite may be vacated for longer than a 24 hour continuous period under any permit agreement.

2. State parks' campgrounds are intended for tents and recreational vehicles only.

3. Campsite occupancy is limited to six persons. At designated group camping areas occupancy limits are set by the site manager or his designee.

4. Campsite configurations within the system vary in size, length, and surfacing materials. Camping spurs are designed to accommodate one camper/pop-up trailer with tow vehicle or one motorized camper and additional vehicle. Additionally, many parks will have designated tent pads adjacent to the spur. The site manager or his designee will have the authority to evaluate additional possible combinations for on site approval. Due to the numerous possible potential combinations, the following are to be used for general guidelines subject to variance by the site manager or his designee:

a. one camper trailer with tow vehicle (may include pickup camper), one large tent or two small tents;

b. one motorized camper with additional vehicle (may include pickup camper), one large tent or two small tents;

c. one pop-up camper with two vehicles (may include pickup camper), one large tent or two small tents;

d. one pickup camper with additional vehicle, one large tent or two small tents;

e. two vehicles and tent combinations not to exceed three tents.

5. The following camping combinations are applicable only to Grand Isle State Park:

a. one passenger vehicle and two tents (family unit only);

b. one passenger vehicle and one camping trailer;

c. one van-type camping vehicle and one tent;

d. one van-type camping vehicle and one camping trailer;

e. one pickup truck camper and one tent;

- f. one pickup truck camper and one camping trailer;
- g. one motorized camper (or bus) and one passenger vehicle.

Beach campsites cannot be reserved.

C. Cabins, Lodges, other Overnight Facilities

1. A written inventory of movable equipment and furnishings is posted in each overnight structure or will be furnished to the visitor. It is the visitor's responsibility to check the inventory upon occupancy. The visitor must report to the park manager any discrepancy between the actual inventory and the printed inventory. The visitor may be assessed the cost of items which, if not reported as missing or damaged upon occupancy, are missing or damaged when the structure is vacated. Failure to reimburse the Office of State Parks for any missing property or damage to property may result in denial of future use of park facilities.

2. Facility furnishings cannot be moved without the permission of the site manager.

3. Upon termination of any use permit, the facility must be delivered up in good repair and in the same condition in which it was found. Where applicable, all doors and windows will be closed, all water taps shut, and all fires extinguished. Permittees will be responsible for any and all damages resulting from their use of the facility. Failure to comply may result in denial of future use of the facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 16:1051 (December 1990), LR 25:

Chapter 5. Procedures and Fees

§501. Operating Schedule

A. State Parks

1. All state parks that do not have a boat launch open at 7 a.m. and close at 9 p.m. year round. All state parks that have a boat launch capable of launching a motorized vessel and ones that are not designated for campers only, will open at 6 a.m. and close at 9 p.m. year round. A park attendant is on duty Fridays, Saturdays, and on days preceding holidays until 10 p.m. to register incoming campers and other overnight users only. Based upon user demand, and available staff and other resources, the hours of operation at each park site may be varied at the direction of the assistant secretary or his designee.

2. Pools and enclosed beach areas are usually operated from Memorial Day weekend through Labor Day weekend, subject to an operating schedule per individual park. All pools are closed on Mondays, except holidays.

B. State Historic Sites: Year-round schedule—Open 9 a.m.-5 p.m.; closed Christmas Day, New Year's Day, Thanksgiving Day.

C. State Preservation Areas: Year-round schedule—Open 9 a.m.-5 p.m. Closed Christmas Day, New Year's Day, Thanksgiving Day.

D. Temporary Operating Schedule: Some areas are not fully operational pending completion of programs or facilities. Also, because of budgetary or legislative mandates, operational schedules may change. Visitors should contact the site manager or the administrative office for information regarding sites with part-time operating hours and special group tour arrangements.

E. The assistant secretary or his designee may direct the closing of a park to public use when or if any natural or man-made occurrence has affected, or is expected to affect, the operation and management of the park to a degree that normal public use and enjoyment are altered, or when such use may impair the health, safety, and well-being of the public or employees of the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 16:1051 (December 1990), LR 25:

§503. Fees and Exemptions; Day-Use

A. - A.2 ...

a. St. Bernard SP swimming pool fee is \$2 per person-no entrance fee.

b. Bayou Segnette SP wave pool - in addition to the entrance fee and all other user fees: Adults (over 48") \$8 per day, Children (under 48") \$6 per day. The price includes one flotation device per person. Discount coupons available when purchased in quantity lots.

3. A self-service fee system may be used to collect user fees on areas normally served by an entrance control station. During these times all reservation guests or others requiring registration shall sign in at the office during the normal business hours or with a ranger placed in the entrance station at hours when the office is not operated.

B. State Historic Sites General Admission Fees

1. An admission fee of \$2 per adult is charged for all state historic sites (exception: Locust Grove and Los Adaes, which have no admission charge). There is no admission charge for children age 12 and under. Admission entitles visitors to all facilities and regular programs which may be offered at the historic site. Special programs and events may include special admission rates. The payment of the admission fee at one historic site entitles guests to enter all historic sites on the same day with no additional charge. The receipt from the first site must be presented for admission to subsequent sites.

2. Organized groups of 10 or more are requested to notify the park manager in advance of their arrival. There is no additional fee for SHS visitors arriving by bus.

C. ...

D. Boating

1. Rental boats are available in most parks. The use of motors on these boats is limited to the manufacturer's recommended horsepower capacity.

2. The standard rate for rental boats with three life jackets and two paddles is \$10 per boat per day. Additional life jackets are available at a rental fee of \$1 each per day.

3. ...

4. At some sites rental boats, kayaks, canoes and other water vessels may be available through the park or through a concessionaire. Visitors should contact the site to check availability and rates.

E. Fishing Piers. A fishing pier extending into the Gulf of Mexico is located at Grand Isle East State Park. A fee is charged for day or night fishing on the pier in addition to the regular day-use or overnight-use fees. Fees are \$2 per person over 12 years of age and \$1 for children 12 years of age and younger.

F. Group Rental Shelters

1. Group rental shelters are available at most state parks and state historic sites. The rental rate varies, depending upon the size and location.

2. Exclusive use of a group shelter can only be made by a rental permit and payment of a rental fee. These group shelters can be reserved in advance with payment of the rental fee.

3. Reserved shelters will be posted, indicating the name of the party and date of use. When such shelters are not so posted or reserved, they are available to the park user on a first come, first served basis as any other non-reserved park shelter.

4. ...

5. The carrying capacity of a group rental shelter is based on its size, facilities and available parking, and may not be exceeded as determined by the site manager.

6.a. Type I Shelter. These shelters, usually located in the day-use area, accommodate a standard of 40 people. Reserve rental rate is \$40 per day.

b. Type II Shelter. These shelters, usually located in the day-use area, accommodate 60 people. Reserve rental rate is \$60 per day.

c. Type III Shelter. These shelters are usually separated from the day-use area, affording more group privacy than the other shelter types. They may accommodate 100 people. Reserve rental rate is \$100 per day.

G. Conference Rooms. Conference rooms used to accommodate meetings and functions of private groups, clubs and other organizations are available at a rate of \$125 per day during normal park operating hours. Kitchen facilities may be used, if available.

H. Exemptions

1. Senior Citizens. Any citizen of the state of Louisiana who is identified as sixty-two years of age or older shall be exempt from paying the general admission charge to any state park in Louisiana. Any person accompanying a citizen of the state of Louisiana who is sixty-two years of age or older, as the driver of a single, private, noncommercial vehicle, or alternatively, the exempted persons spouse and children accompanying him or her where entry to the area is by any means other than private, noncommercial vehicle, shall be exempt from paying the general admission charge to any state park in Louisiana. (R.S. 56:1692)

2. ...

3. School Groups - Any child who is on a field trip conducted as part of the curriculum of the school and any classroom teacher, parent, bus driver and any other person accompanying a school child on such a field trip are exempt from paying the general admission charge to any site.

4. ...

5. Non-Profit Community Home Based Organization - Any child age 18 or under who is retained in the legal custody of the state through a bona fide contractual service agreement with a public, non-profit community home based organization or "provider" shall be exempt from paying the general day-use entrance fees or any other day-use fee at any site. Such use must be in conjunction with an organized group outing or event sponsored and supervised by the public, non-profit organization or "provider".

a. Certification of the eligible organization or "provider" must be made in writing to the Office of State Parks, and the agency shall in turn recognize such certification prior to eligibility for this exemption.

b. This exemption shall not be applicable to day-use functions at any state park overnight facility such as group camps, cabins, campgrounds, etc.

I. Annual Day-Use Permits

1. Annual Day-Use Permits are available at a cost of \$30 per year. This permit, in the form of a wallet I.D. card, allows the holder individually or as a passenger in a single, private non-commercial vehicle entry to all sites in lieu of the normal day-use fee. All people accompanying a permit holder as occupants in a single, private non-commercial vehicle in which the permit holder is a passenger or driver are also admitted without charge.

a. The wallet permit may be exchanged for a vehicle decal which shall be permanently affixed to a vehicle, if this is a more convenient permit arrangement.

b. The Annual Day-Use Permits are valid for a period of one year beginning January 1 and ending December 31 annually. Permits may be obtained at any site.

2. The annual day-use permits are valid for exemption of the general admission day-use charge only.

J. From time to time, as deemed appropriate by the assistant secretary, special programs, occupancy regulations, or discounts on user fees may be offered in order to encourage visitation. These special promotional offers must be reviewed and reauthorized annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1693.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 16:1051 (December 1990), LR 25:

§504. Fees and Exemptions — Overnight Use

A. Camping Fee

1. An improved campsite rents for \$12 per night. An unimproved campsite rents for \$10 per night. For information regarding campsite reservation fees, see Reservation Policy, §505.

2. Each campsite is restricted to use by one camping unit. Improved sites are equipped with picnic table, grill, electricity and water hookups.

3. Designated primitive areas accommodating organized groups (Boy Scouts, Girl Scouts, etc.) are charge of \$1 per person, per night, except the tepee area at Fontainebleau State Park where the charge is \$30 per group per night. Capacity level will be set by the site manager.

B. Rally Camping Areas are those designated and reserved for use by organized groups of overnight campers. These areas differ from the normal state park campgrounds since they are available for group use only.

1. Fees

a. A fee of \$50 per night is assessed to the group for the exclusive use of the area, and each individual camper rig is also charged the improved campsite rate.

b. The day-use fee for a rally campground is \$50 per day for the group, and in addition the standard day-use entrance fee is charged per vehicle.

3. Carrying Capacity - A maximum carrying capacity for rally sites is established by individual parks, and

information concerning these capacities is available through the individual park offices.

C. Golden Age/Golden Access Permit. Any citizen of the United States who possesses a Golden Age and/or Golden Access Passport issued by an agency of the United States, pursuant to 16 U.S.C. Section 460, and any person accompanying the holder of the passport in a camper rig as defined in Chapter 3, Subsection 311 H, of the rules and regulations of the Office of State Parks will be entitled to a 50 percent discount on any overnight campsite rentals. Proof of identification will be required.

D. Backpacking

1. Backpacking is available only at Chicot State Park at the present time. A permit is required for all overnight backpacking use and may be obtained at the park entrance station.

2. Each person will be assessed a fee of \$1 per night. A copy of the backpacking regulations can be obtained at the park entrance station.

3. Backcountry camping or backpacking is defined as camping in undeveloped areas of the park where there are no designated campsites and no facilities provided. These areas are reached by backpacking or by non-motorized boats.

E. Canoe Camping

1. Canoe camping at primitive campsites is available at Lake Fausse Pointe State Park and Lake Claiborne State Park. The unimproved campsite rental fee of \$10 is charged for use of these areas.

F. Cabins and Lodges

1. Cabins

Classification	Overnight Rate	Bedding Accommodations	Maximum Capacity
Deluxe	\$65	6	8
Modular	\$60	6	8
Standard	\$50	4	6
Rustic	\$45	4	6

2. Park Lodges - These are large overnight structures equipped with kitchen, bath and sleeping facilities and can accommodate a large family or several family groups.

Classification	Overnight Rate	Bedding Accommodations	Maximum Capacity
Large	\$90	12	14
Small	\$90	7	9

G. Group Camps

1. Group camps are available at certain parks for organized group use. The capacity, type of facility, and rates are as follows:

Classification	Overnight Rate	Day Rate	Maximum Capacity
Class III	\$300	\$200	100+
Class II	\$125	\$75	50+
Class I	\$75	\$50	30+

1. Group camps may be reserved for day use only at a basic rate. In addition, the normal day-use entrance fee will be assessed each vehicle entering the group camp area.

2. Beds, kitchen and necessary cooking ware are furnished. User must furnish his own tableware (silver, dishes, glasses, etc.), bed linens, pillows, towels, and toilet necessities.

H. Special Research Dormitory Facilities

1. Purpose. The primary purpose of the research dormitory is to provide living space and sleeping accommodations for professional researchers and students who are actively conducting on-site research. The dormitory can be used on a first come, first served basis by other individuals who meet the requirements as set forth in this policy statement.

2. Eligible Users. The dormitory is available to college students, professional archaeologists and other scientists and professionals who are studying the site and/or actively conducting research which relates to or directly involves the site or nearby sites of significance.

Requests for use of the dormitory by individuals or groups not meeting the above criteria will be reviewed to determine merit and appropriateness.

3. Application Process. Requests for use of the dormitory must be made by letter addressed to the site manager. The site manager and the assistant secretary will review the request and respond in writing to the applicant.

4. Facility Use Agreement

a. All parties granted permission to use the dormitory must execute a Facility Use Agreement.

b. The user must execute the agreement and return it to the site manager before occupying the dormitory.

5. Research Dormitory Fees. All user groups, unless otherwise authorized by the assistant secretary, will be required to pay a \$100 per night fee for overnight use. The rental fee must be received within 10 days after the user receives written approval to use the dormitory.

6. Research Dormitory Occupancy Requirements

a. Registration with the site manager is required of all boarders before occupying the dormitory. This information will include name, organization, address, and home or business phone numbers.

b. Keys to the dormitory can be obtained from the site manager. One group leader will assume responsibility for the keys and return them to the manager before leaving.

c. General cleanup of this facility will be the responsibility of the user. The user will follow established cleanup and housekeeping procedures distributed by the manager.

d. Research Dormitory Check-out time is 2 p.m.

7. Special Conditions. All programs and activities conducted by groups or individuals using the dormitory must be approved in writing by the site manager.

8. The site manager has the administrative responsibility for all matters relating to the daily operation of the dormitory building and site facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1693.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 12:828 (December 1986), LR 25:

§505. Reservation Policy

A. General Provisions

1. Reservations may be made for all facilities at state parks by calling the State Parks Reservation Call Center. Overnight and day-use facilities, including cabins, lodges, group camps, camping sites, rally shelters, conference centers and shelters may be reserved 11 months in advance. For example, if a park user wants to use a facility on July 2, he may make the reservation no earlier than August 2, or the first business day after August 2, of the prior year.

2. The Call Center will operate 8 a.m. to 4:30 p.m., Monday through Friday. The Call Center will close for state holidays. Based upon demand, the Center's hours may be extended by the assistant secretary or his designee. Reservations may also be made on-line.

3. Reservations are accepted only from person 18 years of age or older. All persons under 18 years of age must be accompanied by adults when using reserved facilities.

4. Payment in full must be received within 10 days of the date the reservation is made otherwise the reservation is canceled. Payment may be made by credit card, in-state personal check or money order. If the reservation is made within 10 days or less of the usage date, payment will be made by credit card only.

5. A cancellation of a reservation initiated by park users is subject to a surcharge. The cancellation fee is a minimum of \$10. If the reservation is canceled within fourteen days of the first day of intended use, the cancellation fee is the cost of one night's stay or \$10, whichever is more.

6. In the event reservations must be canceled for maintenance or emergency reasons by park staff, the rental fee will be refunded in full. Requests for waivers of the cancellation fee must be made in writing to the assistant secretary or his designee and will be granted only for extreme situations.

7. Reservations may be transferred from one date to another or one site to another based on availability for a \$10 transfer fee.

8. For cabins, lodges, group camps, rally shelters and camping a two day minimum reservation is required for weekends. The minimum may be met by reserving the facility on Friday and Saturday nights, on Saturday and Sunday nights or for all three nights. If facilities are not reserved in advance, they may be rented on weekends for one night to walk-up users using the facilities that day. Exceptions may be granted by the Assistant Secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1693.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 16:1051 (December 1990), LR 25:

§506. Refunds

A. Refunds will not be issued to visitors evicted for enforcement or disciplinary reasons.

B. Refunds may be made at the park upon approval of the site manager or his designee for those fees paid at the park for the following reasons:

1. in emergency situations where the park must be closed due to natural or man-made emergencies (water shortage, fire, weather, and equipment failure);

2. when a user chooses to leave a park before use of any facilities;

3. when the user chooses to leave a park before utilizing facilities for the total reservation period, the unused reservation period amount will be refunded minus the cancellation fee detailed in §505.1. An exception would include weekends which require a minimum reservation period.

C. All park-issued refunds will require that the visitor present a valid paid receipt for the amount of the requested refund.

D. All advance reservation refunds must be issued through the administrative office in accordance with §505.1.

E. Visitors are encouraged to request a temporary visitor pass for the purpose of inspecting the park facilities prior to an anticipated visit.

F. Refunds of day use fees are not granted when a visitor, by his own choosing, leaves the park as a result of inclement weather.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 12:828 (December 1986), LR 25:

§507. Special Uses and Restrictions

A. - B. ...

C. Use Restrictions

1. A State Historic Site is an area which possesses a historical, cultural, or memorial significance when judged on a statewide basis. Activities and uses of historic sites are limited to those appropriate to the significance of each site as defined by the master plan and interpretive prospectus of the unit.

2. It is necessary that development on a state historic site be limited to that which is essential for visitor accommodation and enjoyment of the area's theme or feature. Day-use facilities will be limited to activities that do not conflict with the historical theme and confined to section(s) set aside for such purposes. Historic zones will be established to protect the resource and insure most conducive use of each state historic site. Space outside of the historic zone(s) and maintenance area(s) may be set aside for recreational use at the discretion of the site manager.

3. The atmosphere created on the historic site is as important as the artifactual evidence. In order that the greater interest and primary function of the area be served, it is necessary to restrict certain incompatible activities from the sites. Any sport or recreational activity that does not contribute to a greater understanding of the theme of the area is prohibited within all historical zones of any state historic site. Recreation zones appropriate for such use may be designated by the site manager if space permits. No organized league activities will be allowed on the grounds of any state historic site.

4. It has also been determined that the use of state historic sites for such activities and events as fairs, circuses, carnivals, amusement rides, and other promoter sponsored, commercial activities and events is not deemed in the best interest of the state historic sites. Such use fails to achieve the intent outlined in the preservation purpose and may increase the potential for serious damage to the quality and character of the area, adversely affecting the experience of

the visitor. At Rebel State Historic Site, because of the theme of the area, musical events sponsored by promoters will be permitted with the approval of the assistant secretary or his designee.

5. Organizations offering support to historic sites, parks, and preservation areas either one in particular or on a general basis, through such things as historical societies, friends groups or service groups, may be permitted special functions at a site if a written request is made and written permission is obtained from the assistant secretary. Such functions may not be specifically for the benefit of an individual, but must be held to benefit the site, either directly or indirectly, through greater public awareness in of the site or history of the area, or to assist the agency in the fulfillment of its mission and purposes.

D. Passenger Bus Restrictions

1. In an effort to facilitate control of the day-use carrying capacity for state parks (excluding state historic sites), no buses nor occupants thereof shall be admitted to state parks except by special permit for any day-use activities on weekends or holidays during the period Memorial Day weekend through Labor Day.

2. Special Bus Use Permits - Any access to state parks by bus transportation on weekends or holidays during the period between Memorial Day and Labor Day will require a special bus use permit. The application for the permit must be submitted to the site manager at least three days prior to the proposed use date along with the group's proof of \$1,000,000 liability insurance naming the Department of Culture, Recreation and Tourism and the Office of State parks as additional insureds, and proof of \$500,000 automobile or bus liability insurance. Children traveling to state parks must be chaperoned by adults. The permit, if approved, does not cover other special day-use charges (rental pavilions, etc.).

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 12:828 (December 1986), LR 25:

Dwight Landreneau
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Rules and Regulations**

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

There are no anticipated net costs or savings to state or local governmental units in the implementation of these rules. Many of these rules have been proposed to accommodate the new Centralized Reservation System (CRS), approved and funded in FY 99-00. Marginal additional costs associated with extended hours of operation should be offset by slightly higher revenues from increased use.

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

No significant net effect on revenue collections of state or local governmental units is anticipated. Any loss of revenue resulting from promotional discounts or exemptions should be

made up in increased revenue due to increased visitation and facility use. Examples of such discounts and exemptions include the waiver of bus fees at state historic sites in a day. There may be negligible, but indeterminable, effects on revenue from the 75¢ increase in backcountry camping fees, the switch from an age-based to a height-based child rate at the wave pool, the simplification of the group camp rates, and the imposition of cancellation and transfer fees.

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

No significant costs and/or economic benefits to directly affected persons or non-governmental groups are anticipated. There may be a benefit to the public in terms of convenience afforded to customers making reservations through the more customer-friendly CRS, which reservations may be made through one toll-free number or on-line. School groups may be encouraged to take more trips during the summer.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effect on competition and employment is anticipated.

Dwight Landreneau
Assistant Secretary
9910#044

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Office of Financial Institutions**

**College Campus Credit Card Solicitation
(LAC 10:XVII.701)**

Under the authority of the Louisiana Administrative Procedure Act, LSA-R.S. 49:950 et seq., and in accordance with the Campus Credit Card Solicitation Act, LSA-R.S. 9:3578.1 et seq., and specifically LSA-R.S. 9:3578.3, the Acting Commissioner of Financial Institutions hereby gives notice of her intent to promulgate the following rule to implement the provisions of Act 1110 of 1999, to provide for the form to be used for the registration, by a credit card issuer, of its intent to engage in the solicitation of students on college campuses.

Title 10

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES AND UCC**

Part XVII. Miscellaneous Provisions

Chapter 7. College Campus Credit Card Solicitation

§701. Form for Registration of Intent to Solicit Students

A. Purpose. This Chapter provides the form to be used by a credit card issuer for the registration of its intent to engage in the solicitation of students on college campuses.

B. Definitions. The definitions for the terms utilized in this Chapter are the same as those provided for in the definitions section of the College Campus Credit Card Solicitation Act, LSA-R.S. 9:3578.1, specifically LSA-R.S. 9:3578.2, and as follows.

Appropriate Official—the president, chancellor, or chief management official of the institution of post-secondary education.

C. Form of Registration. The form of registration shall be a letter directed to the appropriate official of the

institution of post-secondary education at which the credit card issuer intends to engage in the solicitation of students on college campuses. The letter shall contain, at a minimum, the name and principal place of business of the credit card issuer, along with the name, address, and telephone number of the contact person who is responsible for the administration of its credit card solicitation program. The credit card issuer shall copy the Commissioner with its letter of intent to solicit students.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 9:3578.3

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 25:

All written comments regarding this proposed rule must be submitted no later than to Gary L. Newport, Chief Attorney, Office of Financial Institutions, Post Office Box 94095, Baton Rouge, Louisiana, 70804-9095 or by hand-delivery before 5:00 p.m., to 8660 United Plaza Boulevard, Second Floor, Baton Rouge, Louisiana 70809.

Doris B. Gunn
Acting Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: College Campus Credit Card Solicitation**

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

There will be no additional cost associated with the implementation of this rule.

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

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

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

The proposed Rule will cost credit card issuers an insignificant amount to register with the appropriate official at institutions of post-secondary education prior to soliciting students.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Doris B. Gunn
Acting Commissioner
9910#070

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Real Estate Commission**

Real Estate (LAC 46:LXVII.Chapters 1-67)

Under the authority of the Louisiana Real Estate License Law, 37:1435 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Real Estate Commission has initiated procedures to repeal LAC 46:LXVII.Subpart 1.Real Estate, Chapters 1 through 67, in its entirety, and to promulgate rules and regulations which

will define and interpret the existing rules and regulations to a better extent. The proposed rules have no known impact on family formation, stability, or autonomy.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXVII. Real Estate

Subpart 1. Real Estate

Chapter 1. Authority

§101. Adoption

A. The rules and regulations of the Louisiana Real Estate Commission contained herein have been adopted pursuant to and in compliance with R.S. 37:1431 et seq., and any violation of these rules or regulations, or of any real estate licensing law, shall be sufficient cause for any disciplinary action permitted by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 3. Applications for Initial Licenses

§301. Application

A. Every application must be fully completed, notarized and accompanied by the prescribed fees.

B. Every initial applicant for a salesperson license must provide an affidavit signed by the sponsoring broker at the time the application is submitted; or

1. The salesperson applicant may provide the affidavit signed by the sponsoring broker prior to issuance of the license.

2. Upon passing the licensing examination the applicant must, within ninety days, submit to the Commission a statement of sponsorship signed by a licensed real estate broker acknowledging that the broker will serve as the applicant's sponsoring broker. The Commission, at its discretion, may extend the ninety day period upon a showing that factors beyond the control of the applicant warrants such an extension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§303. Broker and Salesperson License Applications

A. Every applicant for licensing as an individual real estate broker or salesperson shall include with their application the following:

1. proof of completion of the required real estate educational hours from a real estate school holding a certificate of authority from the Commission or certificates or university transcripts indicating completion of courses which have been approved by the Commission. Effective January 1, 2000, only those preclicensing educational courses completed during the five year period immediately preceding the date of initial application for a real estate salesperson or broker license will be granted full credit by the Commission. Real estate preclicensing course work completed by an applicant prior to the five year period immediately preceding the date of initial application for a salesperson or broker license may be considered by the Commission for partial credit toward the initial preclicensing requirement. Any partial credit granted will be based on the date(s) of course completion and the applicability of course content to current preclicensing requirements. The

Commission may accept approved real estate course work obtained in other jurisdictions toward fulfillment of preclicensing salesperson and/or broker educational hours. Real estate course work obtained from nationally recognized institutes may also apply toward fulfillment of broker preclicensing hours. The applicant must apply for and receive approval of such course work from the Commission prior to submitting the initial licensing application. Every applicant for a Louisiana real estate license must complete an approved course of study consisting of at least thirty classroom hours of course work. Such course work shall include study of the Louisiana Real Estate License Law, Commission Rules and Regulations and Louisiana Civil Law relating to real estate and any other courses the Commission deems necessary and appropriate;

2. license verification history from each jurisdiction where the applicant has held or currently holds a real estate license as a broker or salesperson;

3. verification of passing an equivalent real estate licensing examination within the five year period immediately preceding the date of application if the applicant is requesting a waiver of the national portion of the licensing examination.

B. Every application for a corporation, partnership or limited liability broker's license shall be submitted by the qualifying broker designated by the corporation, partnership or limited liability company on a fully completed, notarized application accompanied by the prescribed fees and the following documents:

1. copy of the resolution or other document executed by a principal of the corporation, partnership or limited liability company designating the individual real estate broker as its qualifying broker;

2. notarized Affidavit of the Qualifying Broker;

3. copy of the Registration Certificate issued by the Secretary of State;

4. copy of any registration issued by the Secretary of State for any trade name or trade mark to be used by the corporation, partnership or limited liability company in its real estate business activities as a licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 5. Examinations

§501. Examination Procedure

A. Each applicant for a real estate license examination must submit an application to the Commission for a determination of eligibility to take the applicable licensing examination. The responsibility for timely submission of initial licensing applications rests solely with each individual applicant.

B. Upon a determination by the Commission that the applicant is eligible to take the licensing examination, an examination authorization will be issued to the applicant. The authorization will be valid for one examination which must be completed within a period of ninety days of issuance. If the applicant does not take the examination within the ninety day period, the applicant must apply to the Commission and receive a new examination authorization prior to scheduling an appointment to take the licensing examination.

C. Upon receipt of the examination authorization from the Commission, the applicant is solely responsible for contacting the Commission's designated national testing service to arrange for an appointment to take the examination.

D. Each examination applicant must comply with all examination procedures established by the Commission and its designated national testing service. These procedures will be contained in a licensing information bulletin provided to each applicant with the initial licensing application packet.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§503. Disqualification of Applicants

A. Any action by an applicant to use, or attempt to use, to obtain, or attempt to obtain, to supply to others, or attempt to supply to others, specific information on copyrighted test questions appearing on any qualifying examination administered under the jurisdiction of the Commission shall be grounds for denial of a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§505. Prohibited Activities

A. Licensees, certificate holders, registrants, and persons employed by or associated with a licensee, certificate holder, registrant, school owner or school director, shall not obtain or attempt to obtain by deceptive or fraudulent means any copyrighted test questions and/or confidential test material used by or belonging to any national testing service under current or expired contract with the Commission for administration of its licensing and certification examinations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§507. Failure of Examination

A. Any applicant who takes and fails to pass the initial examination may apply to retake the examination by submitting to the Commission a copy of the fail notice and a new examination processing fee within ninety days of the date of failure. Failure to reapply for an examination within the ninety day period will result in closure of the applicant's file and forfeiture of all fees. Thereafter, the applicant will be required to submit a new application and remit all prescribed fees to be eligible for the licensing examination. The Commission, at its discretion, may extend the ninety day retake period upon a showing that factors beyond the control of the applicant warrant such an extension.

B. The failing applicant may continue to retake the examination for a period of one year from the initial examination date, provided the applicant follows the retake procedures as specified in Section 507 of this Chapter. Failure of the applicant to achieve a passing score on both the national and state portions of the licensing examination within the one year period will result in the loss of examination eligibility. The applicant will not be eligible to again apply for the licensing examination until six months after the date of the loss of examination eligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§509. Partial Failure of Examination

A. Any applicant who takes an examination and passes only the national or state portion of the examination shall be required to retake only the failed portion. The applicant's passing score on the passed portion of the examination will be valid for a period of one year from the date of passage. The applicant may apply to retake the failed portion by submitting to the Commission a copy of the fail notice and a new examination processing fee within ninety days from the date of failure. Failure to reapply for an examination within the ninety day period will result in closure of the applicant's file and forfeiture of all fees. Thereafter, the applicant will be required to submit a new application and remit all prescribed fees to be eligible for the licensing examination. The Commission, at its discretion, may extend the ninety day retake period upon a showing that factors beyond the control of the applicant warrant such an extension.

B. Failure of the applicant to achieve a passing result on both portions of the examination within a one year period of the initial examination date will result in the loss of examination eligibility. The applicant will not be eligible to again apply for the licensing examination until six months after the date of the loss of examination eligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§511. Examination Requirement for Out-of-State Applicants

A. Any applicant for a Louisiana real estate license who was previously or is currently licensed in another jurisdiction as a real estate salesperson or broker shall be required to take and pass only the state portion of the examination, upon a showing by the applicant that the applicant has passed, within five years of applying for licensing in Louisiana, an equivalent examination in another jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 7. Fees

§701. Refund of Fees

A. Except as otherwise provided in these rules and regulations all fees submitted to the Commission are nonrefundable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§703. Duration of Fees for Licenses, Certificates and Registrations

A. Fees shall cover a period of one calendar year and shall not be prorated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§705. Returned Checks

A. Payment of any fee with a check which is returned by a financial institution wherein the reason for not paying the check is not a fault of the financial institution shall be grounds for cancellation of the transaction for which the fee was submitted and/or the suspension or revocation of a license, registration or certificate.

B. Persons issuing checks to the Commission which are returned by financial institutions for any reason will be notified of the return of the check by certified mail to the address registered by that person with the Commission. Within 10 days from the mailing of the notification, the person issuing the check will remit a certified check, cashier's check or money order payable to the Louisiana Real Estate Commission in the amount of the returned check plus a \$25.00 processing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 9. Renewal Applications

§901. Timely Renewal of Licenses, Registrations and Certificates

A. The responsibility for the timely submission of renewal applications and the payment of the required fees rests solely with each individual licensee, registrant and certificate holder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§903. Non-Renewal of Real Estate Licenses

A. No real estate license shall be issued to any associate broker or salesperson until the individual real estate broker license of their sponsoring broker, or, if sponsored by a designated qualifying broker, the corporate, partnership, or limited liability company broker's license of their sponsoring designated qualifying broker has been renewed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§905. Renewal Application

A. A salesperson or associate broker renewal application must be signed by a sponsoring broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§907. Continuing Education Required for Renewal

A. The active license of an individual real estate broker or salesperson shall not be renewed unless the broker or salesperson has completed eight hours of approved continuing education course work during the immediately preceding license period. Course work submitted by delinquent renewal applicants may either be obtained in the preceding license period or prior to submission of the delinquent renewal application to the Commission.

B. Beginning January 1, 2001, except for purposes of compliance with the Americans with Disabilities Act (ADA) or other similar extenuating circumstances determined by the Commission, correspondence study courses shall not be

accepted toward fulfillment of the four hours in mandatory continuing education subjects specified by the Commission unless said courses are certified by the Association of Real Estate License Law Officials (ARELLO) for distance learning purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 11. Delinquent Renewal

§1101. Application for Delinquent Renewal

A. Applications for delinquent renewal of broker's or salesperson's licenses and applications for delinquent renewal of timeshare sales registrations shall be accepted by the Commission only during the six-month period immediately following the last December 31 date on which the applicant held a valid license or registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§1103. Loss of Renewal Eligibility

A. Licensees and timeshare sales registrants who fail to renew a real estate license or timeshare sales registration during the six-month delinquent period following the expiration of a license or registration shall apply as and meet all requirements of initial applicants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 13. Broker Affiliation

§1301. Associate Broker

A. A licensed individual real estate broker may become exclusively affiliated as an associate broker with a sponsoring broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§1303. Notification by Broker Applicants

A. Any applicant for licensing as an individual real estate broker who elects, if and when licensed, to become exclusively affiliated with a sponsoring broker shall notify the Commission in writing of the name of the sponsoring broker prior to the issuance of the license. When the applicant is qualified for licensing as a broker, the Commission shall inscribe the name of the sponsoring broker on the license and issue the license to the sponsoring broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§1305. Notification by Individual Real Estate Broker

A. Any individual real estate broker who elects to become exclusively affiliated with a sponsoring broker shall notify the Commission in writing prior to beginning such a relationship and provide the name of the sponsoring broker and the effective date of the relationship. The notification shall be accompanied by the broker's license and the transfer fee. The Commission shall inscribe the name of the sponsoring broker on the license and issue the license to the sponsoring broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§1307. Escrow Accounts Prohibited

A. Any broker who is exclusively affiliated with a sponsoring broker is prohibited from maintaining a sales escrow checking account, rental trust escrow checking account or security deposit trust checking account except as authorized in Chapter 27. All funds received by the associate broker in real estate transactions of any nature will be placed in the custody of the sponsoring broker.

B. Associate brokers who were licensed as individual real estate brokers and who maintained sales escrow checking accounts, rental trust escrow checking accounts or security deposit trust checking accounts prior to affiliating with a sponsoring broker may continue to maintain those accounts for the limited and specific purpose of completing pending transactions, as authorized by Chapter 27.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 15. Transfers and Terminations

§1501. Transfers

A. The transfer of the real estate license of a salesperson or an associate broker in the active status, or the termination of sponsorship of a salesperson or associate broker, will be accomplished by completing a transfer form prescribed by the Commission and paying any required fees.

B. The sponsoring broker shall return the license of the salesperson or associate broker to the Commission within five days of the date of execution of the transfer form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§1503. Exemption from Transfer Fee

A. No transfer fee or delinquent renewal fee shall be charged to an associate broker or salesperson who applies for transfer or change of status within sixty days of any of the following circumstances:

1. when the sponsoring broker has died;
2. when the sponsoring broker has failed to renew his license;
3. when the sponsoring broker's license has been suspended or revoked;
4. when the sponsoring broker's license is transferred to the inactive status;
5. when the sponsoring broker elects to discontinue the sponsorship of a licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§1505. Transfers on Acquisition or Purchase of Licensed Agencies

A. When a licensed agency is purchased or otherwise acquired by another licensed agency, the sponsoring or qualifying broker of the acquiring agency will notify the Commission in writing not later than the second working day following the date of acquisition.

B. The notification to the Commission will specify the date of acquisition and request the transfer of all licensees sponsored by the agency being acquired to the acquiring agency and shall certify continuous errors and omissions insurance coverage of all licensees being transferred to the acquiring agency. If the transfer of licensees necessitates the payment of fees to the Commission for coverage under the Commission group policy, a listing of all licensees to be covered under the policy and a check in payment of the required fees will accompany the notification

C. On receipt of the written notification the licenses of all associate brokers and salespersons will be transferred by the Commission to the acquiring agency under the sponsorship of the sponsoring or qualifying broker of the acquiring agency, with the effective date of transfer being the date of acquisition as specified in the written notice of acquisition.

D. The sponsoring or qualifying broker of the acquiring agency shall, within two working days following the date of acquisition, give written notice to all licensees transferred to the acquiring agency in connection with the acquisition.

E. Associate brokers or salespersons who do not elect to remain with the acquiring agency shall within five days after notification advise the sponsoring or qualifying broker of the acquiring agency and request the return of their licenses to the Commission. Transfers to a new sponsoring broker will be accomplished in accordance with the provisions of this Chapter.

F. The transfer of the licenses of associate brokers or salespersons who will be terminated by the sponsoring or qualifying broker of the acquiring agency will be accomplished in accordance with the provisions of this Chapter.

G. Not later than fifteen days following the date of acquisition, the sponsoring or qualifying broker of the acquiring agency will advise the Commission in writing of the status of all licensees formerly sponsored by the acquired agency.

1. The notification will include a listing by category which identifies:

- a. each associate broker or salesperson who requested the return of their license to the Commission;
- b. each associate broker or salesperson who is being terminated by the acquiring agency; and
- c. each associate broker or salesperson who has elected to remain with the acquiring agency.

2. The notification will include:

- a. the licenses of each associate broker or salesperson who will not remain with the acquiring agency;
- b. copies of the written notification to and/or from each associate broker and salesperson as required by this Chapter;
- c. a check from the acquiring agency in payment of the appropriate transfer fee for each licensee who was sponsored by the agency being acquired and who will remain with the acquiring agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§1507. Change of Licensing Status

A. Individual real estate brokers and salespersons may transfer from active to inactive status or from inactive to active status by completing a transfer form prescribed by the Commission, satisfying the requirements set forth in the Louisiana Real Estate License Law and Rules and Regulations of the Commission, and paying any required fees.

B. Corporate, partnership and limited liability company real estate broker's licenses shall remain in the active license status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 17. Termination Responsibilities

§1701. Relinquishment of Business Related Property

A. Upon termination of a licensee's relationship with a sponsoring broker, every salesperson or associate broker shall immediately turn over to the sponsoring broker all business related property obtained from or provided by the sponsoring broker or agency, to include keys to any and all properties listed with the broker whether such keys were provided by the broker or obtained by the licensee during the business relationship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§1703. Relinquishment of Business Related Data

A. Upon termination of a business relationship with a sponsoring broker, every salesperson or associate broker shall immediately turn over to the sponsoring broker all listing information, contracts, agency forms, and other business or agency related information, data, or documents obtained from or provided by the sponsoring broker or agency for use by the licensee during the business relationship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§1705. Personal Obligations

A. The responsibility for settlement of matters pertaining to financial obligations resulting from the business relationship, including the payment of commissions and dues to professional organizations, rests solely with the parties to the relationship. Any disputes resulting therefrom should be properly addressed through civil litigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§1707. Report of Alleged Failure

A. Any sponsoring broker who alleges failure to comply with §1701 or §1703 of this Chapter by a formerly sponsored salesperson or associate broker shall submit a signed and documented report of such failure at the time the license is returned to the Commission, and provide a copy of the report to the former licensee. The report shall specifically list and identify the business related property or

data not relinquished by the formerly sponsored licensee and the signed report shall constitute a written complaint filed with the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 19. Names on Licenses, Registrations, and Certificates; Trade Names; Symbols; and Trademarks

§1901. Names on Licenses, Registrations and Certificates

A. All licenses, registrations and certificates issued by the Louisiana Real Estate Commission will be issued in the name of the legal entity of the applicant.

1. Licenses, registrations and certificates issued to individual real estate brokers, real estate salespersons, timeshare registrants, and real estate school instructors will be issued in the name of the individual person.

2. Licenses, registrations and certificates issued to any corporation, partnership or limited liability company for any purpose will be issued in the identical name of the corporation, partnership or limited liability company as registered with the Secretary of State. No license, registration or certificate will be issued to any corporation, partnership, or limited liability company not registered with the Secretary of State.

3. The name of any broker or salesperson whose real estate license has been revoked by the Commission, with the revocation becoming final and effective on or after February 1, 1995, which in any way represents that the former broker or salesperson is licensed by the Commission to conduct real estate activities requiring licensing in Louisiana, shall not be utilized on any license issued by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§1903. Trade Names

A. Licenses, registrations and certificates issued by the Commission will not indicate a trade name of the licensee, registrant or certificate holder unless the trade name is registered with the Secretary of State and a copy of the registration is on file at the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§1905. Symbols and Trademarks

A. Licensees, registrants and certificate holders are prohibited from using any symbol or trademark in connection with any license, registration or certificate issued by the Commission without first registering the symbol or trademark with the Secretary of State and placing a copy of the registration on file at the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 21. Concurrent Licensing

§2101. Broker and Salesperson Licenses

A. A broker may conduct real estate activity as an individual real estate broker and concurrently be designated

as the qualifying broker of one or more corporations, limited liability companies and/or partnerships.

B. Associate brokers and salespersons shall not be sponsored by more than one sponsoring broker.

C. Licenses as brokers or salespersons, or a registration as a timeshare interest salesperson shall not be issued to or held concurrently by any person. Brokers may not concurrently conduct real estate activities as an individual real estate broker and as an associate broker exclusively affiliated with another real estate broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 23. Branch Offices

§2301. Branch Office

A. An office located at other than the registered address of a sponsoring or qualifying broker which has been established by the broker or a licensee sponsored by the broker for conducting any real estate activity requiring licensing as a broker or salesperson and which in any way advertises the name of the broker or broker's company or the telephone number of the licensed broker shall be considered to be a branch office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 25. Advertising

§2501. Advertisements

A. Any advertisement involving the sale, lease or management of real estate by any licensee shall include the name and telephone number of the licensed real estate broker, and may include the name and telephone number of a salesperson or associate broker sponsored by the broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2503. Owner Authorization

A. No broker or licensee sponsored by said broker shall in any way advertise property belonging to other persons as being for sale or rent or place a sign on any such property offering the property for sale or rent without first obtaining the written authorization to do so by all owners of the property or their authorized attorney in fact.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2505. Accuracy in Advertising

A. All advertising shall be an accurate representation of the property advertised. No broker or licensee sponsored by said broker shall use advertising which is misleading or inaccurate or in any way misrepresents any property, terms, value, policies, or services of the business conducted. The advertising shall not include any name or trade name of any franchiser or real estate organization or association of which the licensee is not a member or franchisee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2507. Advertisements of Residential Property

A. All printed advertisements for the sale or lease of residential real estate shall indicate the month and year the advertisement is printed, published, or distributed. Advertisements printed or published in newspapers, real estate trade publications and commercial magazines and brochures bearing an issue or publication date will be considered in compliance with this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2509. Advertisements by Franchise Organizations

A. Any licensed broker or salesperson affiliated with a franchise organization must disclose to the public that the real estate brokerage firm is independently owned and operated in all advertising.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2511. Agent Owner-Licensed Agent

A. A licensed broker or salesperson who offers property in which he or she owns any interest as being for sale or rent shall state in any advertising, and on any sign placed on the property, that he or she is a licensed real estate agent.

B. Any licensed broker or salesperson who advertises, or offers to purchase or rent property for his or her own full or partial interest shall state in any advertisement that he or she is a licensed real estate agent.

C. Including the term "licensed real estate agent" in any advertisement or on any sign shall be sufficient to satisfy this requirement.

D. This Section is not applicable to the sale, rental, or acquisition of property by licensees under a contractual agreement with a licensed Louisiana real estate broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2513. Appraisals

A. No licensee shall offer or advertise any appraisal service to the public in any manner which would create the impression of the licensee being a state certified real estate appraiser unless the licensee has been certified as such in accordance with R.S. 37:3406. Licensees who have not been certified as state certified real estate appraisers shall not describe or refer to any appraisal or other evaluation of real estate located in this state by the term "state certified."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2515. Internet Advertising

A. A real estate broker advertising or marketing on a site on the Internet must include the following data on each page of the site on which the advertisement appears:

1. the broker's name as registered with the Commission;
2. the city, state and country in which the broker's main office is located;
3. the regulatory jurisdiction(s) in which the broker holds a real estate brokerage license.

B. A real estate broker using any Internet electronic communication for advertising or marketing, including but not limited to, e-mail, e-mail discussion groups, and bulletin boards, must include the following data on the first or last page of all communications:

1. the broker's name as registered with the Commission;
2. the city, state and country in which the broker's main office is located;
3. the regulatory jurisdiction(s) in which the broker holds a real estate brokerage license.

C. An associate broker or salesperson advertising or marketing on a site on the Internet must include the following data on each page of the site on which the licensee's advertisement or information appears:

1. the associate broker's or salesperson's name;
2. the name of the licensee's sponsoring broker as the name is registered with the Commission;
3. the city, state and country in which the sponsoring broker's main office is located;
4. the regulatory jurisdiction(s) in which the associate broker or salesperson holds a real estate license.

D. An associate broker or salesperson using any Internet electronic communication for advertising or marketing, including but not limited to e-mail, e-mail discussion groups, and bulletin boards, must include the following data on the first or last page of all communications:

1. the associate broker's or salesperson's name;
2. the name of the licensee's sponsoring broker as the name is registered with the Commission;
3. the city, state and country in which the sponsoring broker's main office is located;
4. the regulatory jurisdiction(s) in which the associate broker or salesperson holds a real estate license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 27. Escrow and Trust Account

§2701. Sales Escrow Checking Account

A. Each resident broker who accepts any monies on behalf of a client in connection with the sale of real estate shall open and maintain a sales escrow checking account in a financial institution in the state of Louisiana. All sales escrow accounts shall be titled in the identical wording as stated on the broker's license and the wording "Sales Escrow Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this chapter, all monies received by a broker in connection with the sale of real estate shall be deposited in this account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2703. Rental Trust Checking Accounts

A. Each resident broker engaged in the collection of rental payments on behalf of clients shall open and maintain a rental trust checking account in a financial institution in the state of Louisiana. All rental trust accounts shall be titled in the identical wording as stated on the broker's license and the wording "Rental Trust Account" shall be imprinted on all

checks and bank statements issued in connection with this account. Except as otherwise provided in this Chapter, all monies collected as rental payments from or on behalf of clients shall be deposited into this account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2705. Security Deposit Trust Checking Account

A. Each resident broker engaged in the collection of rental security or damage deposits in connection with property management activities on behalf of clients shall open a security deposit trust checking account in a financial institution in the state of Louisiana. All security deposit trust accounts shall be titled in the identical wording as stated on the broker's license and the wording "Security Deposit Trust Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this Chapter, all monies collected as rental security deposits from or on behalf of clients shall be deposited into this account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2707. Account Affidavit

A. When requested to do so by Commission personnel, a broker shall execute and submit to the Commission an affidavit attesting to the existence, location and account number of a sales escrow checking account, rental trust checking account, or security deposit trust checking account, and authorizing and empowering the Commission or its representatives to examine, inspect, and/or copy the records of the account. All such affidavits shall be submitted to and received by the Commission within five days following such a request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2709. Non-Resident Brokers

A. Each non-resident broker shall open and maintain sales escrow checking accounts, rental trust checking accounts and security deposit trust checking accounts as specified for resident brokers. The accounts may be opened and maintained at a financial institution in the state of Louisiana or in a financial institution in the state in which they reside.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2711. Branch Office Accounts

A. A broker may open additional sales escrow checking accounts, rental trust checking accounts, and security deposit trust checking accounts to accommodate business transacted out of the branch offices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2713. Signatory Rights on Checking Accounts

A. An individual real estate broker who maintains a sales escrow checking account, a rental trust checking account or a security trust checking account shall be an authorized signatory on each account maintained and the individual real estate broker shall be responsible for the proper maintenance and disbursal of the funds in the accounts. Granting authority to sponsored licenses and/or employees of the broker to sign checks on the accounts does not relieve the individual real estate broker of this responsibility.

B. The qualifying broker of a licensed corporation, partnership or limited liability company shall be an authorized signatory on sales escrow checking accounts, rental trust checking accounts and security deposit trust checking accounts maintained by the licensed entity and the qualifying broker shall be responsible for the proper maintenance and disbursal of the funds in the accounts. Granting authority to sponsored licensees, principals and/or employees of the licensed entity does not relieve the qualifying broker of this responsibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2715. Additional Accounts

A. Where the interest of the principal parties to a particular transaction or series of transactions would be served thereby, and with the prior written consent of the principal parties, a broker may open an additional sales escrow checking account, rental trust checking account or security deposit trust checking account in any financial institution in the state of Louisiana or the state in which a non-resident broker resides and deposit therein all monies received in trust on behalf of those parties pursuant to that particular transaction or series of transactions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2717. Non-Interest Bearing Checking Accounts

A. Every sales escrow checking account, rental trust checking account or security deposit trust checking account shall be opened as a non-interest bearing checking account unless all parties having an interest in the funds to be deposited therein have agreed otherwise in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2719. Personal Funds in Escrow and Trust Checking Accounts

A. A sum not to exceed \$2500.00 may be kept in each sales escrow checking account, rental trust checking account, and security deposit trust checking account, which sum shall be specifically identified and deposited to cover bank service charges relating to the accounts.

B. A broker may, in connection with property management activities, keep funds in excess of \$2500.00 in a rental trust checking account for the temporary, limited and specific purpose of enabling the broker to satisfy financial obligations for or on behalf of clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2721. Withdrawal

A. No monies received and deposited into a sales escrow checking account, rental trust checking account, or security deposit trust checking account shall be withdrawn for any purposes except:

1. upon mutual written consent of all parties having an interest in the funds;
2. upon Commission order;
3. upon court order;
4. for the purpose of depositing monies into the registry of the court in a concursus proceeding;
5. for the purposes of depositing the funds with the Commission pursuant to Chapter 29;
6. to disburse funds from a sales escrow checking account to the appropriate party upon a reasonable interpretation of a contract for the sale of real estate;
7. for the purpose of returning the funds to a buyer at the time of closing;
8. to cover the payment of service charges on sales escrow checking accounts, rental trust checking accounts, and security deposit trust checking accounts with such payment being made from funds deposited into the accounts by the broker;
9. upon approval by the Commission in connection with the sale or acquisition of a licensed entity; and
10. to comply with the provisions of R.S. 9:3251 or any other state or federal statute governing the transfer of rents, security deposits or other escrow funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2723. Deposits

A. Any money received in connection with a real estate transaction involving the sale, lease or management of real estate shall be deposited into the appropriate sales escrow checking account, rental trust checking account or security deposit trust checking account of the listing or managing broker unless all parties having an interest in the funds have agreed otherwise in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2725. Account Closing

A. No sales escrow checking account, rental trust checking account, or security deposit trust checking account may be closed until such time as all deposits therein have been properly disbursed according to law. Every broker shall notify the Commission in writing of the closing of any sales escrow checking account, rental trust account checking or security deposit trust checking account within ten days following the date the account is closed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2727. Maintaining Accounts

A. Upon revocation, suspension or lapse of his license for any reason, or upon bankruptcy, a broker shall continue

and maintain his sales escrow checking accounts, rental trust checking accounts, and security deposit trust checking accounts until such time as all deposits therein have been properly disbursed according to law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2729. Corporations, Partnerships and Limited Liability Companies

A. Every licensed corporation, partnership and limited liability company shall open and maintain sales escrow checking accounts, rental trust checking accounts, and security deposit trust checking accounts as specified for resident and nonresident brokers. All funds received from or on behalf of clients in any real estate transaction conducted by the corporation, partnership, or limited liability company as a licensee shall be deposited into these accounts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2731. Transfer of Trust Funds on Sale or Acquisition of Agency

A. When a licensed agency is sold or otherwise acquired by another licensed agency the sponsoring or qualifying broker of the acquiring agency will advise the Commission in writing of the name of the agency acquired and the anticipated date of the transfer of trust funds. The letter notifying the Commission of the acquisition will specify the account numbers of the sales escrow checking accounts, rental trust checking accounts, or security deposit trust checking accounts from which the funds will be transferred and the account numbers of the accounts into which the funds will be deposited.

B. A letter jointly signed by the sponsoring or qualifying brokers of the agency being acquired and the acquiring agency requesting that approval be granted for the transfer of funds will accompany the notification to the Commission.

C. The transfer of funds shall not be accomplished until written approval has been granted by the Commission in accordance with §2721.A.9 of this Chapter.

D. Within five working days following the transfer of funds a letter jointly signed by the sponsoring or qualifying brokers of the agency being acquired and the acquiring agency will be forwarded to the Commission certifying that all trust funds have been transferred. The letter will include the following:

1. a certification that all sales escrow checking account, rental trust checking account, and security deposit trust checking account funds have been transferred to and received by the acquiring agency;
2. a certification that supporting documents for all trust funds have been delivered to and received by the acquiring agency;
3. a listing of all sales escrow checking account, rental trust checking , or security deposit trust checking accounts from which a transfer was made and the amount of funds transferred from each account;
4. a listing of all sales escrow checking accounts, rental trust checking accounts, and security deposit trust checking accounts into which funds were deposited and the amount of funds deposited into each account.

E. The sponsoring or qualifying broker of the agency being acquired will close the escrow accounts and trust accounts from which the funds were transferred within ten days following the transfer of funds and advise the Commission in writing when such action has been completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2733. Change of Licensing Status

A. An individual real estate broker who elects to become exclusively affiliated with a sponsoring broker, and an active broker transferring to an inactive status, shall continue to maintain their sales escrow checking accounts, rental trust checking accounts and security deposit trust checking accounts until such time as all deposits therein have been properly disbursed according to law. As of the effective date of relationship with a sponsoring broker, or transfer to inactive status, no further trust funds shall be placed in the accounts. The transferring broker shall advise the Commission in writing within five working days of the effective date of the transfer to the new status of the amount of funds in each escrow or trust account maintained, and the approximate date each account will be closed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 29. Disbursement of Escrow Deposits

§2901. Escrow Disputes

A. When a broker determines or has knowledge that a dispute exists as to the ownership or entitlement of a deposit or funds held in a sales escrow checking account, as a result of a real estate sales transaction, it shall be the obligation of the broker holding the funds to immediately notify in writing all of the parties and licensees involved of the dispute, and within 90 days of the scheduled closing date, or determination or knowledge that such a dispute exists, whichever shall first occur, to do one of the following:

1. disburse the funds upon the written and mutual consent of all of the parties involved;

2. disburse the funds upon a reasonable interpretation of the contract which authorizes the broker to hold such funds. Disbursement may not occur until 10 days after the broker has notified, in writing, all parties and licensees;

3. through a concursus proceeding, deposit the funds into the registry of any court of competent jurisdiction and proper venue;

4. deposit the funds including original promissory notes, with the Louisiana Real Estate Commission along with a request for an escrow disbursement order. This request shall include the names and last known addresses of the principals to the agreement, a copy of the purchase agreement, all forms required by the Commission, and copies of any other documents which may have some bearing on the dispute. Note: In the event that the dispute is to be heard by the Commission, it will require that the agents and/or brokers appear before the Commission at its regularly scheduled meeting at which the dispute will be heard;

5. disburse the funds upon the order of a court of competent jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2903. Escrow Disbursement Order

A. The Louisiana Real Estate Commission upon receipt of a request for an escrow disbursement order:

1. shall immediately cause the funds accompanying said request to be deposited in an interest bearing escrow checking account pending final disposition;

2. may commence an investigation by its staff of the dispute;

3. may, upon completion of an investigation, consider the investigative findings and at a regular or special meeting issue an escrow disbursement order providing for the disposition and allocation of funds which are being held in escrow and are in dispute;

4. may call an adjudicatory hearing before issuing an escrow disbursement order; or

5. may deposit the disputed funds into a concursus proceeding in any court of competent jurisdiction and proper venue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 31. Reporting of Changes of Address or Telephone Number by Licensees, Registrants and Certificate Holders

§3101. Reporting

A. Every licensee, certificate holder and timeshare registrant shall report any changes in the business or residence address or telephone number to the Commission in writing within ten days of the change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§3103. Changes in Data Provided by Corporations, Partnerships and Limited Liability Companies

A. Corporations, partnerships and limited liability companies licensed as real estate brokers shall file all reports required by any agency of this state when due and shall notify the Commission at the time of the filing of the reports of any information in the reports which would constitute a change in the information filed with the Commission by the licensed broker prior to the submission of the required reports.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 33. Compensation

§3301. Full Knowledge

A. Licensees shall not accept compensation from more than one party without the written acknowledgment of all parties to the transaction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 35. Disclosure by Licensee

§3501. Licensee as Principal in a Real Estate Transaction

A. A licensee acting as a principal in a real estate transaction, whether individually or through any entity in which he or she has an interest, shall disclose his or her status as a licensed real estate agent to all other principals in the real estate transaction, in writing, prior to entering into any real estate contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 37. Agency Disclosure

§3701. Agency Relationships in Real Estate Transactions

A. Effective March 1, 1998, agency relations in real estate transactions will be governed by Chapter 4 of Code XV of Title 9 of the Louisiana Revised Statutes of 1950, comprised of R.S. 9:3891-3899.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§3703. Agency Disclosure Informational Pamphlet

A. Licensees shall provide the agency disclosure informational pamphlet to all parties to a real estate transaction involving the sale or lease of real property.

B. The agency disclosure informational pamphlet may be obtained from the Commission in a form suitable for use by licensees in reproducing the pamphlet locally. Licensees are responsible for ensuring that the pamphlets are the most current version prescribed by the Commission and that reproductions of the pamphlet contain the identical language prescribed by the Commission.

C. Licensees will provide the agency disclosure informational pamphlet to prospective sellers/lessors and buyers/lessees at the time of the first face-to-face contact with the sellers/lessors or buyers/lessees when performing any real estate related activity involving the sale or lease of real property, other than a ministerial act as defined in LSA-R.S. 9:3891(12).

D. Licensees providing agency disclosure informational pamphlets to prospective sellers/lessors and buyers/lessees shall insure that the recipient of the pamphlet signs and dates the receipt included in the pamphlet. The licensee providing the pamphlet shall sign the receipt as a witness to the signature of the recipient, and the licensee will retain the signed receipt for a period of five years.

E. In any circumstance in which a seller/lessor or a buyer/lessee refuses to sign the receipt included in the agency disclosure informational pamphlet, the licensee shall prepare written documentation to include the nature of the proposed real estate transaction, the time and date the pamphlet was provided to the seller/lessor or buyer/lessee, and the reasons given by the seller/lessor or buyer/lessee for not signing the receipt. This documentation will be retained by the licensee for a period of five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§3705. Dual Agency Disclosure

A. The dual agency disclosure form will be used by licensees acting as a dual agent under R.S. 9:3897.

B. The dual agency disclosure form shall be obtained from the Commission in a form suitable for use by licensees in reproducing the form locally. Licensees are responsible for ensuring that the form is the most current version prescribed by the Commission and that reproductions of the form contain the identical language prescribed by the Commission.

C. Licensees shall insure that the dual agency disclosure form is signed by all clients at the time the brokerage agreement is entered into or at any time before the licensee acts as a dual agent; but in no event later than when a purchase agreement is entered into by the clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 39. Presentation of Offers and Counter Offers

§3901. Timely Presentation of Offers and Counter Offers

A. All written offers and counter offers for the purchase of real estate shall be presented to all buyers and/or sellers for their consideration and decision immediately, without delay.

B. The licensee who prepares an offer or counter offer in a real estate transaction shall insure that the time of day and date the offer or counter offer was signed by the offering party are included in the document.

C. The licensee who presents an offer or counter offer in a real estate transaction shall insure that the time of day and date the offer or counter offer was accepted, rejected or countered are included in the document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§3903. Negotiations in Exclusive Agency Contracts

A. Negotiations concerning property listed exclusively with a broker shall be carried on with the listing broker or agent designated by the listing broker, not the owner, except with the expressed consent of the listing broker.

B. Negotiations with a buyer who has entered into an exclusive buyer agent contract with a licensed broker shall be carried on with the licensed broker, or agent designated by the licensed broker, not the buyer, except with the express consent of the licensed broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§3905. Cooperative Transactions

A. Licensees receiving written offers or counter offers in cooperative transactions shall annotate the offers or counter offers to indicate the time of day and date the offers or counter offers were received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§3907. Rejection of Offers and Counter Offers

A. All written offers and counter offers presented to a seller and/or buyer and not accepted shall be clearly marked as rejected and signed by the seller and/or buyer. In any circumstance in which a seller and/or buyer refuses to sign a rejected offer or counter offer, the licensee making the presentation of the offer or counter offer shall annotate this fact indicating the time of day and date of the rejection of the offer or counter offer by the seller and/or buyer. A copy of the rejected offer or counter offer signed by the seller and/or buyer, or a copy of the rejected offer or counter offer bearing the annotation of the licensee, shall be provided to the buyer and/or seller, and the rejected offer or counter offer shall be returned to the prospective buyer and/or seller within five days after the signature or annotation is affixed to the document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§3909. Broker's Authority to Reject Offers or Counter Offers

A. In the event the owner (seller) is not available and grants authority to the listing broker to reject an offer or counter offer, the listing broker or a licensee designated by the listing broker shall mark the offer or counter offer as rejected and sign the offer or counter offer as such in lieu of the owner (seller), but the listing broker or licensee designated by the listed broker shall nevertheless forward a copy of the rejected written offer or counter offer to the owner (seller) for his signature acknowledging the rejection of the offer or counter offer. The copy of the rejected offer or counter offer signed by the owner (seller) shall be retained in the files of the listing broker. In the case of a cooperative transaction, the cooperating listing broker shall provide a copy of the rejected offer or counter offer bearing the signature of the owner to the cooperating selling broker within five days after the signed rejection is received from the owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 41. Investigations and Hearings

§4101. Complaints

A. Complaints alleging violations of the Louisiana Real Estate License Law and/or Rules and Regulations of the Commission shall bear the signature of the complainant or that of his or her legal representative before any action will be taken thereon by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4103. Addition of Respondents to Investigations

A. If during the conduct of an investigation documented probable cause is established indicating that violations of the Louisiana Real Estate License Law and/or Rules and Regulations of the Commission have been committed by licensees, timeshare registrants, or certificate holders other than the licensee, timeshare registrant, or certificate holder against whom the original complaint was made, the additional licensees or timeshare registrants may be added as

respondents to the investigation in the absence of any written complaint alleging such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4105. Executive Director May Authorize Investigation

A. Upon documented probable cause, the executive director of the Louisiana Real Estate Commission may issue written authorization to investigate apparent violations of the Louisiana Real Estate License Law and/or the Rules and Regulations of the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4107. Adjudicatory Proceedings

A. When, as a result of an investigation, it appears that violations of the Louisiana Real Estate License Law may have been committed by a licensee, registrant or certificate holder, the violations may be adjudicated through informal or formal adjudicatory proceedings.

1. Informal Adjudicatory Proceedings

a. The complaint may be concluded informally without a hearing by the Commission on the recommendation of the hearing examiner and the concurrence of the executive director.

b. A preliminary notice of adjudication will be issued to advise the respondent of the violation or violations alleged and to advise the respondent that the matter can be resolved informally should the respondent desire to admit to committing the act or acts specified and submits a written request that the matter be resolved informally.

c. A hearing officer will be appointed by the executive director to conduct an informal hearing with the respondent.

d. The informal hearing will be attended by the case investigator, or in the absence of the case investigator, the chief real estate examiner, who will respond to questions concerning the investigation which resulted in the allegations, and the hearing examiner, who will inform the hearing officer of the administrative, jurisdictional, and other matters relevant to the proceedings. No evidence will be presented, no witnesses will be called and no formal transcript of the proceedings will be prepared by the Commission. Statements made during the informal proceedings may not be introduced at any subsequent formal adjudicatory proceedings without the written consent of all parties to the informal hearing.

e. Following an admission by the respondent at the informal hearing that violations were committed as alleged, the hearing officer may enter into a recommended stipulations and consent order to include the imposition of any sanctions authorized by the Louisiana Real Estate License Law. In the written document the respondent must stipulate to having committed an act or acts in violation of the Louisiana Real Estate License Law or the Rules and Regulations of the Commission, accept the sanctions recommended by the hearing officer, and waive any rights to request a rehearing, reopening, or reconsideration by the Commission, and the right to judicial appeal of the consent order.

f. If at the informal hearing the respondent does not admit to having committed the act or acts specified, does not accept the sanctions recommended by the hearing officer, or does not waive the specified appellate rights, the alleged violations shall be referred to a formal adjudicatory hearing.

g. If the respondent does execute a stipulations and consent order, the executive director shall submit the document to the Commission at the next regular meeting for approval and authorization for the executive director to execute the consent order in the name of the Commission.

h. The actions of the Commission relative to all consent orders shall be noted in the minutes of the meeting at which the consent order is considered and at which authorization is granted to the executive director to execute the order in the name of the Commission.

I. Any consent order executed as a result of an informal hearing shall be effective on the date approved by the Commission.

2. Formal Adjudicatory Proceedings

a. All formal public adjudicatory hearings shall be conducted under the auspices of R.S. 37:1456 and Chapter 13 of Title 49 of the Louisiana Revised Statutes.

b. The order issued by the Commission pursuant to any formal public adjudicatory proceeding shall become effective on the eleventh day following the date the order is issued by the Commission and entered into the record at the proceedings.

c. The date of entry is the date the order is issued by the Commission and entered into the record at the formal adjudicatory proceedings.

d. If a request for rehearing, reopening, or reconsideration of the order of the Commission is timely filed and denied by the Commission, the order of the Commission shall become final on mailing of the notice of the Commission's final decision on the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4109. Appellate Proceedings

A. Rehearings

1. An order of the Commission shall be subject to rehearing, reopening or reconsideration by the Commission on receipt of a written request from a respondent. An application for rehearing, reopening or reconsideration must be postmarked or received at the office of the Commission within ten days from the date of entry of the order rendered by the Commission.

2. The request shall be reviewed by the Commission attorney for compliance with the Administrative Procedures Act. A finding by the Commission attorney that the request does not establish grounds for rehearing, reopening or reconsideration shall result in a denial of the request.

B. Judicial Review

1. Proceedings for judicial review of an order issued by the Commission may be instituted by filing a Petition for Judicial Review in the Nineteenth Judicial District Court in the parish of East Baton Rouge.

2. In the event a request for rehearing, reopening or reconsideration has been filed with the Commission, the party making the request shall have thirty days from the final decision on the request within which to file a petition for judicial review.

3. If a request for rehearing, reopening or reconsideration is not filed with the Commission, the Petition for Judicial Review must be filed in the Nineteenth Judicial District Court within thirty days after the mailing of the order of the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4111. Stay of Enforcement

A. The filing of a petition for judicial review by a respondent licensee does not itself stay enforcement of an order issued by the Commission. A stay of enforcement will be granted only when directed by the court conducting a judicial review of adjudication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4113. Costs of Adjudicatory Proceedings

A. On a finding that a respondent has committed the violations as alleged in any formal or informal adjudicatory proceedings, the Commission may assess the respondent the administrative costs of the proceeding, as determined by the Commission. Payment of these costs shall be a condition of the reinstatement of any license, registration, or certificate issued by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 43. Licensee, Timeshare Registrant, and Certificate Holder Responsibilities

§4301. Knowledge of the Law

A. It shall be the duty of all licensees, certificate holders, and timeshare registrants to have knowledge and be aware of all laws regulating the real estate industry in Louisiana including, but not limited to, these rules and regulations and the Louisiana Real Estate License Law as set forth in Chapter 17, Title 37 of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 45. Franchise Operations

§4501. Registration of Franchise Name

A. Unless registered in Louisiana with the Louisiana Real Estate Commission as hereinafter specified, no person, partnership, limited liability company, or corporation shall offer for sale, lease, rent, or use in any way, any franchise name to be publicly utilized or used by a licensed Louisiana real estate broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4503. Registration of Franchise Operation

A. Unless registered in Louisiana with the Louisiana Real Estate Commission as hereinafter specified, no person, partnership, limited liability company, or corporation engaged in a franchise operation of real estate brokerage firms shall operate in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4505. Application for Registration

A. Any person, partnership, limited liability company, or corporation which intends to operate or do business as a franchiser of real estate brokerage firms in Louisiana shall make application to the Louisiana Real Estate Commission for registration. Applications for registration shall contain the following information and supporting documents:

1. name, address, and whether the applicant is a person, partnership, limited liability company, or corporation;

2. partnership and limited liability company - the names and addresses of all partners or principals;

3. corporation - names and addresses of officers and members of the board of directors and the place of incorporation;

4. partnership, limited liability company, or corporation - a certified copy of the articles of incorporation or the document establishing the partnership or limited liability company;

5. a certified, audited financial statement disclosing the current financial condition of the applicant;

6. a statement of the business activities of the applicant, including a description of the franchise agreement to be used in connection with the Louisiana real estate brokers, and a list of the states in which the franchiser is qualified to do and/or is doing business.

B. Upon receipt of the application for registration, the Commission may require such additional information as it deems necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4507. Agent for Service of Process

A. If the applicant is not a resident of Louisiana, it shall appoint a licensed active Louisiana individual real estate broker to act as the applicant's agent for the service of all judicial process or legal notices directed to such applicant. Service upon the agent so designated shall be equivalent to personal service upon the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4509. Annual Registration

A. If the requirements set forth herein are met the Commission shall register the franchiser for a period of one year. The franchiser shall then renew each year by furnishing the Commission with all information as would modify or change the information previously submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4511. Renewal Requirements

A. Each application for renewal by a franchiser shall be submitted on or before January 15 of each year and shall reflect the information required by the Commission for the preceding year.

B. Any application for renewal by the franchiser shall also include the name and address of any licensed Louisiana

broker that is operating under a franchise agreement with the franchiser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4513. Penalty

A. Any person, partnership, limited liability company, or corporation which operates in Louisiana as a franchiser of real estate brokerage firms, without the specific authority to do so as granted by the Louisiana Real Estate Commission, shall be subject to a penalty of the refusal by the Commission to allow said person, partnership, limited liability company, or corporation to operate or do business in Louisiana for a period of at least one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4515. Violations of Law

A. The Commission shall have the power to withdraw any registration and/or issue a cease and desist order, after a hearing, to any franchiser that is subject to these rules and regulations, upon determination that any federal or state law or Commission regulation has been or will be violated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 47. Waiver of Renewal Requirements

§4701. Veteran Waiver

A. Licensees who are inducted into military service or those licensees in the military who are transferred out of state shall, upon furnishing appropriate evidence of their honorable service, be entitled to renewal of their licenses, without penalty, provided application is filed within six months following discharge. The provisions of this Section shall extend to spouses of persons described herein above who were licensed at the time of such induction or transfer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 49. Reciprocity

§4901. Licensing

A. The Commission may enter into a reciprocal agreement with the appropriate authority of any other state to permit any resident of that other state who is licensed there as a real estate broker or salesperson to obtain an equivalent Louisiana nonresident license and engage in the real estate business in Louisiana if that other state agrees to similarly grant a nonresident license to any Louisiana resident broker or salesperson and permit the licensee to engage in the real estate business in that other state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4903. Requirements for License

A. Any person residing in and licensed as a real estate broker or salesperson in a state whose appropriate authority has entered into a reciprocal agreement with the Commission shall be granted an equivalent non-resident

license by the Commission upon applying and complying with the following requirements:

1. providing the Commission with sufficient proof of his licensing by his resident state;

2. paying all fees prescribed for an equivalent Louisiana resident license;

3. filing an irrevocable Appointment of Agent for Service of Process with the Commission appointing the executive director as the licensee's agent for service of process in all matters arising out of or in conjunction with any real estate activities conducted by the licensee in Louisiana;

4. corporation - procuring a certificate of authority to do business in Louisiana from the Louisiana Secretary of State and providing the Commission with a copy; and

5. partnership or limited liability company - procuring a certificate of registry as a foreign partnership from the Louisiana Secretary of State and providing the Commission with a copy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4905. Nonresident Licensee

A. The nonresident licensee is bound, in all respects, by the provisions of the Louisiana Real Estate Licensing Law (R.S. 37:1431, et seq.) and these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 51. Out-of-State Broker Cooperation

§5101. Broker Cooperation

A. A Louisiana broker may cooperate with a licensed broker of another state in the sale, lease or management of real property located in Louisiana within the limits provided in the Louisiana Real Estate License Law and Rules and Regulations of the Commission under the following conditions.

1. The sale, lease or management shall be handled under the direct supervision and control of the Louisiana broker who shall take full responsibility for all actions of the out-of-state broker. All advertising of any kind must contain the names of both the Louisiana licensed broker and the out-of-state broker. The out-of-state broker may place a sign on real property located in Louisiana with the written consent of the Louisiana licensed broker.

2. Any monies collected on behalf of others shall be maintained in the Louisiana broker's sales escrow checking account, rental trust checking account or security deposit trust checking account unless all parties having an interest in the funds to be deposited therein have agreed otherwise in writing.

3. In each instance herein where a Louisiana broker enters into a cooperating agreement with an out-of-state broker for the sale, lease or management of Louisiana real property, the Louisiana broker must file one copy of a cooperating agreement with the Louisiana Real Estate Commission prior to the property being advertised, shown, or any contract taken. A written cooperating agreement describing the property involved must be filed for each separate transaction. This agreement must contain verbiage

wherein both the Louisiana broker and the out-of-state broker agree to sign all written reports and contracts and comply with the Louisiana Real Estate License Law and Rules and Regulations of the Commission in all respects.

4. Any fee or commission received as a result of a cooperative transaction shall be paid to the Louisiana broker who will, in turn, compensate the out-of-state broker. The percentage of fees or commission to be received by the Louisiana broker and the out-of-state broker shall be negotiable between the two parties and shall be agreed upon, in writing, by the parties in their cooperative agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5103. Referral Fees

A. A licensed broker in this jurisdiction may divide or share a real estate commission with a licensed broker in another jurisdiction whenever the licensed broker in the other jurisdiction acts only as a referral agent who is not involved in the actual negotiations, execution of documents, collections of rent, management of property, or other real estate brokerage activity in a real estate transaction which involves more than the mere referral of a client or customer to the licensed broker of this jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5105. Jurisdiction Over Out-of-State Activities

A. The Commission shall have the power to impose any sanction permitted by this law on any licensee of this jurisdiction who performs or attempts to perform any of the acts of a licensee on property located in another jurisdiction without first having been properly licensed in that jurisdiction or otherwise having fully complied with that jurisdiction's laws regarding real estate brokerage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 53. Real Estate Schools

§5301. Education Division

A. The Louisiana Real Estate Commission does hereby create the Education Division which shall be responsible for real estate school, instructor, and continuing education vendor certification. The Education Division shall administer on behalf of the Commission all regulations, laws and other matters pertaining to real estate education programs under the jurisdiction of the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5303. Approval of Schools

A. The following regulations apply to real estate schools seeking approval to conduct a course of education in real estate subjects for precicensing requirements as prescribed under R.S. 37:1460.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5305. Course Curriculum

A. The Commission shall require certified real estate schools to follow model curriculum guidelines established by the Commission in courses offered for salesperson and broker prelicensing credits.

B. Courses of instruction offered by certified real estate schools shall be designated as follows:

1. Real Estate 101-90 hour course in real estate principles/practices
2. Real Estate 201-90 hour basic fundamentals review for broker applicants;
3. Real Estate 202-30 hour course on Louisiana License Law, Rules and Regulations of the Commission and Louisiana Civil Law;
4. Real Estate 203-30 hour broker responsibilities course.

C. The Commission may approve real estate course work obtained through colleges, universities, nationally recognized institutes or other sources for credit toward the salesperson or broker prelicensing requirement. No waiver will be granted for Real Estate 202 and Real Estate 203 when required as a condition of licensing; however, the Education Division may authorize the substitution of course work obtained from other educational sources if it is determined that such courses are equivalent to the content requirements of Real Estate 202 or Real Estate 203.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5307. Certificate of Authority

A. No person shall operate a real estate school from which the Commission will accept a certificate of completion in satisfaction of prelicensing requirements unless such person applies for and is granted a certificate of authority in good standing issued by the Commission.

B. No certificate of authority shall be issued or renewed for any school applicant holding a real estate broker license whose school is designed, intended and/or primarily used for instruction of that same broker/owner's future salesperson or broker affiliates.

C. Each applicant for a certificate of authority to operate a real estate school shall comply with the following:

1. file with the Commission a fully completed application on forms prescribed by the Commission and accompanied by appropriate fees as provided in R.S. 37:1443;

2. submit with the application three letters of reference from responsible parties which provide information relating to the applicant's integrity, character, and/or qualifications and experience in real estate or related education;

3. at application, or prior to final approval of the certificate of authority, and for each renewal period thereafter, furnish proof of coverage of a school surety bond as issued by an insurance company authorized to do business in this state, conditioned for the protection of the contractual rights of those real estate students attending said school and in the amount of \$10,000.00;

D. The Commission shall issue a certificate of authority to operate a real estate school upon a determination that the applicant has met all requirements of certification.

E. Certificates of authority issued under this Section shall be valid for a maximum of one year and shall expire on December 31 of each year.

F. Failure to submit a timely application for renewal of a certificate of authority by December 31 may result in an assessment of a delinquent penalty as provided in the Louisiana Real Estate License Law. The period for delinquent renewal of an expired certificate of authority will be limited to the six-month period immediately following the expiration date of the certificate of authority. Thereafter, the application will be treated as an initial application insofar as fees and filing information are concerned.

G. Real estate schools shall not schedule courses which will extend beyond December 31 unless renewal of the certificate of authority has been applied for and approved by the Commission.

H. All Louisiana state and private colleges and universities where a real estate course is given in a regular curriculum are exempt from filing for this certificate of authority. The Commission reserves the right to require compliance with all requirements of this Section, except for assessment of application fees, from those courses offered through continuing education divisions of colleges and universities.

I. State vocational-technical schools or parish school boards which conduct courses in real estate and receive certification from the Commission shall meet all requirements required of proprietary schools except for application fee requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5309. School Owners and School Directors

A. Each approved school shall designate a school director who shall be responsible to the Commission for all aspects of operations of the school, to include the specific courses of education to be conducted and submission of reports and other information required or requested by the Commission.

B. School directors shall coordinate school branch locations and disseminate information pertaining to changes in the license law, rules and regulations, or policies of the Commission to all staff, instructors, and school employees.

C. School owners and school directors shall cooperate with Commission personnel in all matters pertaining to the administration of the school and shall appear and testify under oath at any hearing held by the Commission when requested to do so.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5311. Instructor Qualifications

A. Except for guest lecturers, persons instructing at a state certified school must be state certified by the Commission or hold an equivalent certification or designation acceptable to the Commission.

B. Any applicant applying for a state certified real estate instructor certificate shall file an application with the Commission in such form as prescribed by the Commission and accompanied by appropriate fees as prescribed in R.S. 37:1443, provide proof of passing a real estate instructor

assessment examination specified by the Commission, and possess at least one of the following qualifications:

1. a bachelor's degree with a major in real estate from an accredited college or university;

2. a bachelor's degree from an accredited college or university and at least two years experience in the real estate business;

3. a real estate broker's license and a minimum of five years experience in the area of proposed study;

4. a Juris doctorate degree or the equivalent from an accredited law school and a minimum of three years experience in the area of the proposed study;

5. two years experience as a qualified instructor or professor in the business, finance or economics department of an accredited college or university; or

6. any qualifications which in the opinion of the Commission constitutes the equivalent of one or any combination of the above mentioned qualifications.

C. An instructor certificate shall be issued only after a determination has been made by the Commission that the applicant has met the requirements of certification.

D. Instructor certificates issued under the provisions of this section shall be valid for a maximum of one year and shall expire on December 31 of each year.

1. Failure to renew an instructor certificate by December 31 may result in the assessment of a delinquent penalty as provided in the Louisiana Real Estate License Law. The period for delinquent renewal of an instructor certificate will be limited to the six-month period immediately following the expiration date of the certificate. Thereafter, the application will be treated as an initial application insofar as fees and filing information are concerned.

2. Any application for renewal of an instructor certificate must be accompanied by proof of the applicant's successful completion of eight hours of continuing education course work approved by the Commission and completed during the current certification period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5313. Guest Lecturers

A. Persons selected by approved schools to instruct as a guest lecturer in an approved prelicensing course shall meet at least one of the following qualifications:

1. a college or university professor in real estate, finance, economics, or a related field;

2. a specialist with a degree or professional designation with expertise in the specific topic of instruction;

3. a licensed real estate professional with at least five years experience in the area of proposed instruction.

B. Guest lecturers shall not be utilized as instructors in prelicensing courses pertaining to the Louisiana Real Estate License Law or the Rules and Regulations of the Commission.

C. Guest lecturers shall not be used by approved schools as staff instructors. The Commission may require that guest lecturers teaching on a regular basis be required to apply for and obtain certification as a real estate instructor under §5311 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5315. School Facilities

A. Every school shall utilize facilities meeting the following standards.

1. The premises, equipment and facilities of the school shall comply with all local, city, parish and state regulations, such as fire codes, building and sanitation codes.

2. The school shall provide adequate space, seating, equipment, and instructional material to accommodate the number of students enrolled and in attendance.

B. Facilities are subject to inspection by representatives of the Commission prior to approval or subsequent thereto during regular school hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5317. School Records

A. Real estate schools shall maintain accurate and properly indexed records on all students for at least a five year period after course completion and shall make those records available for inspection upon request of the Commission or its representatives.

B. Real estate school records shall include, but are not limited to, the following information:

1. complete name and address of each student;

2. total classroom hours and title(s) of courses undertaken by each student;

3. dates of attendance at those courses by each student;

4. test scores or pass/fail indication for each student;

5. copy of student contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5319. Tuition/Fees and Student Contract

A. Each real estate school shall enter into a written contract with each of its students.

B. The tuition and fees charged by the school for a specific course of instruction shall be clearly set forth in each student's contract, and a copy of the contract, signed by an authorized representative of the school, shall be provided to the student immediately after the contract is signed by both parties.

C. If additional fees are to be charged for supplies, materials or required books, these charges shall be clearly itemized by the school in the student contract, and such supplies, materials or books shall become the property of the student upon payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5321. Course Reporting Requirements

A. Real estate schools shall submit, in a timely manner, information concerning schedules, class locations, attendance reporting affidavits and other related information as required by the Commission. The Commission will

provide each school with the necessary forms and instructions for reporting course scheduling and completion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5323. Certificates of Completion—Classroom Hours

A. Each real estate school shall provide an individual certificate of completion or comparable completion verification to each student only upon successful completion of a course of study. Such verification shall include student name, date of completion, course level, number of hours completed, and shall be signed by the school director or an authorized designee.

B. No certificate of completion shall be accepted from any real estate school that is not in good standing with the Commission on the date of certificate issuance.

C. Credit shall not be given for any classroom hour consisting of less than fifty minutes of instruction and/or study. A classroom hour is defined as sixty minutes, of which fifty minutes are instruction. The prescribed number of classroom hours may include time devoted to examinations which are considered to be part of the course. Real estate schools shall not give credit to any student for completing more than eight hours of instruction in one calendar day.

D. In compliance with requirements of the Americans with Disabilities Act (ADA), alternative methods of course delivery are permitted to accommodate students with special needs. Such alternative arrangements shall be documented by the school and reported to the Commission prior to the beginning of the course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5325. Prohibition Against Recruiting

A. No person shall at any time, while on the premises of a certified real estate school, discuss the sponsorship of any student by any licensee of the Commission. Schools shall display the following statement in classrooms where prelicensing courses are being taught and the school director shall insure that the instructor of each orientation session read the following statement to the students at the beginning of the session: "No person shall discuss the sponsorship of any student by any licensee of the Commission while on the school premises, or by any means, verbal or written, conduct any activity which in any way relates to the future sponsorship of any student by any licensee of the Commission."

B. Unless an exemption has been applied for and granted by the Commission as specified in this section, an applicant for a real estate license cannot, for a period of one year after successful completion of real estate prelicensing education, be licensed with the sponsoring broker of an owner, instructor, guest lecturer or member of the administrative staff of the real estate prelicensing school attended by said applicant. Applicants for licensing may request a waiver of this regulation provided the following conditions are met.

1. An application for exemption shall be submitted on an affidavit form provided by the Commission and contain a notarized statement from applicant and sponsor attesting to the fact that their decision to affiliate was in no way

influenced by said broker's affiliation with a state certified real estate school.

2. Request shall be received and acted upon by the Commission at least ten days prior to the applicant's enrollment in a scheduled prelicensing course of study. Waiver of the ten-day requirement will be granted only upon a determination by the Commission that extenuating circumstances prevented the timely filing of the exemption request.

C. No brokerage firm may operate a real estate school under the same legal entity as the brokerage firm.

D. No real estate school shall be operated in an office that is also utilized for the operation of a brokerage firm. For the purpose of this rule, operation by a real estate school shall mean the conducting or doing business in any manner including, but not limited to, the holding of classes, the instruction of students, the use of telephone lines, the occupying of office space, and the enlistment, solicitation and/or recruitment of potential students or licensees.

E. No real estate school may provide any name or list of names of any potential licensee(s) or student(s) whether potential or enrolled in any real estate school to anyone other than the Louisiana Real Estate Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5327. Change of Address

A. Every certified real estate school, school director and certified real estate instructor shall report any change in the address or phone number of a business residence to the Commission within 10 days of the change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5329. School Advertising

A. Advertising by certified schools shall be clear, concise and accurate. All advertisements shall be in the name of the real estate school as certified by the Commission and shall include the school's certificate of authority number assigned by the Commission.

B. Any advertising which includes price quotes for a course shall accurately reflect total costs including any books and materials required for the course.

C. The Commission may require that a school furnish proof of any of its advertising claims. Retractions of unfounded advertising claims may be ordered by the Commission. Such retractions shall be published in the same manner as the original claim and be paid for by the violator.

D. Real estate school advertising shall not be combined with any advertisement of a real estate brokerage business or vice versa.

E. Certified real estate schools shall not advertise or offer any guarantee to pass the state real estate licensing examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5331. School Inspections

A. Real estate schools certified by the Commission shall be subject to review and periodic audits by official

representatives of the Commission. Representatives may observe classroom activities, evaluate course content, instructor proficiency, and/or audit school reporting/attendance records to insure that courses are being conducted in accordance with the provisions set forth in R.S. 37:1460 and this Chapter. If the school is determined to be deficient in any of these areas, a deficiency report specifying the areas of deficiency and a date by which the deficiencies are to be corrected will be provided to the school by the Commission. Any school receiving a deficiency report shall correct any deficiencies noted by the date designated by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 55. Real Estate Post Licensing and Continuing Education Vendors

§5501. Vendor Approval

A. The following regulations apply to entities seeking approval to conduct educational courses to meet real estate post licensing and continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5503. Application

A. Any entity desiring to act as an approved real estate post licensing and/or continuing education vendor shall file an application with the Commission. Each initial application shall be fully completed, notarized and accompanied by the following:

1. a financial statement of the person, partnership, corporation or legal entity which is seeking an approved education vendor certificate;
2. three letters of reference from responsible persons with information relating to applicant's integrity, character, responsibility and/or qualifications and experience in real estate education;
3. appropriate fees as required;
4. name, address and biographical information on each proposed instructor;
5. complete information on each proposed course offering; and
6. any additional information as requested and deemed necessary by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5505. Bond Requirement

A. Each initial and renewal applicant for an approved post licensing and/or continuing education vendor certificate shall obtain and file with the Commission proof of coverage of a \$5,000.00 surety bond as issued by an insurance company authorized to conduct business in this state. The bond shall be in favor of the state of Louisiana and conditioned for the protection of the contractual rights of those students attending post licensing and/or continuing education courses of said vendor. In cases where state certified prelicensing real estate schools apply for and obtain a post licensing and/or continuing education vendor certificate, the school's required \$10,000.00 surety bond may

be used to satisfy the requirements for prelicensing, post licensing and continuing education bond coverage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5507. Application Review

A. An initial application shall be reviewed and acted upon no later than thirty days from the date the application is received at the Commission office. If the application is rejected, the applicant may appeal the decision to the Commission. If such an appeal is made, the applicant will be required to appear before the Commission at a regularly scheduled meeting to speak on behalf of and to respond to questions and concerns pertaining to the application. If the application is denied by the Commission no further appeal will be granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5509. Application Approval

A. Upon approval of any initial application for an approved vendor certificate, the Education Division shall assign an approved vendor number to the person, partnership, corporation or legal entity granted approved vendor status. The approved vendor number shall appear in any advertisements of approved courses by the vendor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5511. Application Denial

A. When an applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or theft, or has been convicted of a felony or a crime involving moral turpitude in any court of competent jurisdiction, such untrustworthiness of the applicant, and the conviction, may in and of itself be sufficient grounds for refusal of a certificate.

B. When an applicant has made a false statement of material fact on his application, such false statement may in and of itself be sufficient grounds for refusal of a certificate.

C. Previous revocation of a real estate license held by an applicant shall also be grounds for refusal to grant a certificate.

D. In addition to the grounds for denial of an application specified in A through C of this Section, an application for an approved vendor certificate may be rejected if the applicant fails to qualify in one or more of the following areas:

1. financial stability of applicant;
2. experience and capability of entity requesting approved vendor certificate;
3. experience and capability of proposed instructors;
4. suitability or quality of proposed course offerings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5513. Certificate Renewal

A. Approved vendor certificates shall be granted on a calendar year basis, expiring on December 31 of each year.

Failure to submit a timely application for renewal by December 31 shall result in an assessment of a delinquent penalty. The period for delinquent renewal of an approved vendor certificate will be limited to the six-month period immediately following the expiration date of the certificate. Thereafter, the application will be considered as an initial application insofar as fees and filing information are concerned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5515. Eligibility of Courses

A. Post Licensing

1. Approved post licensing courses must be open to the public. Each course acceptable for credit toward fulfillment of the thirty-hour post licensing requirements for salespersons or brokers must be a minimum of four hours in length and require passage of an examination on course contents as conditions for receiving a post licensing certificate.

2. Approved continuing education courses which do not require an examination will not be considered toward post licensing requirements.

3. Approved schools and vendors shall not incorporate post licensing instruction and hours with prelicensing and/or continuing education instruction and hours.

B. Continuing Education

1. Approved continuing education courses must be open to the public. Courses accepted for credit toward the continuing education requirement shall consist of a minimum of two hours of instruction and may include, but are not limited to, the following subject areas:

- a. appraisal;
- b. finance;
- c. taxes;
- d. toning;
- e. Louisiana Real Estate License Law/Commission rules and regulations;
- f. environmental quality;
- g. federal laws affecting real estate (includes HUD and fair housing regulations);
- h. property management.

C. Each course registered with the Commission shall expire on December 31 unless updated, submitted for renewal by the approved vendor, and approved for renewal by the Commission. The vendor shall notify the Commission of any changes in course material which may substantially alter a course offering.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5517. Requirements for Submission of Additional Course Approval Requests by Approved Vendors

A. Approved education vendors shall apply for and receive approval for any new courses to be offered by the entity prior to advertising or offering the course to licensees. Each additional course application shall be accompanied by the following items:

1. applicable filing fees;

2. complete information on proposed course including title, course description, length of course, outline, and , for post licensing only, a copy of the course final examination;

3. name, address and resume' of each proposed instructor, if applicable.

B. If a request for additional course approval is rejected, the vendor may appeal the decision to the Commission. No additional review fee will be required for such an appeal. If the request is denied by the Commission no further appeal will be granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5519. Post Licensing and Continuing Education Course work by Correspondence

A. Approved education vendors shall apply for and receive approval of correspondence study course(s) prior to any public offering. Passage of an examination is a requirement for all post licensing courses. Passage of an examination is not a requirement for classroom continuing education courses; however, licensees choosing to complete their continuing education through correspondence or distance learning courses will be required to comply with specific course completion verification procedures applicable to correspondence or distance learning courses. Each correspondence course application shall be accompanied by the following items:

1. applicable filing fees;
2. complete information on proposed course, including title, course description, length of course, outline, and a copy of the required test.

B. Applications for approval of correspondence courses shall comply with the following where applicable.

1. Written correspondence courses

a. A workbook consisting of a minimum of 20 typed pages, not smaller than 8½"x 11" in size, per two hours of continuing education correspondence study credit or a workbook consisting of a minimum of 40 typed pages, not smaller than 8 ½ x 11 in size, per four hours of post licensing education is required. If the course meets only the minimum of pages, the type cannot be larger than 12 point. Minimum standards require that paragraphs may be indented not more than 10 spaces and a maximum of one line of space may appear between paragraphs. Charts and graphs are not to be included in the required minimum page total. The top margin of the page cannot exceed 1¼", the bottom margin 1½", and the side margin 1". The Commission reserves the right to approve an offering which marginally meets the minimum page requirement. Such approval will be based on a determination that the time period required to complete the course exceeds the credit hours requested based on the technical nature of the subject matter.

2. Audio/visual correspondence courses

a. Video taped material may be submitted for approval as a complete course offering or in conjunction with written correspondence. The applicant shall provide a complete written transcript of any video taped material submitted for approval.

b. Audio only courses shall be formatted in segments consisting of taped lecture of at least two hours for

continuing education purposes or at least four hours for post licensing purposes. The applicant shall submit a written transcript of the taped lecture with each request for audio approval.

3. Computer generated correspondence courses

a. Computer generated correspondence courses will be considered for approval provided the applicant submits course materials in the exact format to be offered for education credit.

b. The Commission, at its discretion, may request a written transcript of a proposed computer generated course offering prior to a final determination of the suitability of the course for education credit.

4. Other distance learning education

a. Distance learning education courses may be considered for approval provided the courses meet the conditions for delivery specified in the standards for distance education established by the Association of Real Estate License Law Officials (ARELLO) and provided the course content is in a real estate subject approved by the Commission for post licensing or continuing education credit for Louisiana licensees.

C. Every correspondence course for post licensing or continuing education shall require students to complete a written test consisting of a minimum of twenty multiple choice questions with four possible choices (a,b,c and d) for each two hours of continuing education credit or a minimum of forty multiple choice questions with four possible choices (a,b,c and d) for each four hours of post licensing credit. The written assignment or test a student submits for grading shall include the following statement:

I certify that I have personally completed this assignment.

Student's Signature _____ Date _____

D. All courses submitted for approval shall be in the exact format in which they will be sold to licensees for post licensing or continuing education credit.

E. No changes will be made to approved correspondence course material without the prior written approval of the Commission.

F. Education vendors shall:

1. have the student's name, social security number, address and payment prior to the student receiving the course;

2. not grade any written assignment or examination if it is presented for grading before the time frame for course completion has been reached;

3. not grade any test which does not contain the signed certification required by paragraph C, above;

4. certify students as successfully completing a course only if the student completes any required written assignments and pass the required examination on course content;

5. issue certificates containing the following information to students completing education by correspondence:

a. complete name of approved vendor and LREC vendor code;

b. name and social security number of student completing course;

c. specific course title;

d. number of hours of education received;

e. date of course completion;

f. signature of verifier of course completion;

g. indication that student successfully completed examination on course content;

h. correspondence study completion noted with the notation, "correspondence" or "C".

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5521. Post Licensing and Continuing Education

Instructor Qualifications

A. With the exception of guest lecturers, only those persons meeting at least one of the following qualifications will be permitted to instruct approved post licensing and continuing education courses on a regular basis:

1. a state certified real estate instructor holding a current certificate;

2. a college or university professor in real estate, finance, business, economics, or related field; or

3. a specialist with a degree or designation and experience teaching the subject(s) of proposed instruction;

4. a licensed real estate professional with at least five years experience in the area of proposed instruction.

B. Guest lecturers shall not be utilized as instructors in courses pertaining to the Louisiana Real Estate License Law or the Rules and Regulations of the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5523. Prohibition of Recruiting

A. No person shall, at any time, while on the premises or facilities where an approved education course is being taught, discuss the sponsorship of any student by any licensee of the Commission. Approved vendors shall display the following statement in classrooms where continuing education courses are being taught: "No person shall discuss the sponsorship of any student by any licensee of the Commission while on these premises, or by any means, verbal or written, conduct any activity which in any way relates to the future sponsorship of any student by any licensee of the Commission."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5525. Course Fees

A. When fees are charged for an approved course offering, vendors shall enter into a signed written agreement with each individual stipulating the cost of the course and the vendor's refund policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5527. Course Completion Verification and Reporting Requirements

A. Each approved vendor shall provide written verification of attendance to each course participant and shall provide the Commission, on a monthly basis, attendance verification on each participant. Approved vendors may be required to use a standard certificate as

specified by the Commission. Verifications shall include, but may not be limited to, the following:

1. complete name of approved vendor and LREC vendor code;
2. name and social security number of participant;
3. specific course title;
4. number of hours completed;
5. date and, if applicable, an indication of successful completion of an examination on course content;
6. signature of verifier of the course completion;
7. when applicable, correspondence study completion noted.

B. Approved vendors shall submit to the Commission monthly schedules of course offerings and attendance verification reports on each completed course. Such schedules shall be submitted to be received by the Commission at least ten days prior to the beginning of each month. The information is to be submitted on forms provided by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5529. Record Keeping

A. Approved vendors shall maintain, for five years, attendance records on each person completing an approved course offering. In cases where a participant requires a duplicate of an attendance/verification record, it is the responsibility of the vendor to provide a proof of completion verification to the participant. Reasonable fees, if assessed for duplicate records, are to be determined by the vendor.

B. Approved vendors shall maintain properly indexed information on each approved offering, including all records of attendance/verification reports submitted to the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5531. Inspection or Monitoring of Approved Vendors/Courses

A. Commission representatives may audit any approved course offering to determine adequacy of course presentation, content and compliance with post licensing and/or continuing education regulations.

B. Commission representatives may inspect vendor records during regular business hours to determine compliance with record keeping requirements specified in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5533. Prelicensing Schools Offering Post Licensing and Continuing Education Courses

A. In addition to prelicensing courses, any state certified real estate school may offer post licensing and continuing education courses, provided the school applies for and receives approved continuing education vendor status. No additional initial or renewal fees will be required of the school; however, filing fees for each additional course approval request will be required as provided in R.S. 37:1443.

B. A separate Louisiana Real Estate Commission vendor code will be assigned to the school upon compliance with post licensing and/or continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5535. Advertisement

A. All advertisements by approved vendors shall state the exact name of the vendor as registered with the Commission and the LREC vendor code number assigned by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5537. Change of Address

A. Any change in the address or telephone number of the administrative offices of an approved vendor shall be reported to the Commission within ten days of the effective date of such change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5539. Post Licensing and Continuing Education on an Individual Basis

A. The Commission will consider for credit, on an individual basis, course work completed by licensees through non-approved providers including, but not limited to, colleges and universities, national appraisal organizations, the societies, institutes and councils of the National Association of REALTORS, National Association of Real Estate Brokers, and federal, state and local governmental entities.

B. Licensees seeking approval for course work obtained through non-registered vendors/providers shall apply for such approval by submitting documentation of attendance, hours completed, date of attendance, and detailed course content information and, if applicable, verification of successful completion of an examination on course content.

C. The Commission may approve, on a one time basis, courses offered by entities not registered as approved vendors with the Commission. Such approvals may be granted to no more than three specific locations per non-registered vendor and shall be limited to two courses per non-registered vendor within a one year period. Non-registered vendors requesting approval beyond this limit will be required to submit an application and receive approval as an approved vendor to be eligible to offer additional courses for post licensing and/or continuing education credit. Entities requesting approval under this provision shall comply with specific application and reporting procedures required by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5541. Commission Sponsored Seminars — Continuing Education Only

A. As required by law, each year the Commission will provide annual continuing education courses sufficient to

satisfy the mandatory continuing education requirement at no additional cost to the licensee.

B. Funds for the Commission sponsored programs are derived from the Real Estate Research and Education Fund as provided in R.S. 37:1464.

C. Licensees attending Commission sponsored seminars shall comply with all attendance requirements and shall not engage in conduct that is abusive, threatening or in any way degrading the representatives of the Commission who have been assigned to monitor the seminars, or to any other person present at the seminar. Licensees who engage in such conduct, shall be directed to immediately leave the premises and a written report of the incident will be completed and submitted to the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5543. Seminar Instructor Qualifications

A. Instructors teaching Commission sponsored seminars shall qualify in one of the following categories:

1. a state certified real estate instructor's certificate in good standing with the Commission;
2. a college or university professor in real estate, finance, business, economics or related field; or,
3. a specialist with a degree or designation with at least five years experience in the area of proposed course instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5545. Minimum Length of Courses

A. Courses of instruction for continuing education purposes will not be approved by the Commission if the total instruction time is less than two hours. Courses of instruction for post licensing purposes will not be approved by the Commission if the total instruction time is less than four hours. Time devoted to breakfasts, luncheons, dinners or other refreshments shall not be counted as instruction time.

B. Credit shall not be given for any classroom hour consisting of less than fifty minutes of instruction and/or study. A classroom hour is defined as sixty minutes, of which fifty minutes are instruction. The prescribed number of classroom hours may include time devoted to examinations if a required part of the course. Vendors shall not grant credit to any student for completing more than eight hours of instruction in one calendar day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 57. Timeshares

§5701. Requirements for Processing

A. Every applicant for initial registration as a timeshare developer or timeshare salesperson shall submit to the Commission a fully completed application on a form provided by the Commission accompanied by the prescribed fees.

B. Every application for an initial timeshare salesperson registration shall contain the name of the developer for whom the applicant will be working following registration

and shall be signed by a designated representative of that developer.

C. Applicants for registration as timeshare developers shall submit the following to the Commission at the time of filing for registration:

1. sample copies of the conveyance and financing forms and, when applicable, copies of the public offering statement and a certified copy of the timeshare declaration;

2. when applicable, an affidavit, signed by the chief executive officer or managing partner of the developer and by any natural person having an ownership interest exceeding ten percent in either the developer or entities which control it, that states under penalty of perjury that the affiant has read the timeshare declaration and all attached documents, and that they are true and correct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5703. Receipt of Application

A. Every application shall be received and approved by the Commission prior to the date the applicant engages in the business of selling timeshare interests within this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5705. Bonds

A. At the time of initial application, each applicant for registration as a timeshare developer shall provide evidence of one bond issued in favor of the state by a surety company authorized to do business in this state in the amount of one thousand dollars per unit week included in the timeshare plan in accordance with R.S. 9:1131.4D.

B. At the time of initial application, each applicant for registration as a timeshare interest salesperson shall provide evidence of one bond issued in favor of the state by a surety company authorized to do business in this state in the amount of \$10,000.00 in accordance with R.S. 37:1437.1E.

C. A new bond or a renewal or continuation of the original bond shall be required for each registration period. If a continuous bond is filed, no new or renewal bond is required as long as the continuous bond remains in force and effect.

D. In the event a bond is revoked or canceled by the surety company, the timeshare registration of the named bondholder shall automatically be suspended until such time as a new bond is filed with the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5707. Fees

A. Registration fees shall cover a period of one calendar year and shall not be prorated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5709. Automatic Suspension for Non-Renewal

A. If a developer's timeshare registration is suspended or revoked, no sales of timeshare interests in that project may be conducted by that developer, by any timeshare sales

registrant working for that developer, or by any licensed real estate broker or salesperson working with that developer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5711. Terminations

A. A developer who wishes to terminate an association with a sales registrant shall return the registrant's sales registration certificate to the Commission along with a properly executed transfer form as provided by the Commission.

B. A sales registrant who wishes to terminate an association with a developer shall request, in writing, that the developer return that registrant's sales registration certificate to the Commission, and shall sign the appropriate transfer form as proof of the request.

C. A sales registrant may transfer to another developer upon submission of a property executed transfer form signed by both the registrant and a designated representative of the developer. This transfer request shall be accompanied by a new bond and appropriate transfer fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5713. Advertising

A. Any advertising material relating to a timeshare plan or solicitation shall be filed with the Louisiana Real Estate Commission by the developer prior to use. All such advertising shall be in compliance with R.S. 9:1131.12.

B. The developer shall file each prize and gift promotional offer to be used in the sale of timeshare interests with the Commission prior to its use.

C. Prize and promotional offers shall be accompanied by a filing fee in accordance with R.S. 37:1443. Each filing of a prize and gift promotional offer with the Commission shall be in compliance with R.S. 9:1131.13.G.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5715. Establishment of Escrow Account

A. Where applicable, the developer of each timeshare plan that has timeshare property located in Louisiana, or who maintains a sales office in Louisiana for the sale of timeshare interests, shall establish interest bearing escrow accounts in the developer's name at a financial institution in the parish where the timeshare property or sales office is located, in accordance with R.S. 9:1131.16 and 17.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5717. Affidavit of Authority

A. Every developer of a timeshare plan shall submit to the Commission notarized affidavits attesting to the existence, location and account number of the developer's escrow accounts. The affidavits shall authorize and empower the Commission or its representatives to examine, inspect, and/or copy the developer's escrow accounts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5719. Escrow Account Closing

A. Every developer shall notify the Commission of his intention to close an escrow account at least ten days prior to the intended closing date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5721. Maintaining an Escrow Account

A. Upon revocation, suspension or lapse of registration, a developer shall nevertheless continue to maintain all escrow accounts until such time as all monies have been disbursed according to law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5723. Change of Address

A. Every registrant shall report in writing any change in business or residence address or telephone number to the Commission within ten days of the change. Such notification shall be by hand delivery or certified mail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5725. Payment to Non-Registrants

A. Timeshare registrants, in accordance with the provisions of R.S. 37:1446.A, shall not offer or pay a fee or any other compensation of any kind to any unregistered person for the purpose of obtaining any timeshare solicitations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5727. Developer Records

A. Every developer shall retain, for at least five years, readily available and properly indexed copies of all documents which in any way pertain to the sale or solicitation of timeshare interests in which he has acted as a developer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Interested parties are invited to submit written comments on the proposed regulations through November 20, 1999 at 4:30 p.m. to Stephanie Boudreaux, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA, 70898-4785 or to 9071 Interline Avenue, Baton Rouge, LA 70809.

Julius C. Willie
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Real Estate

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

There are no estimated implementation costs (savings) associated with the proposed rules. The new language serves to define and interpret the existing rules and regulations to a better extent. The affected programs have all been previously implemented.

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

It is anticipated that there will be no effect on revenue collections. Revenue collections will still be determined by the number of applicants and the time frame within which their license, certificate, or registration is obtained and/or renewed.

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

In addition to the general public, groups which may be directly affected by the proposed amendments include applicants for licensing, real estate licensees, registrants, certificate holders, and education providers and instructors. There are no estimated costs to these groups in that the majority of the language is considered "housekeeping" in nature. The amendments provide for technological advances (such as Internet advertising and distance learning) and are designed to ensure that participants in Louisiana Real Estate Commission programs maintain a level of skill, knowledge and competency which will ultimately benefit the general public. Applicants whose pre-licensing course work cannot be considered for full credit because of the time frame within which it was completed may have to complete additional credit hours. Cost to the applicant, if any, will be determined by the number of credit hours which must be obtained. Applicants who fail to pass a licensing examination within one year of the initial examination date will become ineligible for testing for a period of six months. This may have an effect on employment opportunities; however, there is no way to estimate the effect.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no significant net effect in that all affected persons are treated equally.

Julius C. Willie
Executive Director
9910#052

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook
for School Administrators

Louisiana Educational Assessment Program (LEAP)
Alternate Assessment Participation Criteria
(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 the Addendum in Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). LEAP (Louisiana Education Assessment Program) is comprised of multiple components, including the LEAP Alternate Assessment. LEAP Alternate

Assessment Participation Criteria is to be used by Individual Education Program (IEP) teams in documenting that a student meets the criteria for participation in LEAP Alternate Assessment. This document ensures that participation in LEAP Alternate Assessment is limited to those students for whom the alternate assessment is designed.

The LEAP Alternate Assessment Participation Criteria is designed to meet the requirement presented in the Regulations for the Individuals with Disabilities Education Act of 1997, Section 300.138 (b)(1), that the State or LEAP develops guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in State and district-wide assessment programs.

The reauthorization of the Individuals with Disabilities Education Act of 1997, Section 612 (a)(17)(A) requires that states conduct alternate assessments for those children who cannot participate in state- and district-wide assessment programs. R.S. 17:24.4 (F)(4) of Bill No. 251 enacted by the Legislature of Louisiana requires that alternate assessments (LEAP Alternate Assessment) be administered to certain students with disabilities who meet specific criteria developed by the Department of Education.

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

Bulletin 741—Louisiana Handbook for School Administrators

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975), Amended by the Board of Elementary and Secondary Education in LR 23:560, 709, 1644 (May, June December 1997); LR 24:1495, 1085, 1896 (June, August, October 1998), LR 25:

Standard 1.009.03 Procedural Block

Louisiana Educational Assessment Program

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

LEAP Alternate Assessment Participation Criteria shall be used by Individual Education Program (IEP) teams to document that a student meets the criteria to participate in LEAP Alternate Assessment.

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.

Refer to R.S. 17:24.4

School Level, Proposed Policy

**Standard 2.009.03 Procedural Block
Louisiana Educational Assessment Program**

Schools, as part of the LEAP Alternate Assessment, shall ensure that student participation is documented on the LEAP Alternate Assessment Participation Criteria form as approved by the SBESE.

Refer to R.S. 17:24.4

Standard 3.087.11 Procedural Block Assessment

Schools, as part of the LEAP Alternate Assessment, shall ensure that student participation is documented on the LEAP Alternate Assessment Participation Criteria form as approved by the SBESE.

Refer to R.S. 17:24.4

Leap Alternate Assessment Participation Criteria

Student _____ DOB _____ School _____ I.D.# _____

A student eligible for participation in LEAP Alternate Assessment is one whose IEP reflects significant modifications of the general education curriculum with an emphasis on functional and life skills. A student participating in LEAP Alternate Assessment is progressing toward a Certificate of Achievement. To be eligible for participation in alternate assessment, the response to each of the statements below must be "Agree."

Circle "Agree" or "Disagree" for each item:

- Agree Disagree The student cannot address the content assessed in statewide assessments, even with extensive accommodations
- Agree Disagree The results of the statewide large-scale assessments will not provide or have not provided an accurate assessment of the student's progress in the student's educational program.
- Agree Disagree The student requires extensive instruction in multiple settings to acquire, maintain, and generalize skills necessary for application in school, work, home, and community environments.
- Agree Disagree Current longitudinal data (e.g., classroom observations, task analyses, progress on IEP objectives, evaluation, and parental information) indicate the student should participate in alternate assessment.
- Agree Disagree The student's demonstrated academic/cognitive ability limits his/her capability to complete the FULL requirements of the general education curriculum.
- Agree Disagree The decision for LEAP Alternate Assessment is not solely based on the student's disability according to Bulletin 1508.
- Agree Disagree The decision for LEAP Alternate Assessment is not

solely based on the student's visual and/or auditory disability

Agree Disagree The decision for LEAP Alternate Assessment is not solely based on the student's emotional-behavioral disability.

Agree Disagree The decision for LEAP Alternate Assessment is not solely based on the student's physical and/or motor disability.

Agree Disagree The decision for LEAP Alternate Assessment is not solely based on the student's learning disability.

Agree Disagree The decision for LEAP Alternate Assessment is not solely based on excessive or extended absences.

Agree Disagree The decision for LEAP Alternate Assessment is not solely based on social, cultural, and/or economic differences.

Agree Disagree The decision for LEAP Alternate Assessment is an IEP Committee decision, rather than an administrative decision.

Committee Decision: _____ is eligible for participation in LEAP Alternate Assessment.

Committee Decision: _____ is not eligible for participation in LEAP Alternate Assessment.

IEP Participants (Signatures) Date: _____

Name/Position Name/Position

Name/Position Name/Position

Name/Position Name/Position

Revised July 22, 1999

Interested persons may submit written comments until 4:30 p.m., December 7, 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—Louisiana Educational
Assessment Program (LEAP) Alternate Assessment
Participation Criteria**

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

Estimated costs for the LEAP Alternate Assessment are \$241,350 for Fiscal Year 1999-00, \$853,580 for Fiscal Year 2000-01, and \$602,740 for Fiscal Year 2001-02. These are the approximate costs that will be incurred for the Field Test (1999-00) and implementation of the Operational Form (2000-01 and 2001-02) of LEAP Alternate Assessment.

The LEAP Alternate Assessment Participation Criteria is a form used by Individual Education Program teams to determine if a student is eligible to participate in the alternate assessment. Costs of reproducing and administering the LEAP Alternate Assessment Participation Criteria are negligible.

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

There is no effect on revenue collections 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 or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no impact on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
9910#050

H. Gordon Monk
Staff Director
Legislative Fiscal Office

6. An Elementary Principal who has been a district finalist in the Principal of the Year Program within the last three years

7. An Elementary Teacher who has been a district finalist in the Teacher of the Year Program within the last three years

8. A Representative of Non-Public Schools

9. A Representative of Organized Labor

10. A Representative of Business

11. Public LEA Superintendent

Interested persons may submit written comments until 4:30 p.m., December 9, 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

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 921—Policy and Procedure Manual for the Louisiana Quality Education Support Fund—8(g)
(LAC 28:I.921)

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 921 referenced in LAC 28:I.921.A, promulgated by the Board of Elementary and Secondary Education in LR 14:10 (January 1988). The proposed amendment amends the appointment categories of the 8(g) Advisory Council, referenced in Section IV, Part 100, Section 101 of the Bulletin.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations**

§921. Quality Education Support Fund—8(g)

A. Bulletin 921

* * *

AUTHORITY NOTE: Promulgated by the Board of Elementary and Secondary Education in accordance with 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 14:10 (January 1988), amended LR 25:

Categories 1 - 11

1. District Supervisor who has served as a Project Administrator of one or more 8(g) projects that received an evaluation score of 28 or higher

2. 8(g) Program Evaluator with a minimum of three years experience with 8(g) projects

3. LEA System Grant Writer with a minimum of three years experience

4. A Secondary Principal who has been a district finalist in the Principal of the Year Program within the last three years

5. A Secondary Teacher who has been a district finalist in the Teacher of the Year Program within in the last three years

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

**RULE TITLE: Bulletin 921—Policy and Procedure
Manual for the Louisiana Quality Education Support
Fund—8(g)**

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

There are no implementation costs or savings to state or local governmental units associated with this rule.

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

There are no implementation costs or savings to state or local governmental units associated with this rule.

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

There are no costs or economic benefits to directly affected persons or nongovernmental units associated with this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment associated with this rule.

Weegie Peabody
Executive Director
9910#051

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1903—Education of Dyslexic Students
(LAC 28:XXXV.Chapters 1-13)

[Editor's Note: Bulletin 1903 was adopted in LR 18:1249 (November 1992), amended LR 19:1417 (November 1993), LR 20:284 (March 1994), and LR 20:647 (June 1994). This present revision is being published in codified form, hence historical notes will reflect a history, by section, from this time forward.]

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 1903 promulgated in LR 18:1249 (November 1992), referenced in LAC 28:J.902.A. The Bulletin is revised to incorporate both R.S. 17:7(11) and R.S. 17:7(11)(B) into one document and clarifies language so that school districts will find it easier to use. The present Bulletin is being repealed and promulgated as a codified document.

**Title 28
EDUCATION**

**Part XXXV. Regulations and Guidelines for the
Implementation of the Louisiana Law for the Education
of Dyslexic Students**

Chapter 1. Forward

§101. Forward

A. It is vital that our State provide an opportunity for all students to reach their maximum potential. This publication represents a major step forward in the implementation of R.S. 17:7(11), Louisiana's law for identification and services within the regular education program for students demonstrating characteristics of dyslexia.

B. Act 854 of the 1990 Regular Legislative Session [R.S. 17:7(11)] requires that the State Board of Elementary and Secondary Education:

1. provide for the screening and assessment of certain students for characteristics of dyslexia and related disorders;
2. that the Board provide duties for local school boards;
3. that the Board provide for the remediation of any student determined to have characteristics of dyslexia or a related disorder;
4. that the Board provide definitions;
5. and that the Board provide guidelines and standards for the implementation of the law.

C. Many of the characteristics associated with dyslexia are found in children with other specific learning disabilities or with speech and spoken language disorders. Some of the characteristics may be present in certain young children in the course of normal development. When these characteristics are not age-appropriate and interfere with learning, they may be symptoms of a language or learning disorder, including dyslexia, and the child may need specialized instruction in academic or related areas.

D. To fulfill the mandates of this law, in 1990, the Louisiana Department of Education convened planning groups comprised of parents, educators, and related professional and parent association representatives. Numerous areas of education were represented, including Elementary and Secondary Education, Student Services, Chapter 1, Pupil Accountability, Teacher Certification, and Special Education. This planning group reviewed current research findings and evaluation procedures as well as programs used in other states and districts. As a result, this planning group developed Bulletin 1903 that included a five-step process for the evaluation and determination of programs for students suspected of having this disability.

E. This bulletin was reviewed and revised in 1993 to reflect changes made in the law. A third review was completed in 1999 by a group which included parents, educational diagnosticians, school psychologists, speech/language pathologists, reading specialists, and other educators in regular and special education.

F. Louisiana is committed to providing a free and appropriate education for all students, regardless of the severity or type of disability. The State Board of Elementary and Secondary Education and the Department of Education are grateful to those persons who have worked so diligently to formulate these regulations and guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

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

**§103. State Board of Elementary and Secondary
Education**

- A. Ms. Glenny Lee Buquet, President
Third BESE District
- B. Mr. Clifford Baker, Vice President
Eighth BESE District
- C. Mr. Keith Johnson, Secretary-Treasurer
Second BESE District
- D. Ms. Donna Contois
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- I. Mr. Gerald Dill
Member-at-Large
- J. Ms. Leslie Jacobs
Member-at-Large
- K. Mr. Paul Pastorek
Member-at-Large

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 392.1 and 392.3.

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

Chapter 3. General Provisions

**§301. The Louisiana Law for the Education of
Dyslexic Students**

A. Added by Acts 1990, No. 854. 1, amended by Acts 1992, No. 1120. 1, effective July 14, 1992. To enact R.S. 17:7(11), relative to the duties, functions, and responsibilities of the State Board of Elementary and Secondary Education; to require the State Board of Elementary and Secondary Education to provide for testing of certain students for dyslexia and related disorders; to provide duties for local school boards: to provide remediation of any student determined to have dyslexia or a related disorder; to provide definitions; to provide guide lines and standards: and to provide for related matters. Be it enacted by the legislature of Louisiana:

1. Section 1. R.S. 17:7(11) is hereby enacted to read as follows: §7. Duties, functions, and responsibilities of the board.

2. In addition to the authorities granted by R.S. 17:6 and any powers, duties, and responsibilities vested by any other applicable laws, the board shall:

a. adopt and provide for the implementation of a program under which students enrolled or enrolling in public schools in this state are tested for dyslexia and related

disorders as may be necessary. Such program shall conform to the criteria and minimum standards established by the Council for Learning Disabilities. The program shall provide that upon the request of a parent, student, school nurse, classroom teacher, or other school personnel who has reason to believe that a student has a need to be tested for dyslexia, such student shall be referred to the school building level committee for review and referral to pupil appraisal for appropriate services;

b. in accordance with the program adopted by the board, the city and parish school boards shall provide remediation for children with dyslexia or related disorders in an appropriate multi-sensory, intensive phonetic, synthetic to analytic phonics, linguistic, meaning based, systematic, language-based regular education program. For those students who are not dyslexic and who do not qualify for special education services, other appropriate programs shall be offered to remediate their particular physical or educational disorders;

c. the State Department of Education, by not later than January 31, 1991, shall make recommendations to the board for the delivery and funding of services to students who are identified as dyslexic, but do not qualify for services under the criteria of eligibility of Bulletin 1508, the Pupil Appraisal Handbook;

d. for the purposes of this Paragraph:

i. *Dyslexia*—shall be defined as a language processing disorder which may be manifested by difficulty processing expressive or receptive, oral or written, language despite adequate intelligence, educational exposure, and cultural opportunity. Specific manifestations may occur in one or more areas, including difficulty with the alphabet, reading, comprehension, writing, and spelling.

ii. *Related Disorders*—shall include disorders similar to or related to dyslexia such as developmental auditory imperception, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

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

§303. Preface

A. Federal Requirements and Eligibility for Services

1. The Department of Education and Local Education Agencies (LEAS) have an obligation to provide for the evaluation of a child suspected of having a disability. The evaluation shall determine the child's need for specialized instruction and related services. Children with disabilities including dyslexia may qualify for educational and related services under Individuals with Disabilities Education Act (IDEA Public Law 105-17) and/or under the Section 504 of the Rehabilitation Act of 1973.

2. Federal laws require that recipients that operate a public elementary or secondary education program address the needs of children considered "disabled persons" as adequately as they address the needs of non-disabled persons. No disabled person shall, on the basis of the disability, be excluded from participation in, or denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance.

3. Both federal laws require that an LEA provide a free, appropriate public education to each qualified child with a disability regardless of the nature or severity of the person's disability. A free, appropriate public education, under Section 504, consists of regular or special education and related aids and services designed to meet the individual educational needs as adequately as the needs of non-disabled persons are met and are based on adherence to the regulatory requirements for educational setting, evaluation and placement, and procedural safeguards. A student may be disabled within the meaning of Section 504 and therefore entitled to regular or specialized education and related aids and services, even though the student may not be eligible for special education and services under IDEA.

B. State Requirements and Eligibility for Services

1. Act 854 of the 1990 Regular Legislative Session [R.S. 17:7(11)] defines *dyslexia* as a "language processing disorder which may be manifested by difficulty processing expressive or receptive, oral or written language despite adequate intelligence, educational exposure, and cultural opportunity." Specific manifestations may occur in one or more areas, including difficulty with the alphabet, reading, comprehension, writing, and spelling.

2. The law also identifies *related disorders* as "disorders similar to or related to dyslexia such as developmental auditory imperception, dysphasia, specific developmental dyslexia, developmental dysgraphia and developmental spelling disability."

3. The law requires that the State Board of Elementary and Secondary Education provide for testing of certain students for characteristics of dyslexia and related disorders, that the Board provide duties for local school boards, that the Board provide for remediation of any student determined to have dyslexia or a related disorder, that the Board provide definitions, and that the Board provide guidelines and standards for the implementation of the law, and to provide for related matters.

4. Local Education Agencies must adhere to the process contained within this Bulletin for assessment and placement for students suspected of having characteristics of dyslexia. Adherence to these guidelines will provide for consistency in the implementation of these laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

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

Chapter 5. Implementation of R.S. 17:7(11)

§501. Guidelines for the Implementation of RS 17:7

(11)

A. Introduction to Guidelines

1. This copy of the *Guidelines for Implementation of the Louisiana Law for the Education of Dyslexic Students* [R.S. 17:7(11)] is provided so that LEAs will have a reference for understanding the ramifications, regulations, and school system guidelines for identifying and providing appropriate educational opportunities for the students of Louisiana with characteristics of dyslexia.

2. The *Guide* is being distributed to all local school systems and is available from the Louisiana Department of Education. It was prepared with the following principal in mind.

a. Though students with characteristics of dyslexia have unique and often challenging educational needs, they also have potential to make important contributions to our society. Their special learning needs should and must be addressed by the public school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

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

§503. School System and School Building Responsibilities

A. According to R. S. 17:7(11), each school system and each school building within a system has specific responsibilities for the implementation of the law.

1. School System Responsibilities

a. To create and adopt school system policies and procedures for implementation of the law in accordance with *Bulletin 741*.

b. To assure ongoing public notice regarding the system's obligations toward students with characteristics of dyslexia.

c. To provide informational training about dyslexia for system representatives, teachers, and administrators on an annual basis.

d. To assure that each school within the system selects personnel to oversee the assessment process for determination of program eligibility.

e. To assure that programs for students with characteristics of dyslexia meet the state criteria and follow the guidelines.

f. To assure that each school within the system follows the regulations for implementation of the law by providing for the academic needs of students identified as having characteristics of dyslexia or related disorders.

2. School Building Responsibilities

a. To select a school building level committee knowledgeable about the student and the persons who will oversee the assessment and programming process.

b. To select a chairperson of the committee who will be responsible for gathering information, maintaining records, calling meetings, monitoring progress, disseminating information to the committee, teachers and parents, and overseeing all other aspects of implementation of R. S. 17:7(11);

c. To assure that teachers are aware of the state regulations regarding dyslexia, the characteristics of dyslexia, and the school system's policies for implementation of the assessment and programming process;

d. To provide training so that teachers are knowledgeable about and can implement specialized instructional interventions and strategies for students with characteristics of dyslexia within the regular classroom;

e. To plan for and implement a program for students identified as demonstrating characteristics of dyslexia according to the assessment and programming process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

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

§505. Requirements for Implementation of R. S. 17:7(11)

A. Since the fall of 1992 and thereafter, school systems are required to have implemented all aspects of R.S.

17:7(11). According to the revised Bulletin 1903, each LEA will:

1. continue public notice regarding the system's obligations toward students with characteristics of dyslexia and give notice of the school system's specific implementation plan;

2. will ensure that teachers and administrators are aware of the state regulations regarding dyslexia, the characteristics of dyslexia, and the school system's policies for implementation of the law;

3. provide training so that teachers are knowledgeable about and can implement Multisensory Structured Language Programs and instruction for students with characteristics of dyslexia within the classroom;

4. implement a program for students identified as having characteristics of dyslexia.

B. Factors which may contribute to the characteristics of dyslexia are as follows:

1. family history of similar problems;

2. late in learning to talk;

3. receptive language skills are typically better than expressive;

4. difficulty in processing both oral and written language. May also affect foreign language acquisition;

5. difficulty in learning to write the alphabet correctly in sequence;

6. cramped or illegible handwriting;

7. late in establishing preferred hand for writing;

8. late in learning right and left and other directionality components: e.g., up-down, front-behind, over-under, east-west and others;

9. problems in learning the concept of time and temporal sequencing: e.g., yesterday, tomorrow, days of the week, and months of the year;

10. reversal of letters or sequences of letters that are not developmentally appropriate;

11. difficulty in learning to decode and comprehend age appropriate written information;

12. slow reading speed;

13. difficulty learning sound-letter correspondence;

14. difficulty in learning and remembering printed words;

15. repeated erratic spelling errors;

16. error proneness in reading;

17. word substitutions in oral reading;

18. difficulty identifying, blending, segmenting and manipulating phonemes; and

19. losing ground on achievement or intelligence tests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

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

§507. Decision Process for Dyslexia Intervention, Identification, and Placement

A. SBLC Data Gathering

B. SBLC Intervention Options/Remedial Strategies

1. Assess student for characteristics of dyslexia.

2. Continuation of specialized instructional interventions and strategies that were successful. Documentation shall remain in the student's cumulative records. The assessment process for dyslexia may be terminated at this point if the Committee, including the parent, is in agreement.

3. If a student is suspected of having a disabling condition under the IDEA, the student shall be referred for an individual evaluation to determine eligibility for special educational services.

4. Determine that the child's needs can be met in the regular classroom without further strategies interventions, for the present time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

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

Chapter 7. Assessment

§701. Assessment Procedures

A. Request for Assistance from the school Building Level Committee

1. A written request may be made to the school building level committee for assistance in addressing a student's educational progress if school personnel (principal, guidance counselor, teacher, school nurse, etc.), the parent/guardian, community agency personnel or the student has reason to believe that the student is *consistently struggling or having difficulty making expected progress*. This request for assistance documents the beginning of the 60 operational day time line allowed to complete an assessment for characteristics of dyslexia and program implementation, if deemed necessary.

B. Formation of a Committee of Knowledgeable Persons About the Student and Dyslexia

1. Each campus must establish a committee of knowledgeable persons to conduct referral and assessment activities. The group shall be referred to as the Committee.

2. The committee must be comprised of at least these members:

- a. the student's teacher; and
- b. two other professional persons knowledgeable about the student and/or the suspected condition in the individual school setting, including the following:
 - i. reading specialist;
 - ii. guidance counselor;
 - iii. speech/language pathologist;
 - iv. curriculum specialist in language arts;
 - v. teachers certified in reading, language arts, special education, elementary education, or secondary education;
 - vi. certified school psychologist;
 - vii. educational diagnostician;
 - viii. occupational therapist;
 - ix. screening specialists, [according to *Regulations for the Implementation of Act 1120 R.S. 17:392.1 & 392.3*]; and
 - x. school social worker.

C. Data Gathering and Review

1. Upon request, the first action by the Committee shall be to gather data about the student and to establish a profile of the total child from the standpoint of school and home.

2. Data gathered will include, but not be limited to, the following:

- a. health information;
 - i. vision and hearing screening (current within 24 months); and
 - ii. medical/health history;
- b. academic, cognitive, and behavioral information;

- i. cumulative record review;
- ii. academic progress reports;
- iii. teacher reports of aptitude, behavior, and concerns;
- iv. CRT/NRT and/or any other standardized test scores;
- v. informal testing, such as curriculum-based assessment;
- vi. types of interventions used in the regular program;
- vii. samples of the student's work; and
- viii. achievement motivation information;
- c. speech and language information (including assessment of phonological awareness);
- d. additional information from the parents and other sources, (e.g., the student's need for extensive outside help and the extent of student effort, etc.);
- e. documentation of the use of pre-referral specialized instructional interventions and strategies used with the student;

D. Instructional Interventions and Strategies

Note: If extensive specialized instructional interventions and strategies have been implemented and documented, the Committee may proceed to the choice of options below.

1. Additional specialized instructional interventions and strategies to be implemented in the education setting should be recommended by the Committee for the student.

2. Intervention results shall be recorded and reported to the Committee. The Committee will choose one of the four options below:

- a. assess student for characteristics of dyslexia; or
- b. continuation of specialized instructional interventions and strategies that were successful. Documentation shall remain in the student's cumulative records. The assessment process for dyslexia may be terminated at this point if the committee, including the parent, is in agreement; or
- c. if a student is suspected of having a disabling condition under the IDEA, the student shall be referred for an individual evaluation to determine eligibility for special educational services; or
- d. determine that the child's needs can be met in the regular classroom without further strategies or interventions, for the present time.

Note: Because the characteristics of dyslexia may not be currently evident and may emerge at a later date, this decision-making process may be repeated based on a student's need.

E. Procedural Safeguards For Assessment

1. An assessment plan shall be developed by the Committee. Documentation shall be kept on the assessment plan and subsequent activities.

2. The parent shall be contacted and informed about the assessment. Informed consent (permission) for assessment is required, and all rights of the parents must be explained.

3. The assessment procedures shall be conducted by appropriately trained local education agency (LEA) personnel as described in the assessment plan.

4. The assessment shall include multi-source data and shall be conducted with valid and reliable instruments. Tests and other assessment materials must have been validated for the specific purpose for which they are used and must be administered in conformance with the instructions provided by their producer [34 CFR 104.35 (b) 1-3].

5. Tests and other assessment materials must include those tailored to assess specific areas of educational need, not those designed merely to provide a single intelligence quotient.

6. Tests shall be selected and administered to ensure that the results accurately reflect the student's aptitude or achievement level rather than reflect only the student's impaired skills (except where those skills are the factors the test purports to measure). Careful attention must be given to test selection and administration for students with impaired sensory, manual, or speaking skills.

7. Tests and other assessment procedures and materials shall be used in such a manner as to be free of racial, cultural, language, or sex bias.

8. A written notice of findings, signed by the Committee, shall be given to the parents and a copy shall be maintained in the student's cumulative folder.

9. A referral to Pupil Appraisal Services is required if, during the assessment process, disabling conditions (including a specific learning disability such as dyslexia) under IDEA is suspected.

F. Required Components of the Assessment

1. A review of data gathered and relevant information provided from other sources.

Note: Any private evaluation presented by the parent must be considered by the school system's pupil appraisal staff for review and interpretation within 10 *operational days*.

2. A review/assessment of cognitive ability.

3. An Assessment of Language Skills

a. Phonological awareness.

b. Receptive and expressive language.

i. Listening.

ii. Oral expression (word finding, sequencing, etc.).

iii. Written expression (spelling, mechanics, coherence, etc.).

iv. Dysgraphia.

v. Reading (real word and non word (nonsense word) word attack skills, reading comprehension, and reading rate).

c. An assessment of mathematics skills.

i. Computation.

ii. Word problems.

d. A review/assessment of general behavioral characteristics.

i. Attention span.

ii. Self-esteem.

iii. Social skills.

iv. Other.

e. A family interview.

i. Family history (including that of the student) of reading or other language-based learning difficulties such as dyslexia.

ii. Extent of assistance provided to the student outside of school.

iii. Extraordinary effort of the student.

G. Determination of Program Eligibility

1. A student shall be determined to have characteristics of dyslexia if the following criteria are met.

a. The student has adequate intelligence demonstrated through performance in the classroom appropriate for the student's age, or on standardized measures of cognitive ability.

b. The student demonstrates difficulties in areas which are often unexpected in relation to age, previous instruction, and other cognitive and academic abilities. The student has had extensive remediation/assistance in order to maintain grades. However, deficits were evident prior to remediation. The student must demonstrate at least 5 out of 6 of the following characteristics:

i. lack of or limited phonological awareness;

ii. common error patterns in reading and learning behaviors, such as:

(a). reading, decoding inaccuracies in single words and nonsense words (e.g., detached syllables);

(b). slow reading rate;

(c). omissions of, or substitutions of, small words (e.g., a/the, of/for/from, three/there);

(d). reduced awareness of patterns in words;

(e). difficulties generalizing word and language patterns;

iii. language (oral or written, receptive or expressive) is simplistic or poor in relation to other abilities;

iv. errors in spontaneous spelling;

v. spontaneous written language is very simple or poor in comparison to spoken *language*; and

vi. spontaneous written language shows poor organization and mechanics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

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

Chapter 9. Multisensory Structured Language Regular Education Program

§901. Program

A. Program Criteria

Note: The LEA shall be responsible for ensuring that the program provided for students who have been determined to have characteristics of dyslexia meets the criteria of R.S. 17:7(11), the Louisiana Dyslexia law.

B. The Multisensory Structured Language Program(s) shall consist of specific program content and a delivery system as described below.

1. Content Components

a. *Language-Based*—a program that provides instruction that integrates all aspects of language:

i. receptive (listening and reading);

ii. expressive [oral expression (word finding, sequencing), written expression (spelling, mechanics, coherence)];

iii. handwriting.

b. *Phonological Awareness*—an understanding that words are made up of individual speech sounds and that those sounds can be manipulated.

i. Rhyming.

ii. Recognition of initial, final and medial sounds.

iii. Recognition of vowel sounds.

iv. Recognition and identification of the number of syllables in a word.

v. Sound blending of phonemes (sounds) in words and detached syllables.

vi. Phoneme segmentation of real words and detached syllables.

vii. Phoneme manipulation.

c. *Phonetic*—the system by which symbols represent sounds in an alphabetic writing system.

i. Accurately pronouncing each phoneme represented by a given grapheme (symbol to sound).

ii. Writing the graphemes that represent each given phoneme (sound to symbol).

d. *Syllable Instruction*—instruction in kinds of syllables and their application to reading. Syllable - a word or part of a word which contains one sounded vowel.

e. *Linguistics*—the science of language, including phonology, morphology, syntax and semantics. The study of the structure of a language and its relationship to other languages.

f. *Meaning Based*—instruction provided in words and sentences to extract meaning in addition to teaching isolated letter-sound correspondence.

i. Instruction in morphology which includes identification of morphemes and their functional use in written and spoken words.

ii. Instruction of syntax to include sentence construction, combining, and expansion in both narrative and expository text.

iii. Instruction of semantics to include vocabulary acquisition, idioms, figurative language.

iv. Instruction in comprehension of narrative and expository text.

g. *Instruction in Reading Fluency*—the accuracy; appropriate use of pitch, juncture and stress; text phrasing; and rate at which one reads.

i. Provides for substantial practice and continual application of decoding and word recognition to work toward automaticity.

ii. Provides opportunities for reading large amounts of text

(a). At the student's independent reading, level (with 95% accuracy).

(b). Which provides specific practice in skills being learned.

h. *Phonics*—refers to instructional practices that emphasize how spellings are related to speech sounds in systematic ways.

C. Instructional Methodology for Students with Characteristics of Dyslexia (Delivery of Instructional Content)

1. Direct instruction with student-teacher interaction and diagnostic teaching

2. *Simultaneous Multisensory*—an instructional approach that uses a simultaneous combination of internal learning pathways, visual, auditory, kinesthetic, and tactile, to achieve proficiency in language processing.

3. *Synthetic to Analytic Phonics*—teaches students the sounds of the letters first and then combines or blends these sounds to create words. Analytic phonics uses prior knowledge of letters and their corresponding sounds to decode and form new words.

D. Synthetic phonics teaches students the sounds of the letter first and then combines or blends these sounds to create words.

1. Systematic. Material is organized and taught in a way that is logical and fits the nature of our language. It refers to the way sounds combine to form words and words combine to form sentences to represent knowledge. The ways are determined by a system of rules.

2. Sequential. The learner moves step by step, in order, from simple, well-learned material to that which is more complex, as he or she masters the necessary body of language skills.

3. Cumulative. Each step is incremental and based on those skills already learned.

4. Individualized. Teaching is planned to meet the differing needs of learners who are similar to each other, but no two exactly alike.

5. Automaticity of Performance. Fluent processing of information that requires little effort or attention as sight word recognition. Adequate practice with decodable text is to be provided for mastery of skills and applications of concepts.

E. Multisensory Structured Language Program Implementation

1. Multisensory Structured Language Programs are to be routinely provided within the regular school day, a minimum of 150 minutes per week.

a. Regular class placement with Multisensory Structured Language Programming

b. Out-of-class placement in a Multisensory Structured Language Program

c. Individual or small group instruction in a Multisensory Structured Language Program.

d. A combination of these options or any additional arrangements that may be developed by the Committee.

2. If a student is in a Multisensory Structured Language Program, according to R.S. 17:7(11) the Louisiana Dyslexia Law, grades should be derived from that program in lieu of the local program. Criteria for promotion must be described in the LEAs Pupil Progression Plan.

Note: If a parent or guardian or school system does not agree with the provision of services, contact the LEA 504/1903 Dyslexia Coordinator.

F. Evaluation Data and Review of Student Progress

1. Evaluation data shall be maintained on students enrolled in Multisensory Structured Language Programs.

2. A periodic review shall be made to determine the appropriateness of the program for the student. At a minimum, an annual review is required.

Chapter 11. Glossary

§1101. Terminology of the Bulletin

Accommodation—is any technique that alters the academic setting or environment. An accommodation generally does not change the information or amount of information learned. It enables students to show more accurately what they actually know.

Assessment—the act or process of gathering data in order to better understand the strengths and weaknesses of student learning as by observation, testing, interviews, etc.

Automaticity—fluent processing of information that requires little effort or attention, as sight word recognition.

Balanced Reading Approach—refers to the availability of a variety of programs which include phonology, phonemic awareness, phonics, syntax, morphology, fluency, and reading comprehension.

Constitutional Origin—relating to the origin of the dyslexic student's disability. The nature of the disability does not result from injury, but rather is of an inborn nature.

Developmental Auditory Imperception—difficulties in perceiving and using what is heard. The student may have

difficulty with auditory processing, auditory discrimination, and learning sound-symbol associations.

Dysgraphia—difficulty with producing written symbols, usually resulting in slow and poor quality handwriting.

Dyslexia—one of several distinct learning disabilities. It is a specific language-based disorder of constitutional origin characterized by difficulties in single word decoding, usually reflecting insufficient phonological processing abilities. These difficulties in single word decoding are often unexpected in relation to age and other cognitive and academic abilities; they are not the result of generalized developmental disability or sensory impairment. Dyslexia is manifested by variable difficulty with different forms of language, often including, in addition to problems in reading, a conspicuous problem with acquiring proficiency in writing and spelling. (NICHD)

Dysphasia—severe difficulty with expressive and receptive oral language.

Evaluation—the in-depth process of review, examination, and interpretation of intervention efforts, test results, interviews, observations, and other assessment information relative to predetermined criteria.

Expressive Language—the act of conveying information through writing, speaking, or gesturing.

Fluency—the clear, easy, written or spoken expression of ideas.

Grapheme (Sound)—a written or printed representation of a phoneme (e.g., t, l, z).

I D E A—Individuals with Disabilities Education Act (Public Law 105-17); the special education law.

Intensive Phonics—a combination of analytic phonics and synthetic phonics. *Analytic phonics* uses prior knowledge of letters and their corresponding sounds to form new words. *Synthetic phonics* teaches students the sounds of the letters first and then combines or blends these sounds to create words.

Modification—is any technique that alters the work required in some way that makes it different from the work required of other students in the same class. A modification generally does change the work format or amount of work required of students. It encourages and facilitates academic success.

Morpheme—the smallest unit of meaning in language (e.g., s, ed. play).

Multisensory Structured Language Program—the type of program that is mandated by R.S. 17:7(11), the Louisiana Law for the Education of Dyslexic Students, or students found to have characteristics of dyslexia (refer to page 7 for specific program components).

Phoneme—the smallest unit of sound capable of signaling semantic distinction or meaning (e.g., /sh/-/l/-/p/).

Phoneme Manipulation—dropping, adding, or moving phonemes to create new words or detached syllables.

Phoneme Segmentation—the ability to separately articulate the sounds of a spoken word in order.

Phonemic Awareness—the awareness that spoken words or syllables can be divided into a sequence of phonemes. Phonemic awareness pertains to the rule system and is a subcategory of phonological awareness.

Phonics—an approach to the teaching of reading and spelling that stresses symbol-sound relationships, especially in beginning reading instruction.

Phonological Awareness—an understanding that words are made up of individual speech sounds as distinct from their meaning and that those sounds can be manipulated.

Phonology—the study of the speech sounds of a language and their underlying rules of usage.

Procedural Safeguards—a system of providing parents or guardians with procedural safeguards:

1. notice of their rights;
2. an opportunity to review relevant records;
3. an impartial hearing - parents or guardians must be notified of their right to request a hearing regarding the identification, evaluation, or educational placement of persons with disabling conditions; and
4. a review procedure, if parents disagree with the hearing decision.

R.S. 17:7(11)—The Louisiana Law for the Education of Dyslexic Students.

Receptive Language—the act of understanding information by listening, reading, or gesturing.

Screening—a brief examination which determines the presence or absence of an important impediment to learning.

Section 504 of the Rehabilitation Act of 1973—federal law found at 29 U.S.C. Secs.706(7), 794, 794a, 794b. "No otherwise qualified disabled individual...shall, solely by the reason of his/her handicap, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance."

Semantics—the study of meaning in language.

Syntax—the study of how sentences are formed and of the grammatical rules that govern their formation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

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

Chapter 13. Regulations for the Implementation of R.S. 17:392.1 and 392.3

§1301. Part VI-A. Screening and Intervention for School Success

A. R.S. 392.1. Screening and Intervention; Purpose; Applicability; City and Parish School System, Duties

1. R.S. 392.1. The legislature acknowledges that identification of and adjustment to the individual characteristics that affect a child's learning style will improve a child's opportunity to succeed in school. Some of the characteristics that children bring to school with them are products of learning disorders and/or social or emotional risk factors that, if identified, acknowledged, and addressed can be mitigated or alleviated.

2. It is the purpose of this Part to intervene with regard to any impediments to a successful school experience that exist for children as early as possible in their schooling and to bring to bear all resources that can be made available in a school setting to address any difficulty a child may have and make it possible for him to begin school ready and able to learn.

3. Every child in public school in grades kindergarten through third shall be screened, at least once, for the existence of impediments to a successful school experience. No child shall be screened if his parent or tutor objects to such screening.

4. Such impediments shall include:
 - a. dyslexia and related disorders, as defined in R.S. 17:7(11);
 - b. attention deficit disorder;
 - c. social and environmental factors that put a child "at risk" as that term has been defined by the State Department of Education, pursuant to R.S. 17:7.5(A).

5. In doing such screenings, a priority shall be placed on screening any student referred for screening, pursuant to R.S. 17:7(11); however, if a child is so referred, a screening for all other impediments shall be done at the same time.

6. Screenings as required by R.S. 392.1 shall have one or more of the following results:
 - a. no indication of need for services;
 - b. indication of need for services to ameliorate the effect of a possible learning disorder;
 - c. indication of need for assistance to ameliorate the effect of a possible at-risk factor;
 - d. referral for further evaluation for the existence of eligibility for the receipt of special education services;

7. Children in need of services and/or assistance shall have it provided to them. Services for disorders shall be provided in accordance with R.S. 17:7(11). Children who are referred for further evaluation shall be provided further evaluation in accordance with Chapter 8 of this Title. Children who are in need of assistance shall have it provided to them in accordance with this Part.

8. The screenings required by R.S. 392.1 shall be done directly by elementary guidance counselors, pupil appraisal personnel, teachers, or any other professional employees of the school system who have been appropriately trained, all of whom shall operate as advocates for the children identified as needing services or assistance pursuant to this Part. No screenings shall be done by persons who have not been trained to do such screenings, consistent with the requirements established for such training by the State Board of Elementary and Secondary Education.

B. R.S. 392.3. Implementation

1. It is the intention of the Legislature that the costs relative to the implementation of the provisions of this Section shall be covered by funds appropriated by the state. Such funds shall include those appropriated pursuant to the Minimum Foundation Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

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

§1303. Introduction

A. Guidance Counselors/Screening Specialists—Qualifications and Training Requirements

1. Act 1 120 of the 1992 Regular Legislative Session [R.S. 17:392.1 & 392.3] requires Local Educational Agencies to intervene as early as possible in every child's school career to reduce any impediments to a successful school experience.

2. The State Board of Elementary and Secondary Education at its January 1995 meeting adopted regulations for the implementation of R.S. 17:392.1 & 392.3. Qualifications and training requirements of guidance counselors/screening specialists were adopted pursuant to this law.

3. The main points of this law are as follows:

- a. every child in grades K-3 will be screened, at least once, for dyslexia and related disorders, ADD/ADHD, and social and emotional "at risk" factors;
- b. no child shall be screened if his parent(s) or tutor objects to such screening;
- c. screening shall be conducted by elementary school guidance counselors, pupil appraisal personnel, teachers, or any other trained employee of the school;
- d. screening shall not be conducted by personnel who have not been trained consistent with requirements established by the State Board of Elementary and Secondary Education;
- e. each city/parish school system shall employ at least one guidance counselor and/or screening specialist for every 800 students in the elementary school;
- f. the costs of implementation shall be provided through the N4FP.

Note: LEAs that can document completed training as specified in the law prior to acceptance of this document will be considered to have met these requirements.

B. Qualifications for Screening Specialist/Guidance Counselors Pursuant to Act 1120 of the 1992 Legislative Session

1. Guidance Counselors

- a. certification in elementary guidance;
- b. ability to work with teachers and other professionals who serve as advocates for children.

2. Classroom Teachers

- a. certification in elementary grades or special education;
- b. ability to work with teachers and other professionals to serve as advocates for children;
- c. a minimum of three years classroom experience.

3. Pupil Appraisal Personnel and/or Other Professionals

- a. certification or licensure as appropriate and approved by the State Department of Education;
- b. ability to work with teachers and other professionals who serve as advocates for children.

4. Numbers 2 and 3 will be called "Screening Specialists"—teachers, pupil appraisal personnel under their supervision or by such other professional employees of the school system as have been appropriately trained, all of whom shall be included within the term "guidance counselor" as used in this Part.

C. Training Requirements

1. A minimum of 18 clock hours of training in the following is required.

- a. Identification and knowledge of the following - (4 hours)
 - i. Characteristics of ADHD.
 - ii. Characteristics of Dyslexia and related disorders pursuant to R.S. 17:7 (11).
 - iii. Characteristics of social and emotional "at risk" factors.
- b. Use of appropriate screening instruments - (6 hours)
 - i. Kindergarten Screening Instrument(s) - State approved/to determine developmental strengths and needs.
 - ii. ADHD Checklist.
 - iii. Social/emotional factors "at risk" checklist.
 - iv. Informal reading/language inventories.

- v. Rapid automatic naming tests
- vi. Written language samples.
- vii. Informal mathematical assessment.
- viii. Norm-reference tests.
- c. Administration and interpretation of LEA selected screening instruments.
 - i. Training of personnel to administer instruments.
 - ii. Interpret screening results.
- d. Operation and procedures of School Building Level Committee - (3 hours)
 - i. Membership.
 - ii. Referral process.
 - iii. Interventions in the classroom.
 - iv. Documentation.
 - v. Decision making process - 1903, 504, 1508 (if warranted).
 - e. Selection of appropriate classroom strategies, accommodations and modifications - (4 hours).
 - f. Child advocacy - (1 hour).

Note: The number of hours in each area has been documented. Re-training is not necessary if any previous training- can be documented within the last 3 years.

D. Characteristics Associated with Dyslexia and Related Disorders

1. Lack of or limited phonological awareness.
2. Common error patterns in reading and learning behaviors, such as:
 - a. reading decoding inaccuracies in single words and nonsense words (e.g., detached syllables);
 - b. slow reading rate;
 - c. omissions of, or substitutions of, small words (e.g., a/the, of/for/from, three/there);
 - d. reduced awareness of patterns in words;
 - e. difficulties generalizing word and language patterns.
3. Language (oral or written, receptive or expressive) is simplistic or poor in relation to other abilities.
4. Errors in spontaneous spelling.
5. Spontaneous written language is very simple or poor in comparison to spoken language.
6. Spontaneous written language shows poor organization and mechanics

Source: Regulations for the Implementation of the Louisiana Law for the Education of Dyslexic Students [R.S. 17:7(11)].
7. Additional factors which may contribute to the above characteristics:
 - a. family history of similar problems;
 - b. late in learning to talk;
 - c. receptive language skills are typically better than expressive;
 - d. difficulty in finding the "right" word when speaking;
 - e. difficulty in processing both oral and written language. May also affect foreign language acquisition;
 - f. difficulty in learning to write the alphabet correctly in sequence;
 - g. cramped or illegible handwriting;
 - h. late in establishing preferred hand for writing;
 - i. late in learning right and left and other directionality components such as up-down, front-behind, over-under, east-west and others;

- j. problems in learning the concept of time and temporal sequencing: e.g., yesterday, tomorrow, days of the week, and months of the year;
- k. reversal of letters or sequences of letters that are not developmentally appropriate;
 1. difficulty in learning to decode and comprehend age appropriate written information;
 - m. slow reading speed;
 - n. difficulty learning sound-letter correspondence;
 - o. difficulty in learning and remembering printed words;
 - p. repeated erratic spelling errors;
 - q. error proneness in reading;
 - r. word substitutions in oral reading;
 - s. difficulty identifying, blending, segmenting and manipulating phonemes;
 - t. losing ground on achievement or intelligence tests.

E. Characteristics of Attention Deficit Disorders

1. often fails to give close attention to details or makes careless mistakes in schoolwork, work, or other activities;
2. often has difficulty sustaining attention in tasks or play activities;
3. often does not seem to listen when spoken to directly;
4. often does not follow through on instructions and fails to finish schoolwork, chores, or duties in the workplace (not due to oppositional behavior or failure to understand instructions);
5. often has difficulty organizing tasks and activities;
6. often avoids, dislikes, or is reluctant to engage in tasks that require sustained mental effort (such as schoolwork or homework);
7. often loses things necessary for tasks or activities (e.g., toys, school assignments, pencils, books, or tools);
8. is often easily distracted by extraneous stimuli;
9. is often forgetful in daily activities;
10. often fidgets with hands or feet or squirms in seat;
11. often leaves seat in classroom or in other situations in which remaining seated is expected;
12. often runs about or climbs excessively in situations in which it is inappropriate (in adolescents or adults, may be limited to feelings of restlessness);
13. often has difficulty playing or engaging in leisure activities quietly;
14. is often "on the go" or often acts as if "driven by a motor";
15. often talks excessively;
16. often blurts out answers before questions have been completed;
17. often has difficulty awaiting turn,
18. often interrupts or intrudes on others (e.g., butts into conversations or games).

Source: American Psychiatric Association. (1994). Diagnostic and statistical manual of mental disorders (4th ed.). Washington, DC: Author.

F. Definition of Otherwise At-Risk Students

1. Students at-risk are those who are experiencing difficulty with learning, school achievement, progress towards graduation from high school, and/or preparation for employment because of social, emotional, physical and mental factors. Students are defined as being at-risk when they are

- a. performing at an inappropriate developmental level;
- b. one or more years behind in the basic skill levels in language arts and/or math;
- c. have been retained academically one or more years;
- d. have exhibited excessive absenteeism from school;

e. come from low socioeconomic level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), 17:392.1 and 392.3.

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

§1305. Instruments for Identification and Screening—Appendix A

Test Cognitive Ability	Publisher	Cost	Admin. Time	Ease	Age Level	Score Time	Types of Scores	Admin. Qualif.*	Lang.	Global or Dyslexia Spec.	Indiv. or Group	Assess or Screen	Min. 1903 Criteria
Wechsler Adult Intelligence Test-III (WAIS-III)	Psychological Corporation	\$548 \$65/25	75 min.	Difficult	16 - 89	30 min.	Standard	C-level	English/ Spanish	Global	Indiv	Assess	
Wechsler Intelligence Scale for Children-3rd edition (WISC-III)	Psychological Corporation	\$578 \$65/25	75 min.	Difficult	6 - 16	30 min.	Standard	C-level	English/ Spanish	Global	Indiv	Assess	
Kaufman Assessment Battery for Children (K-ABC)	American Guidance Service	\$340 \$36/25	35 - 85 min.	Difficult	2.5 - 12.5	20 min.	Standard	C-level	English	Global	Indiv	Assess	
Kaufman Brief Intelligence Test (KBIT)	American Guidance Service	\$115 \$27/25	15 - 30 min.	Mod	4 - 90	10 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Kaufman Adolescent and Adult Intelligence Test (KAIT)	American Guidance Service	\$520 \$48/25	75 min.	Difficult	12.5 - Adult	20 min.	Standard	C-level	English	Global	Indiv	Assess	
Stanford-Binet Intelligence Scales-4th Edition (SB-IV)	Riverside	\$624 \$66/35	75 min.	Difficult	2 - Adult	30 min.	Standard	C-level	English	Global	Indiv	Assess	
Slosson Full Range Intelligence Test	PAR	\$119 \$23/25	20 - 35 min.	Easy	5 - 21	10 min.	Standard	B-level	English	Global	Indiv	Screen	Yes

***Level A**

User has completed at least one course in measurement, guidance, or related discipline or has equivalent supervised experience in test administration and interpretation.

***Level B**

User has completed training in measurement, guidance, individual psychological assessment or special appraisal methods appropriate for a particular test.

***Level C**

User has completed a recognized graduate training program in psychology with appropriate course work and supervised practical experience in the administration and interpretation of clinical assessment instruments.

Test Cognitive Ability	Publisher	Cost	Admin Time	Ease	Age Level	Score Time	Types of Scores	Admin. Qualif. *	Lang.	Global or Dyslexia Spec.	Indiv. or Group	Assess or Screen	Min. 1903 Criteria
Woodcock Johnson Tests of Cognitive Ability-Revised	Riverside	\$460 \$44/25	90 min.	Mod	2 - 90	20 min.	Standard	B-level	English/ Spanish	Global	Indiv.	Assess	
Detroit Test of Language Skills (DTLA-3)	Pro-Ed	\$249 \$39/25	90 min.	Mod	6 - 17	20 min.	Standard	B-level	English	Global	Indiv.	Assess	
Test of Non-Verbal Intelligence (TONI-3)	Pro-Ed	\$219 \$34/50	15 - 20 min.	Easy	5 - 85	10 min.	Standard	B-level	None	Global	Indiv.	Screen	Yes
Comprehensive Test of Nonverbal Intelligence (CTONI)	Pro-Ed	\$269 \$28/25	1 hour	Mod	6 - 90	10 min.	Standard	B-level	None	Global	Indiv.	Assess	
Children's Memory Scale	Psychological Corporation	\$329 \$32/25	30 min.	Difficult	5 - 16	15 min.	Standard	C-level	English	Global	Indiv.	Assess	
Wechsler Memory Scale III	Psychological Corporation	\$331	45 min.	Difficult	16 - 89	15 min.	Standard	C-level	English	Global	Indiv.	Assess	
Quick Neurological Screening Test-Revised (QNST)	Psychological Corporation	\$50 \$16.50/ 25	20 - 30 min.	Easy	K - 17	10 min.	Standard	C-level	English	Global	Indiv.	Screen	
Bender Visual Motor Gestalt Test	Psychological Corporation	\$37	10 min.	Easy	5 - 11	10 min.	Standard	C-level	None	Global	Indiv.	Screen	
Developmental Test of Visual Motor Integration (VMI-4)	Pro-Ed	\$169 \$62/25	10 - 15 min.	Easy	3 - 18	15 min.	Standard	B-level	None	Global	Indiv./ Group	Screen	

Test Achievement Reading-Decoding	Publisher	Cost	Admin Time	Ease	Age Level	Score Time	Types of Scores	Admin. Qualif *	Lang.	Global or Dyslexia Spec.	Indiv. or Group	Assess or Screen	Min. 1903 Criteria
Wide Range Achievement Test-III (WRAT-III)	Pro-Ed	\$119 \$29/25	30 min.	Easy	5 - 75	5 min.	Standard	B-level	English	Global	Indiv/Group	Screen	Yes
Woodcock-Johnson Test of Achievement (WJR)	Riverside	\$254 \$44/25	1 hour	Mod	2 - 90	20 min.	Standard	B-level	English/Spanish	Global	Indiv	Assess	Yes
Peabody Individual Achievement Test-Revised (PIAT-R)	American Guidance Service	\$280 \$70/50	1 hour	Mod	5 - 18	20 min.	Standard	B-level	English	Global	Indiv	Asses	Yes
Kaufman Test of Educational Achievement (K-TEA) Comprehensive	American Guidance Service	\$170 \$35/25	45 min.	Mod	5 - 18	15 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Kaufman Test of Educational Achievement (K-TEA) Brief	American Guidance Service	\$105 \$27/25	20 - 30 min.	Mod	5 - 18	10 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Woodcock Reading Mastery Test - Revised	American Guidance Service	\$215 \$40/25	45 min.	Mod	5 - 75	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Wechsler Individual Achievement Test (WIAT)	Psychological Corporation	\$239 \$35/25	45 - 60 min.	Mod	5 - 19	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Gray Oral Reading Test (GORT) 3rd Edition	Pro-Ed	\$147 \$34/25	15 - 30 min.	Mod	7 - 18	10 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Slosson Oral Reading Test-Revised (SORT-R)	Slosson Educational Publications	\$32 \$16/50	3 - 5 min.	Easy	4 - Adult	5 min.	Grade/ Age Equivalent	A-level	English	Dyslexia	Indiv	Screen	Yes
Gallestel-Ellis Test of Coding Skills: GE	Montage Press	\$27	15 - 30 min.	Easy	7 - Adult	15	Criterion	A-level	English	Dyslexia	Indiv/Group	Screen	Yes
Test Comprehension	Publisher	Cost	Admin Time	Ease	Age Level	Score Time	Types of Scores	Admin. Qualif *	Lang.	Global or Dyslexia Spec.	Indiv. or Group	Assess or Screen	Min. 1903 Criteria
Nelson Denny Reading Test	Riverside	\$33 \$61/50	30 min	Easy	9th grade/Adult	5 min	Standard	B-level	English	Global	Indiv/Group	Assess	
Woodcock-Johnson-Revised-Tests of Achievement (WJR)	Riverside	\$254 \$44/25	1 hour	Mod	2 - 90	20 min	Standard	B-level	English/Spanish	Global	Indiv	Asses	Yes
Peabody Individual Achievement Test-Revised (PIAT-R)	American Guidance Service	\$280 \$70/50	1 hour	Mod	5 - 18	20 min	Standard	B-level	English	Global	Indiv	Asses	Yes
Kaufman Test of Educational Achievement (K-TEA)	American Guidance Service	\$170 \$35/25	45 min.	Mod	5 - 18	15 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Wechsler Individual Achievement Test (WIAT)	Psychological Corporation	\$239 \$35/25	45 - 60 min.	Mod	5 - 19	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Gates-MacGinitie Silent Reading Tests-Survey F	Riverside	\$81 \$56/35	90 min.	Easy	K - 12	10 min.	Standard	B-level	English	Global	Indiv/Group	Assess	Yes
Gray Oral Reading Test (GORT) 3rd Edition	Pro-Ed	\$147 \$34/25	15 - 30 min.	Mod	7 - 18	10 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Test of Reading Comprehension-3	Pro-Ed	\$139 \$34/50	30 min.	Mod	7 - 18	10 min.	Standard	B-level	English	Global	Indiv/Group	Screen	Yes
Test Math Computation	Publisher	Cost	Admin Time	Ease	Age Level	Score Time	Types of Scores	Admin. Qualif *	Lang.	Global or Dyslexia Spec.	Indiv. or Group	Assess or Screen	Min. 1903 Criteria
Wide Range Achievement Test - III (WRAT - III)	Pro-Ed	\$119 \$29/25	30 min.	Easy	5 - 75	5 min.	Standard	B-level	English	Global	Indiv/Group	Screen	Yes
Woodcock-Johnson Revised Tests of Achievement (WJR)	Riverside	\$254 \$44/25	1 hour	Mod	2 - 90	20 min.	Standard	B-level	English/Spanish	Global	Indiv	Screen	Yes
Kaufman Test of Educational Achievement (K-TEA)	American Guidance Service	\$170 \$35/25	45 min.	Mod	5 - 18	15 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Wechsler Individual Achievement Test (WIAT)	Psychological Corporation	\$239 \$35/25	45 - 60 min.	Mod	5 - 19	20 min.	Standard	B-level	English	Global	Indiv	Screen	Yes

Key Math Revised	American Guidance Service	\$210 \$40/25	35 - 50 min.	Mod	K - 9	15 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Math Applications													
Woodstock-Johnson Test of Achievement (WJR)	Riverside	\$254 \$44/25	1 hour	Mod	2 - 90	20 min.	Standard	B-level	English/ Spanish	Global	Indiv	Assess	Yes
Peabody Individual Achievement Test-Revised (PIAT-R)	American Guidance Service	\$280 \$70/50	1 hour	Mod	5 - 18	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Kaufman Test of Educational Achievement(KTEA)	American Guidance Service	\$170 \$35/25	45 min.	Mod	5 - 18	15 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Wechsler Individual Achievement Test (WIAT)	American Guidance Service	\$239 \$35/25	45 - 60 min.	Mod	5 - 19	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Key Math Revised	Psychological Corporation	\$210 \$40/25	35 - 50 min.	Mod	K - 9	15 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Test Written Expression	Publisher	Cost	Admin Time	Ease	Age Level	Score Time	Types of Scores	Admin. Qualif *	Lang.	Global or Dyslexia Spec.	Indiv or Group	Assess or Screen	Min. 1903 Criteria
Oral and Written Language Scale (OWLS)	American Guidance Service	\$80 \$44/25	20 min.	Easy	5 - 21	20 min.	Standard	B-level	English	Global	Indiv/ Group	Assess	
Woodstock-Johnson Test of Achievement (WJR)	Riverside	\$254 \$44/25	1 hour	Mod	2 - 90	20 min.	Standard	B-level	English/ Spanish	Global	Indiv	Assess	Yes
Test of Written Language (TOWL-3)	American Guidance Service	\$164 \$39/25	90 min.	Mod	7.5 - 18	20 min.	Standard	A-level	English	Global	Indiv/ Group	Assess	
Test of Early Written Language (TEWL- 2)	Riverside	\$154 \$51/10	30 - 45 min.	Mod	3 - 10	15 min.	Standard	B-level	English	Global	Indiv	Assess	
Wechsler Individual Achievement Test (WIAT)	Psychological Corporation	\$239 \$35/25	45 - 60 min.	Mod	5 - 19	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Spelling													
Wide Range Achievement Test - III	Pro-Ed	\$119 \$29/25	30 min.	Easy	5 - 75	5 min.	Standard	B-level	English	Global	Indiv/ Group	Screen	Yes
Peabody Individual Achievement Test-Revised (PIAT-R)	American Guidance Service	\$280 \$70/50	1 hour	Mod	5 - 18	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Woodcock-Johnson Test of Achievement (WJR)	Riverside	\$254 \$44/25	1 hour	Mod	2 - 90	20 min.	Standard	B-level	English/ Spanish	Global	Indiv	Assess	Yes
Kaufman Test of Educational Achievement (K-TEA) Comprehensive	American Guidance Service	\$170 \$35/25	45 min.	Mod	5 - 18	15 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Wechsler Individual Achievement Test (WIAT)	Psychological Corporation	\$239 \$35/25	45 - 60 min.	Mod	2 - 90	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Test of Written Spelling (TOWL - 3)	Pro-Ed	\$74 \$34/50	20 min.	Easy	5 - 18	10 min.	Standard	B-level	English	Global	Indiv/ Group	Screen	Yes
Test Oral Language Receptive	Publisher	Cost	Admin Time	Ease	Age Level	Score Time	Types of Scores	Admin. Qualif *	Lang.	Global or Dyslexia Spec.	Indiv. or Group	Assess or Screen	Min. 1903 Criteria
Peabody Picture Vocabulary Test - 3rd Edition (PPVT-3)	American Guidance Service	\$120 \$23/25	11-12	Easy	2.5 - 90	5 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Test of Language Development (TOLD-2)	Pro-Ed	\$212 \$66/50	30 - 60 min.	Mod	4 - 9	10 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Expressive													
Expressive Vocabulary Test (EVT)	American Guidance Service	\$120 \$23/25	15 min.	Easy	2.5 - 90	5 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Oral and Written Language Scale (OWLS)	American Guidance Service	\$80 \$44/25	20 min.	Mod	5 - 21	20 min.	Standard	B-level	English	Global	Indiv/ Group	Assess	Yes
Test of language Competence (TLCE)	Psychological Corporation	\$266 \$28/25	60 min.	Mod	9 - 19	10 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Clinical Evaluation of Language Functions-III (CELF-3)	Psychological Corporation	\$265 \$23/12	45 - 60 min.	Mod	5 - 16	15 min.	Standard	B-level	English	Global	Indiv	Assess	Yes

Wechsler Individual Achievement Test (WIAT)	Psychological Corporation	\$239 \$35/25	90 min.	Mod	5 - 19	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Detroit Test of Language Skills (DHLA - 3)	Pro-Ed	\$249 \$39/25	90 min.	Mod	6 - 17	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Preschool Language Scale	Psychological Corporation	\$98 \$22/12	20 - 50 min.	Mod	0 - 6	15 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Test of Problem Solving	Lingui Systems	\$58 \$15/20	20 - 25 min.	Mod	6 - 12	10 min.	Standard	A-level	English	Global	Indiv	Screen	Yes
Test Informal Assessment	Publisher	Cost	Admin Time	Ease	Age Level	Score Time	Types of Scores	Admin. Qualif *	Lang.	Global or Dyslexia Spec.	Indiv. or Group	Assess or Screen	Min. 1903 Criteria
Portfolio	N/A						Criterion				Indiv	Screen	
Handwriting	N/A						Criterion				Indiv	Screen	
Sequencing: alphabet, days, weeks, months of year, numbers 1 through 20	N/A						Criterion				Indiv	Screen	
Spontaneous Language Sample	N/A						Criterion				Indiv	Screen	
Spontaneous Writing Sample	N/A						Criterion				Indiv	Screen	
Spontaneous Writing Sample expository and narrative	N/A						Criterion				Indiv	Screen	
Behavior Rating Scales													
Behavior Assessment System for Children (BASC)	American Guidance Service	\$75 \$26/25	10 - 20 min.	Mod	4 - 18	10 min.	Standard	C-level	English/Spanish	Global	Indiv	Assess	
Children's Attention and Adjustment Survey (CAAS)	American Guidance Service	\$116 \$25/15	5 - 10 min.	Easy	5 - 13	5 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Student and Self-Concept Scale	American Guidance Service	\$40 \$25/15	20 - 30 min.	Easy	Grades 3 - 12	5 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Connors' Rating Scales (Revised)	Psychological Corporation	\$135 \$99/ 100	10 min.	Easy	3 - 17	5 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Piers Harris Self-Concept Scale	WPS	\$115 \$17/25	10 min.	Easy	Grades 4 - 12	5 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Multidimensional Self-Concept Scale	Pro-Ed	\$64 \$29/50	20 min.	Easy	Grades 5 - 12	5 min.	Standard	B-level	English	Global	Group	Screen	Yes
ADD-H-0 Comp Teacher's Rating Scales	Hawthorne	\$64 \$50/ 100	10 - 15 min.	Easy	Grades K-8th	5 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Test Screening	Publisher	Cost	Admin Time	Ease	Age Level	Score Time	Types of Scores	Admin Qualif *	Lang.	Global or Dyslexia Spec.	Indiv or Group	Assess or Screen	Min. 1903 Criteria
Degrees of Reading Power	Touchstone	\$75/30	45 - 50 min.	Mod	Grades 1 - 3	N/A	Criterion	A-level	English	Global	Group	Screen	Yes
Gallestel Ellis Test of Coding Skills	Montage Press	\$27	15 - 30 min.	Easy	7- Adult	15	Criterion	A-level	English	Dyslexia	Indiv/Group	Screen	Yes
Test of Phonological Awareness	Pro-Ed	\$129 \$35/25	20 min.	Easy	K-2	5 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Slingerland Screening Tests	Riverside	\$71 \$16/12	30 min.	Easy	Grades 1 - 6	10 min.	Criterion	A-level	English	Dyslexia	Indiv/Group	Screen	Yes
The Phonological Awareness Test	Lingui System		40 min.	Easy	5 - 9	10 min.	Standard/Criterion	A-level	English	Dyslexia	Indiv	Screen	Yes
Test of Awareness of Language Segments	Pro-Ed	\$98 \$24/50	15 min.	Easy	4 - 7	5 min.	Criterion	B-level	English	Dyslexia	Indiv	Screen	Yes
Lindamood Auditory Conceptualization Test	Pro-Ed	\$98 \$27/50	15 - 30 min.	Easy	N/A	5	Criterion	A-level	English	Dyslexia	Indiv	Screen	Yes
Dyslexia Screening Instrument (Checklist)	Psychological Corporation	\$58 \$11/25	20 min.	Easy	6 - 21	5	Criterion	A-level	English	Dyslexia	Indiv	Screen	Yes
Woodcock Diagnostic Reading Battery	Riverside	\$247 \$34/25	50 - 60 min.	Mod	4 - 90	20	Standard	B-level	English	Global	Indiv	Assess	Yes
Test of Early Reading Ability	Riverside	\$183 \$39/25	15 - 30 min	Mod	3-10	5	Standard	B-level	English	Global	Indiv	Assess	Yes

Decoding Skills Test			30 min.	Easy	N/A	15 min.	Standard /Criterion	A-level	English	Global	Indiv	Screen	Yes
Observation Survey of Early Literacy Achievement	Heireman	\$25	15 min.	Easy	K-3	5 min.	Criterion	A-level	English	Global	Indiv	Screen	Yes
Developmental Reading Assessment (DRA)	Celebration Press	\$85	25 min.	Easy	K-3	5 min.	Criterion	A-level	English	Global	Indiv	Assess/Screen	Yes
Yopp Singer Test of Phoneme Segmentation	Reading Research Quarterly	Free	7 min.	Easy	Pre K-2	5	Criterion	A-level	English	Global	Indiv	Screen	Yes

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), 17:392.1 and 392.3.

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

§1307. Multisensory Structured Language Programs for Students with Dyslexia or "At Risk" Readers—Appendix B

Name or Program	Target Population	Student Materials	Teacher Materials	Cost	Training Needed
Alphabetic Phonics	Grades 2 - adult	Student Book Alphabet Exercises & Rev Progress Measurements Supplementary Supplies Let's Read Books	Teacher's Guide Alphabet Acariases & Rev Progress Measurements	\$115/Class \$36/child	150 instructional hours 700 clinical teach hours \$1200/teacher course fee Fees based on desired curriculum Call for pricing
Intermediate Essential Language Structures Program (785) 271-6668	Grades 5 - 12	Intermediate Practice Cards Intermediate Wordbook Intermediate Student Assignment Sheets Writing Skills I & II Syllable Power Book I Syllable Power Book II	Teachers Manual GE Test of Coding Skills	\$121	10 days @ \$800/day
Language! (850) 934-0554	Grades 1- 12	J & J Language Readers 9 student books Vocabulary cards Sounds & Letters	Instructor's Manual	\$360	4 days @ \$1500/day
Language Circle 1-800-450-0343 Project Read Strand 2 Linguistics Project Read-Strand 3 Comprehension Project Read Strand 4 Written Expression	Grades 1- 4 Grades 4 - 8 Grades 4 - 8 Grades 1- adult	Decidable Text Controlled Readers Affix Card Pack Controlled readers/stories Narrative & expository text Sentence Frames	Phonology Guide Lesson Plan Books Phonology Kit Affix Guide Linguistics Guide Story Form Guide Report Form Guide Framing Your Thoughts Guide	\$350 \$115 \$115 \$125	4 days w/certified consultant @ \$1300/day 2 days @ \$1300 a day 4 days w/certified consultant @ \$1300/day 3 days @ \$1300/day
Slingerland (206) 453-1190	Grades 1 - 12	Student Spelling Book	Manual for Manuscript Manual for Cursive Teacher's Word Lists Phonogram Chart Alphabet Wall Cards	\$200	2 to 4 week sessions @ 4688/teacher
Wilson Language Training 1 (800) 899-8454	Grades 2 - 12	Student Readers Grades 1- 12 Student Workbooks Stories for Students	Instructor's Manual Dictation Books Rules Notebook Sound (Phoneme) Cards Word Cards Syllable Cards Group Sound Cards Videos	Standard \$229 Delux \$439	2-4 days @ \$1000/day

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), 17:392.1 and 392.3.

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

§1309. Characteristics Associated with Dyslexia and Related Disorders—Appendix C

- A. Lack of or limited phonological awareness.
- B. Common error patterns in reading and learning behaviors, such as:

1. reading decoding inaccuracies in single words and nonsense words (e.g., detached syllables);

2. slow reading rate;
3. omissions of, or substitutions of, small words (e.g., a/the, of/for/from, three/there);
4. reduced awareness of patterns in words;
5. difficulties generalizing word and language patterns.

C. Language (oral or written, receptive or expressive) is simplistic or poor in relation to other abilities.

D. Errors in spontaneous spelling.

E. Spontaneous written language is very simple or poor in comparison to spoken language.

F. Spontaneous written language shows poor organization and mechanics.

G. Additional factors which may contribute to the above characteristics:

1. family history of similar problems;
2. late in learning to talk;
3. receptive language skills are typically better than expressive;
4. difficulty in finding the "right" word when speaking;
5. difficulty in processing both oral and written language. May also affect foreign language acquisition;
6. difficulty in learning to write the alphabet correctly in sequence;
7. cramped or illegible handwriting;
8. late in establishing preferred hand for writing;
9. late in learning right and left and other directionality components such as up-down, front-behind, over-under, east-west and others;
10. problems in learning the concept of time and temporal sequencing: e.g., yesterday, tomorrow, days of the week, and months of the year;
11. reversal of letters or sequences of letters that are not developmentally appropriate;
12. difficulty in learning to decode and comprehend age appropriate written information;
13. slow reading speed;
14. difficulty in learning sound-letter correspondence;
15. difficulty in learning and remembering printed words;
16. repeated erratic spelling errors;
17. error proneness in reading;
18. word substitutions in oral reading;
19. difficulty identifying, blending, segmenting and manipulating phonemes;
20. losing ground on achievement or intelligence tests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), 17:392.1 and 392.3.

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

Interested persons may submit written comments until 4:30 p.m. December 9, 1999 to Board Recorder, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064, or fax to 225-342-5843.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 1903—Education of Dyslexic Students

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

The state and local implementation costs of this rule are approximately \$2,540,087 in Fiscal Year 1999-2000. Currently, most of the cost associated with the implementation for this program is the responsibility of the local school. \$500,000 will be funded through 8(g) in Fiscal Year 1999-2000 and all other costs will be funded through the local funds. These costs include three levels of training and associated costs. Level one

training of approximately 432 teacher and administrator trainers is required because of federal and state laws regarding the education of handicapped (dyslexic) students within regular education. This six day training regarding program implementation and procedures for educating the dyslexic student will cost approximately \$678,237. This funding would allow each district to send four classroom teachers and two administrators to be trained as the "in-house trainers". These turn-key trainers would be able to train all necessary faculty within their own parish at little cost to the district, once their own training is completed. The only cost the system would be for the hiring of substitutes to cover the classrooms while teachers are in training. Level two training would include a one day follow-up in North Louisiana and one in South Louisiana. This would be a follow-up or continuation of the initial training to provide additional program concerns and implementation issues. This training for 432 participants would cost approximately \$34,450. Level three consists of a total of five days training to be conducted at each local district at a cost to local districts of \$1,720,000. Approximately \$107,400 in administrative costs will be paid through 8(g), as well as the remaining \$392,600 which will provide training to the LEA's. This revision of the Bulletin combines R.S. 17:7(11) and R.S. 17:392.1-392.2 into one document. The revision also clarified the language in an attempt to make the new document easier to use.

Note: The option presented for delivery of training in this fiscal statement represents one way of complying with federal and state requirements for services for dyslexic students within regular education. This option would allow local parishes to deliver training to teachers within the system based on their own individual choices of those multisensory, structured, language programs that are in compliance with the law. Other statewide and regional training options are being considered by the Department of Education at this time. All efforts will be considered in order to provide optimal training at the lowest cost possible.

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

There will be no effect on revenue collections for state or local government units.

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

With continuation of this rule and appropriate funding, all dyslexic students in regular education will be provided with an appropriate multi-sensory regular education program, in accordance with federal civil rights requirements. These students will become more successful citizens capable of contributing to the economies in districts throughout the state. These students will receive instruction appropriate to their needs. Local school systems will become more successful in meeting the needs of all students within their jurisdiction. In-service will be provided and documented by the LEA's. Local systems will be required to document the process for the identification and treatment of these students. Forms and documentation must be maintained in the student's cumulative folder.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Effective professional development will improve the teaching skills of all teachers and thereby result in a better education for all students learning to read, write, and spell. In addition, students who may otherwise have not graduated from high school should be able to obtain a diploma with the specialized instruction received in this program. This should also result in a decrease in the number of students who are retained or who may drop-out of school due to overwhelming frustration.

Marlyn Langley
Deputy Superintendent
9910#071

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students
(TOPS)—Eligibility (LAC 28:IV.703 and 803)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the provisions of the Tuition Opportunity Program for Students (TOPS). This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., November 20, 1999, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Tuition Opportunity Program for Students (TOPS)—Eligibility

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

The implementation cost associated with publishing these rule revisions in the *Louisiana Register* as emergency, notice and rule is approximately \$100. Costs for funding additional TOPS awards are anticipated to increase as a result of this rule change, by \$413,120 in FY 1999-2000, \$745,608 in FY 2000-2001, and \$1,036,953 in FY 2001-2002.

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

No impact on revenue collections is anticipated to result from this rule change.

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

TOPS applicants who have taken high school courses that have been approved as substitutes for the core curriculum course requirements for TOPS may use those courses to establish eligibility for an award.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this rule.

Jack L. Guinn
Executive Director
9910#069

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students
(TOPS)—Scholarship and Grant Programs
(LAC 28:IV.103, 301, 701, 703, 705,
803, 805, 903, 907, 1701 and 2101)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the provisions of the Tuition Opportunity Program for Students (TOPS). This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., November 20, 1999, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Tuition Opportunity Program for Students (TOPS)—Scholarship and Grant Programs

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

Estimated costs to implement revisions to the program in FY 1999-2000 will be reduced by \$780,000, reduced by \$232,260 in FY 2000-2001, and increased by \$262,207 in FY 2001-2002. This includes an estimated \$500 for publication in the *Louisiana Register*, additional mailing expense of \$2700 and total decreased awards of \$783,200 during FY 1999-2000; mailing expense of \$2700 and total decreased awards of \$234,960 during FY 2000-2001; and mailing expenses and total increased awards of \$259,507 during FY 2001-02.

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

No impact on revenue collections is anticipated to result from this action.

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

This rule establishes procedures to promulgate amended provisions of the Tuition Opportunity Program for Students (TOPS) included in Acts 435, 805, and 1302 of the 1999 Regular Legislative Session. As a result of these Acts additional mailings will occur, certain dependents of military personnel will be eligible to receive awards, and graduates of certain high schools will be ineligible to receive awards.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this change.

Jack L. Guinn
Executive Director
9910#068

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Tuition Opportunity Program for Students
(TOPS)—Teacher Award (LAC 28:IV.901 and 911)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the provisions of the Tuition Opportunity Program for Students (TOPS). This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., November 20, 1999, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

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

**RULE TITLE: Tuition Opportunity Program for
Students (TOPS)—Teacher Award**

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

The implementation cost associated with publishing these technical rule revisions in the *Louisiana Register* as emergency, notice and rule is approximately \$100. Costs for Funding for TOPS—Teacher awards will not increase as a result of this rule change.

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

No impact on revenue collections is anticipated to result from this rule change.

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

TOPS—Teacher applicants who teach in a school located in an economically disadvantaged region as defined by the U.S. Department of Education, rather than the Louisiana Board of

Elementary and Secondary Education (BESE), will discharge the service obligation of the award on a basis of one year of teaching to fulfill two years of funding.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this rule.

Jack L. Guinn
Executive Director
9910#067

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Chemical Accident Prevention (AQ196)
(LAC 33:III.5901)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality regulations, LAC 33:III.5901 (Log #AQ196).

Act 839 of the 1999 Regular Session enacted R.S. 30:2063(K), which exempts storers of liquefied petroleum gas from regulation by the department for purposes of the chemical accident prevention program. This rule will exempt from the chemical accident prevention program, storers of liquefied petroleum gas whose facilities are permitted through or inspected by the Louisiana Liquefied Petroleum Gas Commission of the Department of Public Safety and Corrections, and storers of liquefied petroleum gas who use such gas as a fuel in an agricultural process. The basis and rationale for this rule are to reflect this exemption made by Act 839 of the 1999 Regular Session of the Louisiana Legislature.

This proposed rule meets an exception listed in R.S. 30:2019 (D)(3) and R.S. 49:953 (G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

**Chapter 59. Chemical Accident Prevention and
Minimization of Consequences**

Subchapter A. General Provisions

**§5901. Incorporation by Reference of Federal
Regulations**

* * *

[See Prior Text in A-C.5]

6. In 40 CFR 68.130 the list of substances is modified to read, "Storers of liquefied petroleum gas whose facilities are permitted through or inspected by the Louisiana Liquefied Petroleum Gas Commission of the Department of Public Safety and Corrections or storers of liquefied petroleum gas who use such gas as a fuel in an agricultural process are not subject to the provisions of this Chapter."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

A public hearing will be held on October 25, 1999, at 1:30 p.m. in the Trotter Building, Second Floor, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ196. Such comments must be received no later than November 1, 1999, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ196.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Chemical Accident Prevention**

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

This rule provides for deregulation of Liquefied Petroleum Gas (LPG) facilities pursuant to Act 829 of the 1999 Regular Session and will reduce the current workload and costs of the Chemical Accident Prevention Program (CAPP) as they specifically relate to this industry. However, on June 21, 1999, the overall program entered a new work phase when risk management plans for regulated facilities were submitted. Review of plans and follow-up facility audits will dramatically increase the program's workload. Original department estimates indicated that additional staff would be needed if all possible sources including the LPG industry submitted risk management plans. Without the LPG facilities, the staffing and resources dedicated to this program will more closely match the anticipated workload. Environmental Trust Fund revenue from

other sources will be used to supplant the revenue formerly collected from the LPG facilities so as to maintain the overall level of funding for this program.

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

As a result of Act 839 of the 1999 Regular Legislative Session, the Louisiana Chemical Accident Prevention Program will lose \$175,500 per year of its revenue.

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

Liquefied Petroleum Gas permitted facilities that fall under this rule will no longer pay an estimated \$175,500 in annual maintenance fees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no expected effect on competition and employment.

James H. Brent, Ph.D.
Assistant Secretary
9910#018

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Firefighters' Pension and Relief Fund
City of New Orleans and Vicinity**

Definitions (LAC 58:V.1501)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("Fund"), pursuant to R.S. 11:3363(F), proposes to amend and restate LAC 58:V.1501, in accordance with the Administrative Procedure Act. The amended rule notifies the public of the change in definition of Retired Member to exclude a DROP participant who is not yet eligible to receive a distribution from his DROP account. The proposed amendments and additions have no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

Title 58

RETIREMENT

**Part V. Firefighters' Pension and Relief Fund for the
City of New Orleans and Vicinity**

**Chapter 15. Deferred Retirement Option Plan
§1501. Definitions**

Retired Member—a former Member receiving retirement benefits from the Fund, but not including a DROP participant who is not yet eligible to receive a distribution from his DROP Account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 22:703 (August 1996), LR 25:

All currently stated Rules of the board, unless amended herein, shall remain in full force and effect.

Any interested person may submit written comments regarding the content of this proposed rule to Richard J.

Hampton Jr., Secretary-Treasurer of the Board of Trustees, 329 Dorgenois Street, New Orleans, Louisiana, before 5:00 p.m., November 19, 1999.

Richard Hampton
Secretary-Treasurer

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Definitions**

- 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.
- 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)
There are no estimated costs or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Richard Hampton
Secretary-Treasurer
9910#057

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Firefighters' Pension and Relief Fund
City of New Orleans and Vicinity**

Eligibility (LAC 58:V.1503)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("Fund"), pursuant to R.S. 11:3363(F), proposes to amend and restate LAC 58:V.1503, in accordance with the Administrative Procedure Act. The amended rule notifies the public of the board's decision to extend the length of time a member may participate in the DROP from three to five years, as provided by Act No. 1377 of the 1999 Regular Session. The proposed amendments and additions have no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

**Title 58
RETIREMENT**

**Part V. Firefighters' Pension and Relief Fund for the
City of New Orleans and Vicinity
Chapter 15. Deferred Retirement Option Plan
§1503. Eligibility**

A. - A.4. ...

5. By submitting a DROP enrollment application, the member shall automatically elect to participate in the DROP for the full five-year period. Nonetheless, the member may exit the DROP at any time by filing with the board an application to withdraw from the DROP, effective upon the board's approval.

B. A member may participate in the DROP only once, except as otherwise provided in §1505(T).

C. The member's application to enter the DROP shall request retirement on the first day of a calendar month and shall specify a requested effective date no earlier than the first day of the second calendar month following the calendar month in which the DROP enrollment application is submitted. The service retirement application and the DROP enrollment application shall not be submitted to the board for consideration and approval until such time as all required and requested data, documentation, and information have been submitted to the board in order to complete both the service retirement and the DROP enrollment applications. Such participation shall be limited to a maximum period of five years - i.e. 60 calendar months - as to each individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 22:703 (August 1996), amended by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 25:

All currently stated Rules of the board, unless amended herein, shall remain in full force and effect.

Any interested person may submit written comments regarding the content of this proposed rule to Richard J. Hampton Jr., Secretary-Treasurer of the Board of Trustees, 329 Dorgenois Street, New Orleans, Louisiana, before 5:00 p.m., November 19, 1999.

Richard Hampton
Secretary-Treasurer

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Eligibility**

- 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.
- 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)
Economic benefits to affected persons include the ability to participate in the Deferred Retirement Option Plan for an additional two years while remaining employed with the fire department. There are no estimated costs to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Richard Hampton
Secretary-Treasurer
9910#056

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Firefighters' Pension and Relief Fund City of New Orleans and Vicinity

General Rules for Participation
(LAC 58:V.1701 and 1703)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("Fund"), pursuant to R.S. 11:3363(F), proposes to add chapter LAC 58:V.17, Sections 1701 and 1703 in accordance with the Administrative Procedure Act. The proposed chapter will notify the public that the board will offer an optional form of distribution of a member's retirement benefit as an initial partial lump sum benefit with a reduced monthly annuity payable for life. This rule implements Act No. 1377 of the 1999 Regular Session. The proposed addition has no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

Title 58

RETIREMENT

Part V. Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity

Chapter 17. Partial Lump-Sum Option Payment

§1701. General Rules for Participation

A. If a member has not participated in the DROP, upon application for retirement, he may elect to receive the actuarial equivalent of his retirement benefit as a reduced monthly benefit, payable for life, plus an initial lump-sum benefit. The amount of the initial lump-sum benefit, as determined by the member, shall not exceed an amount equal to the member's normal retirement benefit times sixty.

B. The member's monthly retirement will be actuarially reduced based on the lump-sum amount withdrawn and the member's age at retirement. The partial lump-sum benefit, together with the member's reduced normal retirement benefit, must be actuarially equivalent to the member's normal retirement benefit as set forth in R.S. 11:3384.

C. The cost of living adjustment (COLA) granted by the Board of Trustees to retirees who elect to receive a reduced retirement benefit and a partial lump-sum benefit shall be based only on the reduced retirement benefit and shall not be based on the partial lump-sum benefit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 25:

§1703. Distributions from Partial Lump-Sum Option Payment

A. Distributions from the partial lump-sum option payment (PLOP) elected by the member are not eligible for rollover as is the case with DROP accounts. However, the amount of the PLOP may be left with the Fund and subject to the rules applicable to distribution of DROP accounts.

1. As detailed in those rules applicable to DROP accounts, allowable distributions vary depending upon

whether the member retires before, during or after the calendar in which the member reaches age 55.

B. A member who retires before the calendar year in which the member reaches age 55 may receive distribution of his PLOP at retirement and avoid incurrence of the 10% early distribution penalty. In the event the PLOP remains on deposit with the Fund, all distribution rules applicable to DROP accounts apply, including the 10% early distribution penalty and recapture penalty, if applicable.

C. A member who retires during or after the calendar year in which the member reaches age 55 may receive distribution of his PLOP account in accordance with rules applicable to DROP accounts, will not be subject to the 10% early distribution penalty or recapture penalty, but will be subject to those DROP rules requiring mandatory distributions of the account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 25:

All currently stated Rules of the board, unless amended herein, shall remain in full force and effect.

Any interested person may submit written comments regarding the content of this proposed rule to Richard J. Hampton Jr., Secretary-Treasurer of the Board of Trustees, 329 Dorgenois Street, New Orleans, Louisiana, before 5:00 p.m., November 19, 1999.

Richard Hampton
Secretary-Treasurer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: General Rules for Participation

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

There is no implementation costs or savings to State or local governmental units.

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)

There are no estimated costs to non-governmental groups. Directly affected persons receive an economic benefit by electing the optional form of benefit and accelerating receipt of their retirement benefit up to sixty months.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Richard Hampton
Secretary-Treasurer
9910#059

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Firefighters' Pension and Relief Fund City of New Orleans and Vicinity

Participation in and Withdrawal from DROP (LAC 58:V.1505)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("Fund"), pursuant to R.S. 11:3363(F), proposes to amend and restate LAC 58:V.1505, in accordance with the Administrative Procedure Act. The amended rule notifies the public that members who are currently participating in the DROP may, prior to December 31, 1999, elect to extend or terminate their participation in the DROP. Further, the proposed rule provides that the Fund will assess an administrative fee of up to 2 percent on any member's DROP account that is not distributed to the member after the member's participation in the DROP terminates. The proposed amended rule also provides that such a DROP account will earn interest after the member's DROP participation ends. The proposed amended rule further extends the period of DROP participation from three to five years, and provides several optional distribution forms for a member's DROP benefit. These rules implement Act No. 1377 of the 1999 Regular Session. The proposed amendments and additions have no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

Title 58

RETIREMENT

Part V. Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity

Chapter 15. Deferred Retirement Option Plan §1505. Participation in and Withdrawal from the DROP

A. - F. ...

G. A member's DROP Account shall not be charged, debited, or assessed any fees, charges or similar expenses of any kind for any purpose, nor shall the account be subject to diminution based on valuation or earnings losses of any kind during the member's participation in the DROP. In addition, no such fees, charges, losses, or other similar charges shall be charged, debited, or assessed against the member indirectly, during the member's participation in the DROP.

H. A member's DROP account shall not earn or accrue any interest, gains, or earnings of any kind, nor shall the member accrue such earnings indirectly, during his DROP participation. Upon completion of participation in the DROP, and regardless of whether the member terminates employment with the fire department, the DROP account will earn interest each year based on a five-year rolling average of the composite rate of return of the pension Fund, minus an administrative fee of no more than 2 percent, to be deducted from the member's DROP account each year.

I. ...

J. The duration of participation in the DROP shall not exceed a period of five consecutive years - i.e., 60 consecutive calendar months measured from the effective date of commencement of participation in the DROP.

K. A member may terminate his participation in the DROP to be effective as of the last day of any calendar

month prior to the end of the maximum five-year period by filing with the Board of Trustees of the Fund a DROP withdrawal application, providing the DROP withdrawal application is submitted to the board no later than the last day of the previous calendar month. Nevertheless, in the event the board determines, based on all facts and circumstances at issue, that justice so requires and equity so warrants, the board shall be fully authorized, entirely in its discretion, to approve termination of a firefighter's participation in the DROP effective upon a date earlier or later than would otherwise apply.

L. If a member participating in the DROP does not terminate his covered employment upon completion of five years of participation in the DROP or upon the effective date of his approved withdrawal prior thereto, payment of the member's service retirement benefit into the member's DROP account shall automatically cease. In the event the member has failed to notify the board of his intent to continue in his covered employment after the effective date of his DROP completion, the board shall notify the member, in writing, at his last known address, that the Fund has ceased monthly payments into his DROP account.

M. If the member should die during his period of participation in the DROP, a lump sum payment of the balance in the member's DROP account shall be paid to his designated beneficiary, or if none, to his estate upon written application to the Fund office. Any additional survivor and/or death benefits payable to the member's beneficiary or beneficiaries, in accordance with the member's individual retirement election, all applicable statutory provisions, and the board's rules and regulations pertaining to death benefits, shall also be subject to distribution.

N. ...

O. Upon termination of covered employment, distribution of the member's DROP account may be made as a one-time lump sum payment, in a series of periodic or non-periodic payments, or as a partial lump sum payment with periodic distributions of the balance, all as allowed herein. Allowable distributions vary depending upon whether the member retires before, during or after the calendar year in which the member reaches age 55. Direct rollovers are subject to the Fund's current rules and regulations and IRS guidelines.

1. Members Retiring Before the Calendar Year in which the Member Reaches Age 55

a. A member who does not rollover his DROP account may withdraw 100 percent of his account balance at any time after termination of covered employment upon written notice to the Fund Office. For a member who retired before the calendar year in which the member reached age 55, and who is at the time of the distribution under age 59½, the distribution of the member's taxable portion of his account balance will be subject to an early distribution penalty of the IRS equal to 10 percent of the taxable distribution.

b. A member may elect to receive his DROP account balance (including both taxable and non-taxable portions), as a series of equal periodic (at least annual) payments over the life (or life expectancy) of the member or the joint lives (or joint life expectancies) of the member and his designated beneficiary. Such periodic distributions over life expectancy are not subject to the 10 percent early

distribution penalty; however, the distributions are subject to normal taxation on the taxable portion.

i. Upon the member's attainment of age 59½, the equal periodic distributions may be terminated, and the member may elect to receive any form of distribution without incurrance of the 10 percent early distribution penalty until the member reaches age 70½, at which time mandatory distributions over the member's and/or beneficiary's life expectancy must commence, as provided in paragraph P herein.

c. A member may elect to receive 100 percent of the non-taxable portion of his DROP account in one lump sum payment, and the balance of the DROP account as a series of equal periodic payments (at least annual) over the life (or life expectancy) of the member or the joint lives (or joint life expectancies) of the member and his designated beneficiary. No 10 percent penalty is assessed on this type of distribution.

i. Upon the member's attainment of age 59½, the equal periodic distributions may be terminated, and the member may elect to receive any form of distribution without incurrance of the 10 percent early distribution penalty until the member reaches age 70½, at which time mandatory distributions over the member's and/or beneficiary's life expectancy must commence, as provided in paragraph P herein.

d. A member may elect to receive his distribution in a manner other than a series of equal periodic payments based upon his and/or his beneficiary's life expectancy; however, if the member is under age 59½ at the time of such a non-periodic distribution of a taxable amount of the DROP account, any such distribution will be subject to a 10 percent early distribution penalty, as well as a recapture penalty. The recapture penalty provides for a 10 percent additional tax on all taxable distributions received by the member since retirement, inclusive of monthly retirement benefits and any prior distributions from the member's DROP account.

i. Non-periodic distributions may be made no more than four times in a calendar year, and then only on the first day of each fiscal quarter (March 1, June 1, September 1 and December 1). All non-periodic distributions must be a minimum of \$1,000. For any distribution, the member must provide the Fund Office with written notice no later than thirty (30) days prior to the first business day of the fiscal quarter.

2. Members Retiring During or After the Calendar Year in Which the Member Reaches Age 55

a. Any member terminating covered employment during or after the calendar year in which the member reaches age 55 may elect any of the options available under Paragraph O(1) above without being subject to the 10 percent early distribution penalty or recapture penalty. All other rules regarding non-periodic payments apply. In order for the Fund to comply with federal law regarding the mandatory commencement of retirement benefits, distributions from a member's DROP account must commence no later than April 1 of the calendar year following the calendar year in which the member reaches age 70½. These minimum distributions are accomplished by a monthly DROP distribution which is calculated to distribute the entire balance of a member's DROP account over a period not extending beyond the life expectancy of

the member or the joint life expectancy of the member and his designated beneficiary. Distributions above those which are mandatory are allowable, subject to the Fund's current rules.

i. Members terminating covered employment during or after the calendar year in which the member reaches age 55, who are now over age 70½, are eligible to receive distribution of all or any portion of the DROP account exceeding the mandatory distributions, subject to Fund's current rules.

P. Members and their beneficiaries may defer receipt of a distribution from the DROP account indefinitely, subject to the Internal Revenue Service's mandatory distribution rules.

Q. Upon termination of covered employment, the member may file an application with the board requesting distribution of his DROP Account on the first day of any calendar month following the calendar month of termination. Provided, however, that the requested distribution date shall be no earlier than the second calendar month following the calendar month of termination.

R. - S. ...

T. The member shall not be permitted to change, revoke or rescind the retirement benefit distribution option selected and/or the beneficiary or beneficiaries he designated upon entering into the DROP regarding his service retirement benefit nor shall any such change be permitted at the time the DROP account is distributed. However, a member who is participating or has participated in the three-year DROP and has continued in active employment with the fire department, may elect, on or before December 31, 1999, either to extend his participation in the DROP for the remainder of the five-year period beginning on the date he entered the DROP, or to revoke his participation in the DROP. In the event the member elects to extend his participation in the DROP, any period of time he has been out of the three-year DROP will be included in calculating the five-year DROP period. In the event the member elects to revoke his three-year DROP participation, the member's entire DROP account, including any interest earned, will be returned to the Fund, and the member will be placed in the same position as if he had never elected to participate in the DROP. The member will be considered to have been an active employee in the system, and all creditable service and compensation earned during the period of the revoked DROP participation will be credited toward the member's new benefit calculation. If the member chose any option other than the single life annuity when he originally entered the DROP, his spouse must consent to the revocation and any subsequent election, other than a joint and survivor annuity option. However, no action by the member nor decision by the Board may circumvent a previously approved QDRO.

U. If the member does not terminate his covered employment upon completion of the maximum five-year participation period or upon such earlier date as the member has specified for withdrawal:

1. monthly service retirement benefit payments into the DROP account shall cease; and
2. the member shall resume active membership in the system; and
3. the member shall commence accrual of additional creditable service under the system, and

4. the member's DROP account will begin to earn interest each year based on a five-year rolling average of the composite rate of return of the pension Fund, minus an administrative fee of no more than 2 percent, which will be deducted from the member's DROP account each year. The interest rate will be determined by the Fund actuary at the end of each calendar year, but will be effective beginning the subsequent fiscal year (July 1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363 and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 22:703 (August 1996), amended LR 23:1145 (September 1997), amended LR 25:

All currently stated Rules of the board, unless amended herein, shall remain in full force and effect.

Any interested person may submit written comments regarding the content of this proposed rule to Richard J. Hampton Jr., Secretary-Treasurer of the Board of Trustees, 329 Dorgenois Street, New Orleans, Louisiana, before 5:00 p.m., November 19, 1999.

Richard Hampton
Secretary-Treasurer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Participation in and Withdrawal from DROP

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.

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

There is 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)

Economic benefits to directly affected persons include the ability to participate in the Deferred Retirement Option Plan for an additional two years while remaining employed with the fire department. Participants may also receive a rate of return on their Deferred Retirement Option Plan accounts equal to the five-year rolling average of the composite rate of return of the Fund, with an administrative fee of up to two percent.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Richard Hampton
Secretary-Treasurer
9910#055

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Firefighters' Pension and Relief Fund City of New Orleans and Vicinity

Post-DROP Accruals and Retirement Benefits (LAC 58:V.1507)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("Fund"), pursuant to R.S. 11:3363(f), proposes to amend and restate LAC 58:V.1507, in accordance with the Administrative Procedure Act. The amended rule notifies the public of the board's decision to allow members to retain their DROP accounts with the Fund in excess of one year, and to withdraw amounts not less than \$1,000 from their DROP accounts on a periodic or non-periodic basis. This rule implements Act No. 1377 of the 1999 Regular Session. The proposed amendments and additions have no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

Title 58 RETIREMENT

Part V. Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity Chapter 15. Deferred Retirement Option Plan §1507. Post-DROP Accruals and Retirement Benefits

A. - D.1. ...

2. The Fund shall distribute to the member, upon his written application to the Fund office, a lump sum payment in an amount specified by the member. Provided, however, that the member may not elect to withdraw an amount less than \$1,000, or more than the balance in his DROP account at the time the application is filed with the Board of Trustees.

3. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363 and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 22:703 (August 1996), amended LR 25:

All currently stated Rules of the board, unless amended herein, shall remain in full force and effect.

Any interested person may submit written comments regarding the content of this proposed rule to Richard J. Hampton Jr., Secretary-Treasurer of the Board of Trustees, 329 Dorgenois Street, New Orleans, Louisiana, before 5:00 p.m., November 19, 1999.

Richard Hampton
Secretary-Treasurer

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

**RULE TITLE: Post-DROP Accruals and Retirement
Benefits**

- 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.
- 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)
There are no estimated costs or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Richard Hampton
Secretary-Treasurer
9910#054

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Firefighters' Pension and Relief Fund
City of New Orleans and Vicinity**

Sick and Annual Leave (LAC 58:V.1305)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("Fund"), pursuant to R.S. 11:3363(F), proposes to add LAC 58:V.1305, in accordance with the Administrative Procedure Act. The new rule notifies the public of the board's intent to recognize a member's sick and annual leave for purposes of obtaining additional pension credit with the Fund. The proposed amendments and additions have no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

Title 58

RETIREMENT

**Part V. Firefighters' Pension and Relief Fund for the
City of New Orleans and Vicinity**

Chapter 13. Service Credit

§1305. Sick and Annual Leave

A member may elect to utilize any sick and annual leave that he has accrued for purposes of obtaining additional pension credits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363 and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 25:

All currently stated Rules of the board, unless amended herein, shall remain in full force and effect.

Any interested person may submit written comments regarding the content of this proposed rule to Richard J. Hampton Jr., Secretary-Treasurer of the Board of Trustees, 329 Dorgenois Street, New Orleans, Louisiana, before 5:00 p.m., November 19, 1999.

Richard Hampton
Secretary-Treasurer

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

RULE TITLE: Sick and Annual Leave

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
If participants utilize their sick and annual leave to obtain additional pension credit, there may be a yet to be determined actuarial cost borne by the City of New Orleans. However, this cost would be offset by elimination of the City's terminal leave liabilities. Determination of an estimated number of participants who may exercise this right cannot be made at this time.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is 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)
Participants would have the option to either be paid for accumulated sick and/or annual leave upon retirement, or apply such leave towards retirement credit.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Richard Hampton
Secretary-Treasurer
9910#058

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Firefighters' Pension and Relief Fund
City of New Orleans and Vicinity**

Trustees' Procedures Applicable to Payments
to DROP Accounts (LAC 58:V.1509)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("Fund"), pursuant to R.S. 11:3363(f), proposes to amend and restate LAC 58:V.1509, in accordance with the Administrative Procedure Act. The amended rule notifies the public of the board's decision to pay interest and charge an administrative fee to a member's DROP account if he elects to leave his DROP account with the Fund upon completion of his DROP participation. This rule implements Act No. 1377 of the 1999 Regular Session. The proposed amendments and additions have no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

**Title 58
RETIREMENT**

**Part V. Firefighters' Pension and Relief Fund for the
City of New Orleans and Vicinity**

Chapter 15. Deferred Retirement Option Plan

**§1509. Trustees' Procedures Applicable to Payments to
DROP Accounts**

A. ...

B. The board shall maintain a detailed accounting of each individual DROP account on behalf of each member currently participating in the DROP. Each month that a payment is due on behalf of the member, the Board shall show a credit to the member's account and shall maintain a current balance showing the total credit to each member's account. At such time as the balance maintained in an individual member's DROP account shall exceed \$95,000, the board shall make all subsequent monthly payments directly to a separate Fund bank account to be known as the excess DROP account to be established at a bank other than the Fund's then current custodian bank in order to preserve full FDIC pass-through insurance for all participating members. An accounting of all such deposits exceeding \$95,000 per member and the balance to the credit of each such individual DROP participant in the separate excess DROP account shall be maintained. The sum of the participant's balances in both banks, plus any accrued earnings, less any applicable administrative fee, shall be the total to be distributed to the Participant at such time as a distribution is due.

C. - F. ...

G. On an annual basis, or more frequently should the board so determine, all earnings accrued in the excess DROP account shall be transferred from the excess DROP account to the Fund's general bank account, to be invested or utilized as a general asset of the Fund. However, an accounting of all interest earned by the DROP account of any member whose DROP participation has terminated, but who has not yet received a distribution of the full amount of his DROP account, shall be made no less frequently than annually.

H. No payments, disbursements, or deductions of any kind shall be made from the assets held in the excess DROP account other than distributions owed to individual members or their beneficiaries and the transfer of earnings held in the excess DROP account to the Fund's general assets, as described in §1509.G.

I. All costs, expenses and fees payable in connection with DROP participation and/or maintenance of excess DROP account during a member's DROP participation, including any bank charges associated with the maintenance thereof, shall be paid, if and when due, only from the Fund's general assets and from bank accounts other than the excess DROP account. However, upon a member's completion of DROP participation, regardless of whether he terminates employment with the fire department, his DROP account, if left with the Fund, will be charged an administrative fee of up to 2 percent per year.

J. - P. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 22:703 (August 1996), amended by the Board of

Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 25:

All currently stated Rules of the board, unless amended herein, shall remain in full force and effect.

Any interested person may submit written comments regarding the content of this proposed rule to Richard J. Hampton Jr., Secretary-Treasurer of the Board of Trustees, 329 Dorgenois Street, New Orleans, Louisiana, before 5:00 p.m., November 19, 1999.

Richard Hampton
Secretary-Treasurer

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

**RULE TITLE: Trustees' Procedures Applicable to
Payments to DROP Accounts**

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

There are no implementation costs or savings to State or local governmental units.

**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)**

There are no estimated costs to directly affected non-governmental groups. Directly affected persons may benefit by receiving a rate of return on their Deferred Retirement Option Plan account balances higher than what they might experience if the Deferred Retirement Option Plan accounts were withdrawn and invested individually. The affected persons' Deferred Retirement Option Plan accounts will be charged an administrative fee of up to two percent per year.

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

There is no estimated effect on competition and employment.

Richard Hampton
Secretary-Treasurer
9910#053

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Elderly Affairs**

Area Agencies on Aging—Policies
(LAC 4:VII.1121-1143)

In accordance with Revised Statutes 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to amend the GOEA Policy Manual effective January 20, 2000. The purpose of the proposed rule change is to update existing policies governing area agencies on aging (AAAs) in Louisiana. The Federal Older Americans Act of 1965, as amended, (OAA) requires GOEA, as the State agency on aging, to divide the State into planning and service areas (PSAs) and designate an AAA for each. The AAAs receive

federal and state funds based upon a formula approved by the U.S. Administration on Aging. OAA funds are awarded to AAAs for the purpose of assisting AAAs to develop or enhance comprehensive and coordinated community based service systems for providing all necessary supportive services, including nutrition services, for persons age 60 and over throughout the planning and service area. Except where a waiver is granted by the State agency, AAAs must award funds for direct services by contract to community services provider agencies and organizations. This rule complies with Public Law 89-73 and R.S. 46:932. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 11. Elderly Affairs

§1121. Definitions

Administration on Aging (AoA)—an agency of the U.S. Department of Health and Human Services, Office of Human Development Services. It is the Federal focal point and advocate for older persons and their concerns.

Area Agency on Aging (AAA)—an agency designated by the State agency on aging to develop and administer the area plan for a comprehensive and coordinated system of services for older persons in a planning and service area.

Area Plan—the application submitted by an AAA to receive Older Americans Act funds. Older Americans Act funds can be expended only under an area plan that has been approved by the State agency on aging.

Assistive Technology—technology, engineering methodologies, or scientific principles appropriate to meet the needs of, and address the barriers confronted by, older individuals with functional limitations.

Comprehensive and Coordinated System of Services—a system for providing all necessary supportive services, including nutrition services, in a manner designed to:

1. facilitate accessibility to, and utilization of, all supportive services and nutrition services provided within the geographic area served by such systems by any public or private agency or organization;
2. develop and make the most efficient use of supportive services and nutrition services in meeting the needs of older individuals;
3. use available resources efficiently and with a minimum of duplication; and
4. encourage and assist public and private entities that have unrealized potential for meeting the service needs of older individuals to assist the older individuals on a voluntary basis.

Contract—an award of financial assistance by the Governor's Office of Elderly Affairs to an eligible recipient.

DHHS—the United States Department of Health and Human Services.

Direct Service—any activity performed to provide services directly to an individual older person by the staff of a service provider or an area agency.

Director—the director of the Governor's Office of Elderly Affairs.

Disability—except when such term is used in the phrase "severe disability," "developmental disabilities," "physical or mental disability," "physical and mental disabilities," or "physical disabilities," means a disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that results in substantial functional limitations in 1 or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, economic self-sufficiency, cognitive functioning, and emotional adjustment.

Governor's Office of Elderly Affairs (GOEA)—the focal point on aging for the State of Louisiana, also referred to as the State Unit on Aging (SUA), "State agency on aging," or "State Agency."

Greatest Economic Need—the need resulting from an income level at or below the official poverty guideline (as defined each year by the Office of Management and Budget and adjusted by the Secretary of DHHS in accordance with Subsection 673(2) of the Community Services Block Grant Act [42 U.S.C. 9902 (2)]).

Greatest Social Need—the need caused by noneconomic factors, which include:

1. physical and mental disabilities;
2. language barriers; and
3. cultural, social, or geographical isolation, including isolation caused by racial or ethnic status, that:
 - a. restricts the ability of an individual to perform normal daily tasks; or
 - b. threatens the capacity of the individual to live independently.

Information and Assistance—a service for older individuals that:

1. provides the individuals with current information on opportunities and services available to the individuals within their communities, including information relating to assistive technology;
2. assesses the problems and capacities of the individuals;
3. links the individuals to the opportunities and services that are available; and
4. to the maximum extent practicable, ensures that the individuals receive the services needed, and are aware of the opportunities available, by establishing appropriate follow-up procedures.

African American, Not of Hispanic Origin—a person having origins in any of the black racial groups of Africa.

American Indian or Alaskan Native—a person having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

Asian American/Pacific Islander—a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, Samoa and the Hawaiian islands.

Hispanic—a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

Low-Income Minority—a person whose income is below the official poverty guideline (as defined each year by the Office of Management and Budget and adjusted by the Secretary of DHHS in accordance with Subsection 673(2) of the Community Services Block Grant Act [42 U.S.C. 9902 (2)] and who is designated as African American, Not of Hispanic Origin; Hispanic; American Indian or Alaskan Native; or Asian American/Pacific Islander.

Minority—minority older persons are confined to the following designations:

Native Americans—American Indians, Alaskan Natives, and Native Hawaiians.

Older Americans Act (42 United States Code Section 3001 et seq.)—federal legislation, first passed in 1965, that authorizes grants to states for programs and services for the elderly.

Outreach—interventions initiated by an agency or organization for the purpose of identifying potential clients and encouraging their use of existing services and benefits.

Planning and Service Area (PSA)—a geographic area of the state designated by the State Agency for the purpose of planning, development, delivery, and overall administration of services under an area plan.

Service Provider—is an entity awarded a subcontract from an area agency to provide services under the area plan.

Severe Disability—a severe, chronic disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that:

1. is likely to continue indefinitely; and
2. results in substantial functional limitation in 3 or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, economic self-sufficiency, cognitive functioning, and emotional adjustment.

State Agency on Aging—the single State agency designated to develop and administer the state plan on aging and to be the focal point on aging in the state (also referred to as the "state unit on aging ("SUA") or "State Agency"). The Governor's Office of Elderly Affairs (GOEA) is the State agency for Louisiana.

Subcontract—an award of financial assistance by an AAA to a service provider.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 305(a)(2)(A).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:

§1123. Purpose of the Area Agency on Aging

A. Area Agencies on Aging (AAAs) receive funds from the State agency on aging to plan, develop, coordinate and arrange for services in their respective planning and service areas (PSAs). As advocates, AAAs use Older Americans Act (OAA) funds to leverage state and local resources to expand and improve services. AAA's contract with public or private groups to provide services paid for using OAA funds. In some cases, the AAA may act as the service provider.

B. The AAA shall be the leader relative to all aging issues on behalf of all older persons in the PSA. This means the AAA shall carry out a wide range of functions related to advocacy, planning, coordination, inter-agency linkages, information sharing, brokering, monitoring and evaluation,

designed to lead to the development or enhancement of comprehensive and coordinated community based systems in, or serving, each community in the PSA. These systems shall be designed to assist older persons in leading independent, meaningful and dignified lives in their own homes and communities as long as possible.

C. A comprehensive and coordinated community based system described in §1123.B shall:

1. have a visible focal point of contact where anyone can go or call for help, information or referral on any aging issue;
2. provide a range of options;
3. assure that these options are readily accessible to all older persons - the independent, semi-dependent and totally dependent - no matter what their income;
4. include a commitment of public, private, voluntary and personal resources committed to supporting the system;
5. involve collaborative decision-making among public, private, voluntary, religious and fraternal organizations and older people in the community;
6. offer special help or targeted resources for the most vulnerable older persons, those in danger of losing their independence;
7. provide effective referral from agency to agency to assure that information or assistance is received, no matter how or where contact is made in the community;
8. evidence sufficient flexibility to respond with appropriate individualized assistance, especially for the vulnerable older person;
9. have a unique character which is tailored to the specific nature of the community; and
10. be directed by leaders in the community who have the respect, capacity and authority necessary to convene all interested persons, assess needs, design solutions, track overall success, stimulate change and plan community resources for the present and for the future.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 302(l).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:

§1125. Area Agency on Aging Standards

A. Planning

1. The Area Agency on Aging (AAA) shall determine its objectives systematically after making a finding of need and determination of priorities within the PSA.

2. The AAA shall establish a mechanism to ensure that objectives are monitored and accomplished as set forth in the area plan.

3. Area agencies shall install a workable system for ongoing data collection in the PSA.

4. Area agencies shall implement a workable system for determining the needs of older persons within the PSA.

5. Area agencies shall establish a mechanism for determining and analyzing on an ongoing basis the existing services and resources available in the PSA to meet the needs of older persons and the extent to which such resources meet identified needs.

B. Leadership/Advocacy

1. The AAA shall act as the focal point in the PSA for activities which promote comprehensive and coordinated services for older persons.

2. The AAA shall operate a public information program in the PSA focusing on needs and concerns of seniors in the PSA.

C. Pooling/Coordination

1. The AAA shall establish linkages with public and private agencies in the PSA for the purpose of fostering comprehensive and coordinated services to older persons.

2. The AAA shall effect joint program agreements with other agencies in the PSA.

3. The AAA shall identify and tap potential resources to be directed toward inaugurating, expanding or improving services to older persons.

D. Monitoring, Assessment and Provision of Technical Assistance

1. The AAA shall develop and employ a mechanism for regularly monitoring subcontracts under the area plan.

2. The AAA shall develop and implement systematic procedures for regular assessments of subcontracts under the area plan.

3. The AAA shall develop and implement a plan for providing technical assistance to subcontractors under the area plan and to other organizations in the PSA concerned with the needs of older persons.

E. Contracts Management

1. The AAA shall develop and issue standardized application kits and procedures for applications for funds under the Area Plan.

2. The AAA shall develop standardized procedures and criteria for review of applications for funds under the Area Plan.

3. Selection criteria and procedures for the award of subcontracts shall be published and disseminated to agencies applying for Title III funds.

4. The AAA shall maintain on file selection criteria and procedures used for the award of subcontracts.

5. The AAA shall consult with the advisory council before awarding subcontracts.

6. Where the AAA encounters delays in the review of proposals, applicants shall be notified.

7. The AAA shall establish and disseminate appeals procedures for subcontract proposals which are denied approval.

8. The AAA shall maintain documentation supporting all of its subcontracts.

9. Notifications of approval and disapproval of proposals shall be issued in writing and on a timely basis.

10. The AAA shall develop and implement procedures for amendments to subcontract awards.

11. Proposals of subcontractors which receive funds shall contain clearly defined objectives that are in keeping with those included in the approved area plan.

12. Subcontracts awarded shall define the relationship between the AAA and the subcontractor.

13. The AAA shall establish written procedures governing the management and operation of subcontracts which are in keeping with Federal and state laws, regulations, policies and procedures. The procedures shall be communicated to agencies conducting subcontracts under the area plan.

14. Agencies conducting subcontracts under the area plan shall meet the requirements for licensure, if required.

15. Where there are multi-lingual/cultural older persons in the PSA, the AAA shall assure that the staff of subcontractors include multi-lingual/cultural personnel.

16. The AAA shall obtain documented assurance that information about consumers of services is maintained confidentially by subcontractors.

17. The AAA shall obtain documented assurance that subcontractors coordinate their services with the existing information and assistance services.

18. The AAA shall require subcontractors to provide evidence that services are accessible to older persons.

F. Fiscal Management

1. The AAA shall establish and implement fiscal management procedures to assure effective operation of the AAA programs.

2. The AAA shall establish and implement a system to monitor financial expenditures of subcontracts under the area plan.

3. The AAA shall maintain an accounting system which is in keeping with sound accounting procedures.

4. The AAA procurement practices shall be in keeping with Federal, state and local practices.

5. Expenditures made under the area plan shall be in keeping with pertinent Federal, State and local policies.

6. AAA program and financial records shall be maintained in conformance with Federal and state regulations for reporting.

7. The AAA shall follow established property management policies and procedures.

8. The AAA shall have an internal audit plan which is in keeping with generally accepted auditing practices and Federal and state regulations.

G. Establishing or Maintaining Information and Assistance Services. The AAA shall establish or maintain information and assistance services in sufficient numbers to assure that all older persons in the PSA have reasonably convenient access to such services.

H. Outreach

1. The AAA will use outreach efforts that will:

a. identify individuals eligible for assistance under this Act, with special emphasis on:

i. older individuals residing in rural areas;

ii. older individuals with greatest economic need (with particular attention to low-income minority individuals);

iii. older individuals with greatest social need (with particular attention to low-income minority individuals);

iv. older individuals with severe disabilities;

v. older individuals with limited English-speaking ability; and

vi. older individuals with Alzheimer's disease or related disorders with neurological and organic brain dysfunction (and the caretakers of such individuals); and

b. inform the older individuals referred to in §1125.H.1.a.i-v, and the caretakers of such individuals, of the availability of such assistance.

2. The AAA shall conduct an annual evaluation of the effectiveness of outreach conducted under §1125.H.1.

3. If there is a significant population of older Native Americans in the PSA of the area agency, the AAA shall

conduct outreach activities to identify elder Native Americans in such area and shall inform such older Native Americans of the availability of assistance under the Older Americans Act.

I. Staff Development

1. The AAA shall establish and implement a plan which provides for in-service training for all staff.

2. The AAA shall establish and implement a plan which provides that the staff of the subcontractors under the area plan receive training.

J. Civil Rights. The AAA shall develop an implement a system to ensure that benefits under the Area Plan are provided in a non-discriminatory manner as required under Title VI of the Civil Rights Act of 1964.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306(a)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:

§1127. Area Agency on Aging Responsibilities

A. Advocacy Responsibilities:

1. to monitor, evaluate, and comment upon all policies, programs, hearings, and community actions which affect older persons;

2. to solicit comments from the public on the needs of older persons;

3. to represent the interests of older persons to public officials, and public and private agencies or organizations;

4. to consult with and support the State's long term care ombudsman program;

5. to coordinate planning with other agencies and organizations to promote new or expanded benefits and opportunities for older persons;

6. to supply service providers under the area plan with copies of interagency agreements relative to services provided;

7. to facilitate the coordination of community-based, long term care services designed to retain individuals in their homes, and designed to emphasize the development of client-centered case management systems as a component of such services;

8. to identify the public and private nonprofit entities involved in the prevention, identification, and treatment of the abuse, neglect, and exploitation of older individuals, and based on such identification, determine the extent to which the need for appropriate services for such individuals is unmet; and

9. to ensure that case management is provided in a consistent manner throughout the PSA.

B. General Planning and Management Responsibilities:

1. to develop and administer an area plan for a comprehensive and coordinated service delivery system in the PSA, in compliance with all applicable laws and regulations;

2. to assess the kinds and levels of services needed by older persons in the PSA, and the effectiveness of the use of resources in meeting these needs;

3. to enter into contracts to provide all services funded under the plan, except as provided in Section 307(a)(10) of the Older Americans Act;

4. to provide technical assistance, monitor and evaluate the performance of all service providers under the plan;

5. to coordinate the administration of its plan with the federal programs specified in Section 203(b) of the Older Americans Act, and with other federal, state, and local resources in order to develop the comprehensive and coordinated service system required by Section 306(a)(1) of the Older American's Act;

6. to conduct periodic evaluations of activities carried out under the area plan;

7. to establish an advisory council as required by Section 306(a)(6)(F) of the Older Americans Act to advise continuously the AAA on all matters relating to the development of the plan, the administration of the plan and operations conducted under the plan;

8. to give preference in the delivery of services under the area plan to older persons with the greatest economic and/or social need, as defined in Section 305(d)(2) of the Older Americans Act, with particular attention to low-income minority individuals;

9. to assure that older persons in the planning and service area have access to information and referral services;

10. to provide adequate and effective opportunities for older persons to express their views to the area agency on policy development and program implementation under the plan;

11. to identify older persons and inform them of the availability of services under the plan. These outreach efforts should have special emphasis on the rural elderly and the isolated urban elderly, and on those with greatest economic and/or social need;

12. to seek to involve the private bar in legal assistance activities;

13. to designate, where feasible, community focal points as provided in Section 306(a)(3) of the Older Americans Act;

14. to plan appropriate programs to meet identified needs of the elderly in the PSA. This includes:

a. determining which services will be funded and at what level;

b. identifying client target groups which will receive priority, in general and for specific services;

c. setting standards for service delivery;

d. developing a case management system to be used by service providers; and

15. to develop and maintain on file for review:

a. standards for use in the delivery of services;

b. a description of the interrelation among service providers funded by the AAA; and

c. methods for selecting persons with the greatest social and economic need to receive services;

16. to provide an opportunity for a hearing and issue a written decision to service providers or applicants to provide services whose application under an area plan is denied or whose contract is terminated or not renewed, except as provided in 45 CFR Part 74, Subpart M.

C. Eldercare/Case Management

1. AAAs may provide eldercare, as specified in LAC 4:VII.1241.

2. AAAs may provide one or more component of case management for a private entity, as specified in LAC 4:VII.1241.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306 and 45 CFR 1321.61(a)(4).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 17:600 (June 1991), LR 18:1376 (December 1992), LR 25:

§1129. Area Agency on Aging Governing Body

A. Authority and Responsibilities

1. A governing body shall be responsible for all AAA activities, including the expenditure of funds awarded by GOEA.

2. The AAA governing body has the authority to:

- a. appoint the director of the AAA;
- b. determine personnel, organization, fiscal and program procedures subject to GOEA policies;
- c. determine overall program plans and priorities for the AAA, including provisions for evaluating performance;
- d. grant final approval on program proposals and budgets of service providers under the area plan;
- e. assure compliance by all subcontractors with all rules, regulations, and GOEA policies;
- f. supervise the extent and the quality of the participation of the elderly in the programs of the AAA and its subcontractors; and
- g. determine the rules and procedures of the governing body subject to GOEA policies.

3. The governing body is responsible for securing financial resources beyond those allocated by GOEA.

4. Members of the governing body shall avoid conflicts between their personal interests and the interests of the AAA.

a. Conflicts of interest include situations wherein a member of the governing body:

- i. is involved in a AAA decision or action regarding another entity in which the member or a member of his/her immediate family has a financial interest, is an employee, is a director or is a consultant; or
- ii. discloses information relating to the business of the AAA which can be used by another entity to the detriment of the AAA.

b. Immediate family is defined as follows: Husband, wife, father, mother, sister, brother, son, daughter, grandmother, grandfather, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law.

c. Other entities include any organization or individual which does business or seeks to do business with the AAA or competes with the AAA.

4. If a member of the AAA governing body is aware of any personal interest related to an issue that exists or is under consideration by the AAA, the individual shall immediately and prior to the discussion about or action on the issue:

- a. disclose the existence of all personal interests; and
- b. abstain from voting and/or attempting to influence the decision.

B. Composition

1. Former AAA board members shall not be employed as paid agency staff of the same area agency for a period of two (2) years immediately following separation from the governing body.

2. Former AAA staff members shall not serve on the governing body of directors of the same area agency for a period of two (2) years immediately following separation

from employment, except where the governing body is composed of elected public officials (e.g., parish council or police jury).

AUTHORITY NOTE: Promulgated in accordance with OAA Section 305(c)(4), Section 307(a)(11) and R.S. 43:1119.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 17:600 (June 1991), LR 25:

§1131. Area Agency on Aging Advisory Council

A. Functions of the Advisory Council

1. The advisory council shall carry out advisory functions which further the AAA's mission of developing and coordinating community-based systems of services for all older persons in the PSA.

2. The advisory council shall advise the AAA relative to:

- a. developing and administering the area plan;
- b. conducting public hearings;
- c. representing the interests of older persons; and
- d. reviewing and commenting on all community policies, programs, and actions which affect older persons with the intent of assuring maximum coordination and responsiveness to older persons.

3. The advisory council shall follow operational procedures established by the AAA governing body.

B. Composition of the Area Agency Advisory Council

1. The advisory council shall include individuals and representatives of community organizations who will help to enhance the leadership role of the AAA in developing community-based systems of services.

2. The advisory council shall be made up of:

- a. more than 50 percent older persons, including minority individuals who are participants or who are eligible to participate in Older Americans Act Title III programs;
- b. representatives of older persons;
- c. representatives of health care provider organizations, including providers of veterans' health care (if appropriate);
- d. representatives of supportive services providers organizations;
- e. persons with leadership experience in the private and voluntary sectors;
- f. local elected officials; and
- g. the general public.

3. Members of the AAA governing body shall not serve on the advisory council.

C. Review by Advisory Council. The AAA shall submit the area plan and amendments for review and comment to the advisory council before it is transmitted to the State agency for approval.

AUTHORITY NOTE: Promulgated in accordance with OAA Sec. 306 (a)(6)(F) and 45 CFR 1321.57.

HISTORICAL NOTE: Promulgated by the Office of the Governor's Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 17:599 (June 1991), LR 25:

§1133. Area Plan

A. Purpose of the Area Plan. The area plan is the application submitted by an area agency to the State agency in order to receive funds. The area plan contains provisions required by the Older Americans Act and its implementing regulations and the Governor's Office of Elderly Affairs. It

includes commitments that the area agency will administer activities so funded in accordance with all requirements. The area plan also contains a detailed statement of the manner in which the area agency is developing a comprehensive and coordinated system throughout the planning and service area for all allowable services. An area agency may receive contracts and enter into subcontracts under the Older Americans Act only under an approved area plan.

B. Duration and Format of the Area Plan. The AAA must submit to GOEA an area plan for its PSA for a two, three, or four year period with such annual adjustments as may be necessary. The area plan shall be based upon a uniform format developed by GOEA for area plans within the state.

C. Content of the Area Plan

1. The area plan will specify:
 - a. conditions of older persons in the PSA;
 - b. current system of service delivery based on the most recently available data;
 - c. an assessment of current capacity in the PSA to perform service systems development activities;
 - d. the organization of the AAA;
 - e. composition and functions of the AAA advisory council;
 - f. goals and objectives for the conduct of the AAA functions described in this Section, and for development and delivery of services for the aging. Service delivery objectives include, for each service, the projected numbers of persons to be served and standard units of service to be provided;
 - g. financial plan, showing projected expenditures by source (federal, state, and local) and service;
 - h. standard assurances for complying with applicable laws, regulations, and other directives; and
 - i. The AAA's approach to, plans for, and/or current involvement in eldercare, as defined in LAC 4:VII.1241.

2. Whenever the AAA plans to provide eldercare and/or to provide case management for a private entity, the area plan, or its amendment, shall include the provisions specified in LAC 4:VII.1241.D.

3. Each area plan shall designate, where feasible, a focal point for comprehensive service delivery in each community, giving special consideration to designating multipurpose senior centers (including multipurpose senior centers operated by organizations that have a proven record of providing services to older individuals, that:

- a. were officially designated as community action agencies or community action programs under Subsection 210 of the Economic Opportunity Act of 1964 (42 U.S.C. 2790) for fiscal year 1981, and did not lose the designation as a result of failure to comply with such Act; or
- b. came into existence during fiscal year 1982 as direct successors in interest to such community action agencies or community action programs; and
- c. meet the requirements under Subsection 675(c)(3) of the Community Services Block Grant Act (42 U.S.C. 9904(c)(3)).

D. Development and Amendment of the Area Plan

1. Area plans shall be developed for a two, three, or four year period with annual updates and amendments as necessary. The plan's resource allocation, including allotments for services, shall be prepared annually and as available allotments change. The format of the area plan and

instructions for its completion shall be prescribed by the Governor's Office of Elderly Affairs and issued separately.

2. Prior to the adoption of the content areas described in §1133.C of this Manual, the area agency must conduct public hearings in accordance with a schedule established by the advisory council. The area agency must give at least fourteen days' notice to older persons, public officials, and other interested parties of the times, dates and locations of the public hearings in each parish. The area agency shall prepare public hearing materials to provide information and serve as a basis for comments, recommendations and other input to the development of the area plan.

3. Public hearings on plan amendments will only include information relating to the part of the plan being amended.

4. In accordance with the state public meetings law, LA R.S. 42:4.1 et seq., the area agency, in holding public hearings, must give at least fourteen days' notice to older persons in each parish, including the advisory council, public officials, and other interested parties of the times, dates, and locations of the public hearing(s) which will be held. Public hearings must be held at a time and location which permit older persons, public officials, and other interested parties a reasonable opportunity to participate. The area agency must submit the area plan and amendments for review and comment to the advisory council.

E. Review and Approval of the Area Plan and Amendments

1. The completed area plan will be submitted to GOEA for review and approval by a date specified by GOEA. The resource allocation plan describing the projected costs by source of funds and service, will be submitted annually as prescribed by GOEA.

2. The area plan must be amended if:

- a. a new or amended state or federal statute or regulation requires a new provision, or conflicts with any existing plan provisions;
- b. a U.S. or Louisiana Supreme Court decision changes the interpretation of a statute or regulation;
- c. the AAA proposes to add, substantially modify, or delete any area plan objective(s); or
- d. GOEA specifies additional circumstances under which area plan amendments are required.

3. Amendments must be documented on those area plan exhibits affected by the change and submitted to the State Agency with a written rationale. Such proposed changes may not be executed until approved by GOEA.

4. The State Agency shall approve an area plan which meets the requirements of this manual and the area plan format and guidelines issued.

5. A plan which is disapproved by the State Agency shall be returned to the AAA along with a written reason for disapproval. At its discretion, the State Agency may request that specific changes be made before resubmittal.

6. The AAA may appeal disapproval of its area plan or amendment in accordance with GOEA hearings and appeals procedures.

F. Management Plan. As part of a management plan the AAA will develop a work plan for attaining the objectives outlined in the area plan. The work plan shall be kept on file for review at the AAA office.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306, and Section 307.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 17:57 (January 1991), LR 18: 1376 (December 1992), LR 25:

§1135. Program Administration

A. Contract Development. The area agency is responsible for the translation of program designs into service delivery project proposals to be developed and carried out by service providers. In carrying out its service procurement responsibilities, the area agency shall adhere to Governor's Office of Elderly Affairs procurement procedures issued annually.

B. Capacity Building, Training and Technical Assistance. The area agency is responsible for the provision of consultation, training, and support to staff of service providers and other organizations to strengthen their administrative and service delivery capability.

C. Monitoring and Assessment of Service Providers

1. The area agency on aging shall monitor and assess all funded services provided under the area plan. Monitoring and assessment of service providers shall be conducted with documentation maintained on file at the area agency on aging office. Self-assessments shall be conducted where direct delivery has been authorized by the Governor's Office of Elderly Affairs. The purpose of these activities is to measure service delivery efficiency and effectiveness and to assure compliance with contractual agreements. Suggested corrective action outlined in the monitoring report shall be used as a tool for program planning and improvement. Personnel qualifications and staff utilization will be reviewed as part of this monitoring process.

2. Monitoring activities carried out by the area agency will be directed toward:

a. identifying performance problems as a basis for determining provider need for technical assistance and training;

b. measuring the provider's progress toward providing those services specified in the proposal, and placing an emphasis on older persons with the greatest social and economic need;

c. assuring compliance with applicable federal, state, and local law, regulations and other requirements; and

d. assuring cost-effective use of available resources for the elderly.

D. Program Evaluation. The area agency is responsible for evaluating programs for the aging, both those provided under the area plan and those offered by other organizations.

E. Contributions for Services Under the Area Plan

1. The area agency shall assure that agencies providing supportive and nutrition services under the area plan shall afford participants the opportunity to contribute to the costs of the services provided. The participants shall determine for themselves what they are able to contribute toward the cost of the service. No eligible person shall be denied a supportive or nutrition service because of his failure to contribute.

2. The area agency shall ensure that the methods of receiving contributions from individuals by the agencies providing supportive or nutrition services under the area plan shall be handled in such a manner as to insure confidentiality.

3. The area agency shall assure that all contributions will be used to expand the services of the provider, and that nutrition services providers must use all contributions to increase the number of meals served, and/or to facilitate access to such meals. Providers of supportive services must use all contributions to increase supportive services.

F. Confidentiality and Disclosure of Information. The area agency shall ensure that information about or obtained from an older person, in a form which identifies the person, shall not be disclosed without the individual's informed, written consent or that of his authorized representative.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306 and Section 307(a)(13)(C).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:

§1137. Services to Special Populations

A. Low-Income Minority Individuals

1. The AAA shall include in each agreement made with a provider of any service under this title, a requirement that such provider will:

a. specify how the provider intends to satisfy the service needs of low-income minority individuals in the area served by the provider;

b. to the maximum extent feasible, provide services to low-income minority individuals in accordance with their need for such services; and

c. meet specific objectives established by the AAA, for providing services to low-income minority individuals within the planning and service area.

2. The AAA shall set specific objectives for providing services to older individuals with greatest economic or social needs, include specific objectives for providing services to low-income minority individuals, and include proposed methods of carrying out the preference in the area plan.

3. The AAA shall include in each agreement made with a provider of any service under Title III of the Older Americans Act, a requirement that such provider will:

a. specify how the provider intends to satisfy the service needs of low-income minority individuals in the area served by the provider;

b. to the maximum extent feasible, provide services to low-income minority individuals in accordance with their need for such services; and

c. meet specific objectives established by the AAA, for providing services to low-income minority individuals within the planning and service area.

4. The AAA will ensure that each activity undertaken by the agency, including planning, advocacy, and systems development, will include a focus on the needs of low-income minority older individuals.

B. Native Americans. The AAA will pursue activities to increase access by older individuals who are Native Americans to all aging programs and benefits provided by the agency, including programs and benefits under Title III of the Older Americans Act, if applicable.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(5) and 45 CFR 1321.39.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:

§1139. State Agency Approval of Area Agency on Aging Contracts

The AAA must submit all proposed subcontracts with profit making organizations under the area plan to the State Agency for prior approval.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 212 and 45 CFR 1321.55.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:

§1141. Priority Services

A. General Rules

1. The AAA must allot the following minimum percentages of their funding under Title III-B of the Older Americans Act for the designated service categories:

a. services associated with access to services (transportation, outreach, information and assistance, and case management services): thirty percent;

b. in-home services (homemaker and home health aides, visiting and telephone reassurance, chore maintenance, and supportive services for families of elderly victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction): fifteen percent; and

c. legal assistance 5 percent.

2. GOEA shall waive the requirement in §1141.A.1 of this manual for any category of services described in such Paragraph if the AAA demonstrates to GOEA that services being furnished for such category in the area are sufficient to meet the need for such services in such area.

3. If a waiver is issued by the Governor's Office of Elderly Affairs for any category of priority service, the area agency must assure that an adequate proportion of its supportive services funds are allocated to the remaining priority services categories.

B. Waiver Requirements

1. Before an AAA requests a waiver under §1141A.2 of this manual, the AAA shall conduct a timely public hearing in accordance with the provisions of this Paragraph. The AAA requesting a waiver shall notify all interested parties in the area of the public hearing and furnish the interested parties with an opportunity to testify.

2. The AAA shall prepare a record of the public hearing conducted pursuant to §1141B.1 of this manual and shall furnish the record of the public hearing with the request for a waiver made to GOEA under §1141A.2 of this manual.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306(a)(2), Section 306(b)(2), and Section 307(a)(12).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), amended LR 18:610 (June 1992), LR 25:

§1143. Service Procurement

A. General Rules for Services Funded under Title III of the Older Americans Act

1. AAAs use procurement contracts or subcontracts with service providers to provide all Title III services under their respective approved area plans except as provided in §1143.B of this manual.

2. GOEA shall be alert to organizational conflicts of interest or non-competitive practices among area agencies that may restrict or eliminate competition.

3. AAAs shall follow the service procurement guidance issued by GOEA.

4. GOEA shall evaluate AAA applications to provide direct services in order to determine whether direct delivery of such service(s) by an AAA using its own employees is necessary to assure an adequate supply of the service(s), or whether such service(s) of comparable quality can be provided more economically by the AAA.

5. In order to ensure objective contractor performance and eliminate unfair competitive advantage, GOEA shall review the documentation required in the service procurement guidance, including, but not limited to, standards, specifications, solicitations for proposals (SFPs) and/or evaluation criteria when deciding whether to authorize direct delivery of service(s) by an AAA.

B. Criteria for Direct Delivery of Services by an Area Agency

1. Area agencies may directly deliver services determined by GOEA to be directly related to area agency on aging administrative functions. GOEA has defined these services as: Case Management, Information and Assistance, and Outreach.

2. For services not directly related to area agency on aging administrative functions, GOEA, after exploring alternatives, may authorize direct service delivery if the AAA:

a. demonstrates that it is necessary to directly deliver service(s) to ensure an adequate supply of the service; or

b. demonstrates that it can provide service(s) of comparable quality more economically than other providers.

3. GOEA's decision concerning AAA requests for authorization to provide direct services will be based on one of two tests: The Adequate Supply Test (when no proposals are received by the AAA in response to the SFP); or The More Economic Test Standard (when proposals are received).

C. Test Standards

1. Adequate Supply Test Standard

a. The Adequate Supply Test will require area agencies to demonstrate that service(s) are either not offered or are only partially available in the PSA.

b. The Adequate Supply Test will be met when the AAA provides documentation that it has not received any proposals to deliver the service(s) in all or a portion of the PSA after the AAA has: 1) advertised the availability of funds; and 2) written to bona fide service providers, inviting them to submit proposals.

2. More Economic Test Standard

a. The More Economic Test will require an AAA to demonstrate that service(s) of comparable quality will be provided by the AAA at a unit rate at least ten percent lower than the lowest responsible applicant's proposed unit rate.

b. The More Economic Test Standard will be met when the AAA's sealed Narrative Proposal substantiates that it meets the Service Delivery Standards in §1143.F of this manual in a manner comparable in quality to the lowest responsible applicant's proposal; and provides the service(s) at a unit rate which is at least ten percent lower than the lowest responsible applicant's proposed unit rate. Unit rate is defined as the total expenditure of funds budgeted for the

service divided by the number of units of service to be delivered.

c. In applying the More Economic Test, GOEA shall utilize the criteria used by the AAA in the preliminary evaluation of proposals received from other potential providers.

D. Standard Procedures

1. For services where direct delivery authorization is not requested the AAA governing body shall:

- a. solicit proposals for service delivery and awards of financial assistance under procurement contract;
- b. evaluate proposals received; and
- c. award procurement contract(s) or financial assistance under contract to best applicant(s).

2. For each service the AAA desires to provide directly, the AAA governing body shall:

- a. solicit proposals for service delivery and awards of financial assistance under procurement contract;
- b. conduct a preliminary evaluation of all proposals received; and
- c. provide sufficient documentation to GOEA to enable the State Agency to make a determination of the necessity of direct service delivery by the AAA.

E. Service Delivery Standards

1. A person qualified by training and experience shall be designated to be responsible for the conduct of activities, including supervision of paraprofessional and volunteer staff.

2. There shall be adequate numbers of supervisory staff, trained and skilled in dealing with assessing the needs of older persons and assisting such persons to obtain needed services.

3. The service shall be provided in a timely manner to meet the individual needs of eligible participants.

4. There shall be an established system for follow-up on referrals.

5. There shall be an up-to-date file of community resources which will contribute to the well being of older persons.

6. Procedures shall be established for publicizing the service.

7. Linkages shall be planned with other services available under Title III Section 203 of the Older Americans Act.

8. There shall be a sound management system capable of furnishing timely and accurate fiscal and program reports.

9. There shall be a sufficient schedule of service delivery days. (minimum: 250 service delivery days per contract year)

10. Outreach shall be available to target older persons with the greatest social or economic need with particular attention to low-income minority individuals; older persons with severe disabilities; and older Native Americans [if there is a significant Native American population (at least 25 per parish) in the PSA], and rural elderly.

11. There shall be service delivery criteria for each service giving priority in the delivery of services to older individuals who are frail, homebound by reason of illness or

incapacitating disability or otherwise isolated; and older individuals with the greatest social or economic need (with particular attention to low-income minority individuals).

12. There shall be a system established for the re-evaluation of clients receiving services.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(10), OMB Circular A-110.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:621 (June 1885), LR 11:1078 (November 1985), LR 16:503 (June 1990), amended LR 18:610 (June 1992), LR 25:

Written comments may be addressed to Betty N. Johnson, HCBS Director, Governor's Office of Elderly Affairs, Box 80374, Baton Rouge, LA 70898-0374. A public hearing on this proposed rule will be held on November 29, 1999 at the State Land and Natural Resources Building, 625 North Fourth Street, State Mineral Board Hearing Room, First Floor, Baton Rouge, LA 70802 at 10 a.m. All interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Written comments will be accepted until 5 p.m. November 29, 1999.

P.F. "Pete" Arceneaux, Jr.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Area Agencies on Aging—Policies

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

The proposed rule change codifies existing practice based upon the 1992 Older Americans Act Amendments. It is estimated that there will be no implementation costs or savings to state or local governmental units as a result of the proposed rule change.

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

It is estimated that there will be no effect on revenue collections of state or local governmental units as a result of this rule change. This rule change codifies existing practice based upon the 1992 Older Americans Act Amendments. OAA Title III funds are allocated among planning and service areas (PSAs) by an intrastate funding formula based upon the geographical distribution of older individuals in the state and among PSAs with the greatest economic and social needs. Local governmental units that are designated AAAs receive OAA Title III funding to develop and administer an area plan on aging.

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

There are no anticipated costs or benefits to directly affected persons or non-governmental groups as a result of this rule change. This rule change codifies existing practice based upon the 1992 Older Americans Act Amendments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of this rule change. OAA Title III funds for supportive and nutrition services are administered by designated AAAs. The AAAs are required to procure services

for persons age 60 and over through a competitive process. They must advertise the availability of funds and solicit proposals from service providers for supportive and nutrition services. Both profit and non-profit agencies can compete for subcontracts with AAAs to provide direct services under Title III of the OAA.

P. F. "Pete" Arceneaux, Jr.
Executive Director
9910#074

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Office of Elderly Affairs

GOEA Policy Manual Revision (LAC 4:VII.1271-1275)

In accordance with Revised Statutes 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to amend the GOEA Policy Manual effective January 20, 2000. The purpose of the proposed rule change is to update existing policies governing hearing procedures for: service providers or applicants to provide services whose application under an area plan is denied or whose contract is terminated or not renewed; persons filing a formal grievance with the Office of the State Ombudsman pursuant to LAC 4:VII.1229.L.3.b; any ombudsman against whom a grievance was filed, whenever either party disagrees with the decision rendered by the State Ombudsman; and any applicant for reimbursement of incurred medical expenses whose application is denied and who files an appeal in accordance with LAC 4:VII.1237.H.1. This rule complies with R.S. 46:932 and R.S. 40:2802.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 11. Elderly Affairs

§1271. Hearing Procedures for Service Providers and Applicants

A. Purpose. The Governor's Office of Elderly Affairs (GOEA) shall provide an opportunity for a hearing and issue a written decision to service providers or applicants to provide services whose application under an area plan is denied or whose contract is terminated or not renewed.

B. Right to a Hearing. Any service provider or applicant to provide services whose application under an area plan is denied or whose contract is terminated or not renewed, except as provided in 45 CFR Part 74, Subpart M, may request a hearing by GOEA on such action after all hearing procedures of the area agency on aging (AAA) have been exhausted.

C. Request for Hearing

1. A petitioner must request the hearing from GOEA within 30 days following receipt of the AAA's final action letter.

2. The request for the hearing shall be in writing and must state with specificity all grounds upon which petitioner refutes the basis of the action. The notice must include:

- a. a copy of the AAA's action letter;
- b. the dates of all relevant actions;

c. the names of individuals and organizations involved in the action appealed;

d. a citation of any provision of the Older Americans Act or accompanying regulations believed to have been violated by the AAA in taking the action appealed; and

e. a certified copy of the resolution by which, or of minutes of the meeting at which, the petitioner's governing body authorized the appeal; and

f. designation of one or more persons to represent it during the appeal, both by majority vote of a quorum of the governing body.

D. Submission of Hearing

1. The AAA, upon written request from GOEA, shall furnish copies of the following documents to the GOEA:

a. the minutes of the meeting of the AAA's governing body at which the subject action was considered and taken;

b. the minutes of the meeting of the AAA's advisory council at which the subject action was considered and recommended;

c. area agency memoranda, staff reports, and evaluations relevant to the action appealed;

d. the criteria used in awarding the contract involved in the hearing; and

e. the petitioner's application for the contract involved in the hearing.

2. No additional evidence may be admitted on the hearing unless the director of GOEA requests it or schedules an evidentiary hearing under Subsection 1271.E.

E. Evidentiary Hearing

1. If the director of GOEA determines that a hearing involves a dispute as to a material fact the resolution of which would be materially assisted by oral testimony, he/she may schedule a hearing to take testimony. The director shall provide all parties at least ten working days notice of the date, place, and time of the hearing. Said notice shall be sent by registered or certified mail, return receipt requested. The notice shall include a statement that with agreement of all affected parties, hearings may be conducted by telephone conference or other electronic means.

2. The director may serve as the hearing examiner, or may appoint an impartial hearing examiner to preside at the hearing. The hearing examiner shall have the powers described in Subsection 1267.F.

3. The rules of evidence described in Subsection 1267(G) shall apply to an evidentiary hearing under this Section.

4. The hearing examiner shall make a record of the evidentiary hearing in accordance with Subsection 1267.M.

5. The rules pertaining to evidence, ex parte consultations, depositions, hearings and transcripts shall be as provided in Subsections G, H, I, J, and K of §1267, respectively.

F. Final Decision

1. The director shall decide all hearings under this rule but may direct a GOEA employee to make an initial review and recommend a decision.

2. The director shall decide the hearing solely on the basis of the record. The director shall not substitute his/her judgment for that of the AAA as to the weight of the evidence on matters committed to the AAA's discretion. The

director shall affirm the action heard unless it is unlawful, arbitrary, or not reasonably supported by substantial evidence in the record.

3. The director shall render a final decision on the hearing in writing within 120 days after receipt of the notice of appeal. The director shall send a copy of the final decision to each party by registered or certified mail, return receipt requested, within three days after it is rendered.

G. Rehearing. Procedures for rehearing and appeal shall be governed by R.S. 49:959 and 965.

H. Record. The record for the hearing under this rule shall consist of the material listed in Subsection 1267.M.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(5).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:618 (June 1985), amended LR 11:1078 (November 1985), LR 25:

§1273. Hearing Procedures for Persons Filing Grievances with the Office of the State Long Term Care Ombudsman

A. Right to a Hearing. The Governor's Office of Elderly Affairs (GOEA) shall provide an opportunity for a hearing and issue a written decision to any person filing a formal grievance with the Office of the State Ombudsman pursuant to Section 1229.L.3.b. or to the ombudsman against whom the grievance was filed, whenever either party disagrees with the decision rendered by the State Ombudsman pursuant to LAC 4:VII.1229 L.3.f or L.5.b.iii.

B. Request for Hearing

1. A request for hearing must be received by GOEA within 30 days following petitioner's receipt of the notice of the State Ombudsman's decision.

2. A request for hearing must be in writing and must state with specificity the grounds upon which the State Ombudsman's decision is appealed. The request must include:

- a. the dates of all relevant actions;
- b. the names of individuals or organizations involved in the action;
- c. a specific statement of any laws or regulations believed to have been violated; and
- d. all grounds upon which petitioner refutes the State Ombudsman's decision.

C. Notice of Hearing

1. Upon receipt of a request for hearing, the director shall, within 10 working days, set a date for the hearing.

2. GOEA shall issue a written notice to the petitioner and other interested persons which shall include:

- a. a statement of time, date, exact physical location (to include street address and city), and nature of the hearing;
- b. a statement of the legal authority and jurisdiction under which the hearing is to be held;
- c. a reference to the particular section of statutes, regulations, and rules involved; and
- d. a short and plain statement of the reasons for the decision that is being appealed and the evidence on which the decision was based;
- e. a statement that with agreement of all affected parties, hearings may be conducted by telephone conference or other electronic means.

3. Petitioner shall be given no less than 10 working days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

D. Hearing Examiner

1. The director or his/her designated representative shall be the hearing examiner and preside at the hearing, subject to the provisions of R.S. 49:950 et seq. The hearing examiner shall have authority to administer oaths, rule on motions and the admissibility of evidence, to recess any hearing from time to time, and rule on such other procedural motions as may be presented by the State Ombudsman or the petitioner.

2. The hearing examiner shall conduct the hearing in accordance with the procedures outlined herein and render a fair decision. In rendering his/her decision, the hearing examiner shall consider:

- a. all information relevant to the complaint;
- b. the provision of Section 307 (a) (12) of the Older Americans Act which requires the State Ombudsman or his/her representatives to "investigate and resolve complaints made by or on behalf of older individuals who are residents of long term care facilities relating to action, inaction or decisions...which may adversely affect the health, safety, welfare or rights of such residents"; and
- c. R.S. 2010.4 (D), which states, "No representative of the Office of the State Ombudsman will be liable under State law for the good faith performance of official duties as defined by state and federal laws and regulations."

E. Rules of Evidence

1. The rules of evidence as applied in civil cases in the district courts of this state shall be followed. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objection to evidentiary offers may be made and shall be noted in the record.

2. Documentary evidence may be received by the hearing examiner in the form of a copy or excerpt if the original is not readily available. On request, either party shall be given an opportunity to compare the copy with the original.

3. If a hearing will be expedited and the interests of parties will not be prejudiced substantially, any part of the evidence may be received in written form or the parties may stipulate as to facts or circumstances or summarize same.

4. Either party may conduct cross-examination required for a full and true disclosure of the facts.

5. Official notice may be taken by the hearing examiner of all facts judicially cognizable. In addition, notice may be taken of generally recognized facts within the area of GOEA's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material officially noticed, including any staff memoranda or data; and afforded an opportunity to contest the material so noticed. The special skills or knowledge of GOEA and its staff may be utilized in evaluating the evidence.

6. Formal exceptions to rulings of the hearing examiner during a hearing shall be unnecessary. It shall be sufficient that the party at the time any ruling is made or sought shall have made known to the hearing examiner, the action desired. When testimony is excluded by the hearing examiner, the party offering such evidence shall be permitted to make an offer of proof by dictating or submitting in writing the substance of the proposed testimony, prior to the conclusion of the hearing, and such offer of proof shall be sufficient to preserve the point for review. The hearing examiner may ask such questions of the witness as he deems necessary to satisfy himself that the witness would testify as represented in the offer of proof.

F. Ex Parte Consultations. Communications between the hearing examiner and any party or interested person or his/her representative shall be governed by R.S. 49:950 et seq. the Louisiana Administrative Procedure Act.

G. Depositions and Subpoenas. The taking and use of depositions and the issuance of subpoenas shall be governed by R.S. 49:956 (5)-(8) of the Louisiana Administrative Procedure Act.

H. Hearing. The procedure to be followed for hearings held under §1273 shall be as provided in Subsection 1267.J.

I. Transcript. The rules governing transcripts for hearings held under §1273 shall be as provided in Subsection 1267.K.

J. Final Decision. All decisions shall be in writing and shall be rendered and acted upon by the director within 60 days of the close of the hearing. A copy of the decision shall be sent immediately to the applicant by registered or certified mail, return receipt requested. A copy of the decision shall also be sent to any other persons directly affected by the decision.

K. Rehearing and Appeal. Procedures for rehearings and appeals shall be governed by R.S. 49:959 and 965.

L. Record. The record in a hearing under this Section shall consist of the materials listed in Subsection 1267.M.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1321.11 (a), published in the Federal Register/Vol. 53, No. 169/Wednesday, August 31, 1988.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 18:265 (March 1992), amended LR 25:

§1275. Hearing Procedures for Persons Filing Appeals in the Long Term Care Assistance Program

A. Right to a Hearing. The Office of Elderly Affairs (GOEA) shall provide an opportunity for a hearing and issue a written decision to any applicant for reimbursement of incurred medical expenses whose application is denied and who files an appeal in accordance with LAC 4:VII.1237.H.1.

B. Request for Hearing

1. A request for hearing must be received by GOEA within 30 days following applicant's receipt of the written notification of adverse decision from the agency.

2. A request for hearing must be in writing and must state with specificity the grounds upon which the agency's decision is appealed. The request must include:

a. the basis upon which petitioner refutes the agency's decision (i.e., additional information or administrative error); and

b. a specific statement of the suspected administrative error; and/or

c. additional information which the agency should consider in rendering a decision, including, but not limited to the following:

i. dates of all relevant actions; and

ii. the names of individuals, agencies or organizations who may be able to substantiate the petitioner's claim.

C. Administrative Review of Adverse Decision

1. Upon receipt of a request for a hearing pursuant to Subsection 1275.B, the administrator of the Long Term Care Assistance program (the program) shall investigate the allegation stated in the request; consider the additional information provided by the petitioner; and issue a written decision within 30 days.

2. The written decision shall inform the petitioner of the findings of the investigation, the actions to be taken, if any, as a result of the investigation, and the provisions for appealing the decision to the director.

3. If the administrator of the program fails to respond or to act upon an appeal within 30 days, or if dissatisfied with the results of the Administrative Review, the petitioner may refer the request for a hearing to the director.

D. Notice of Hearing

1. Upon receipt of a request for hearing, the director shall, within 10 working days, set a date for the hearing.

2. GOEA shall issue a written notice to the petitioner and other interested persons which shall include:

a. a statement of time, date, location, and nature of the hearing;

b. a statement of the legal authority and jurisdiction under which the hearing is to be held;

c. a reference to the particular section of statutes, regulations, and rules involved;

d. a short and plain statement of the reasons for the decision that is being appealed and the evidence on which the decision was based; and

e. a statement that with agreement of all affected parties, hearings may be conducted by telephone conference or other electronic means.

3. Petitioner shall be given no less than 10 working days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

E. Hearing Examiner

1. The director or his/her designated representative shall be the hearing examiner and preside at the hearing, subject to the provisions of R.S. 49:950 et seq. The hearing examiner shall have authority to administer oaths, rule on motions and the admissibility of evidence, to recess any hearing from time to time, and rule on such other procedural motions as may be presented by the administrator of the program or the petitioner.

2. The hearing examiner shall conduct the hearing in accordance with the procedures outlined herein and render a fair decision.

F. Rules of Evidence

1. In hearings, under these rules, irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in civil cases in the district courts of this state shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be

admitted, except where precluded by statute, if it is a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objection to evidentiary offers may be made and shall be noted in the record.

2. Documentary evidence may be received by the hearing examiner in the form of a copy or excerpt if the original is not readily available. On request, either party shall be given an opportunity to compare the copy with the original.

3. If a hearing will be expedited and the interests of parties will not be prejudiced substantially, any part of the evidence may be received in written form or the parties may stipulate as to facts or circumstances or summarize same.

4. Either party may conduct cross-examination required for a full and true disclosure of the facts.

5. Official notice may be taken by the hearing examiner of all facts judicially cognizable. In addition, notice may be taken of generally recognized facts within the area of GOEA's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material officially noticed, including any staff memoranda or data; and afforded an opportunity to contest the material so noticed. The special skills or knowledge of GOEA and its staff may be utilized in evaluating the evidence.

6. Formal exceptions to rulings of the hearing examiner during a hearing shall be unnecessary. It shall be sufficient that the party at the time any ruling is made or sought shall have made known to the hearing examiner, the action desired. When testimony is excluded by the hearing examiner, the party offering such evidence shall be permitted to make an offer of proof by dictating or submitting in writing the substance of the proposed testimony, prior to the conclusion of the hearing, and such offer of proof shall be sufficient to preserve the point for review. The hearing examiner may ask such questions of the witness as he deems necessary to satisfy himself that the witness would testify as represented in the offer of proof.

G. Ex Parte Consultations. Communications between the hearing examiner and any party or interested person or his/her representative shall be governed by R.S. 49:950 et seq., the Louisiana Administrative Procedure Act.

H. Depositions and Subpoenas. The taking and use of depositions and the issuance of subpoenas shall be governed by R.S. 49:956 (A)(5)-(8) of the Louisiana Administrative Procedure Act.

I. Hearing. The procedure to be followed for hearings held under §1275 shall be as provided in Subsection 1267.J.

J. Transcript. The rules governing transcripts for hearings held under §1275 shall be as provided in Subsection 1267.K.

K. Final Decision. All decisions shall be in writing and shall be rendered and acted upon by the director within 60 days of the close of the hearing. A copy of the decision shall be sent immediately to the applicant by registered or certified mail, return receipt requested. A copy of the decision shall also be sent to any other persons directly affected by the decision.

L. Rehearing and Appeal. Procedures for rehearings and appeals shall be governed by R.S. 49:959 and 965.

M. Record. The record in a hearing under this Section shall consist of the materials listed in Subsection 1267.M.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2802(D).

HISTORICAL NOTE: Adopted by the Office of the Governor, Office of Elderly Affairs, LR 18:1257 (November, 1992), amended LR 25:

Written comments may be addressed to Betty N. Johnson, HCBS Director, Governor's Office of Elderly Affairs, Box 80374, Baton Rouge, LA 70898-0374. A public hearing on this proposed rule will be held on November 29, 1999 at the State Land and Natural Resources Building, 625 North Fourth Street, State Mineral Board Hearing Room, First Floor, Baton Rouge, LA 70802 at 10 a.m. All interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Written comments will be accepted until 5 p.m. November 29, 1999.

P. F. "Pete" Arceneaux, Jr.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: GOEA Policy Manual
Revision**

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

It is estimated that there will be no implementation costs or savings to state governmental units as a result of the proposed rule. There could be additional costs to local governmental units; however, the exact amount, if any, is unknown. Local governmental units whose applications to provide direct services under an area plan are denied or whose contracts are not renewed will be required to submit hearing requests to the Governor's Office of Elderly Affairs (GOEA) in writing and will incur the associated costs.

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

It is estimated that there will be no effect on revenue collections of state governmental units. There could be an increase in revenue collections of local governmental units; however, the exact amount, if any, is unknown. If GOEA renders a hearing decision that is favorable to a local governmental unit, the area agency decision may be overturned and the appellant could be awarded a contract. The amount of such contracts vary greatly and cannot be determined at this time.

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

Non-governmental groups whose applications to provide direct services under an area plan are denied or whose contracts are not renewed; and persons filing appeals in the State Ombudsman Program or the State Long Term Care Assistance Program will be required to submit hearing requests to the Governor's Office of Elderly Affairs (GOEA) in writing and will incur associated costs.

If GOEA renders a decision that is favorable to the non-governmental unit, the area agency decision may be overturned and the appellant could be awarded a contract. The amount of such contracts vary greatly and cannot be determined at this time.

If GOEA rules in favor of a LTC resident, he/she may receive program benefits for the duration of his/her eligibility. The economic benefit to persons filing an appeal in the Ombudsman program cannot be determined at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Although non-profit agencies are not in competition with each other, there is competition for funding. OAA Title III funds for supportive and nutrition services are administered by designated AAAs. The AAAs are required to procure services for persons age 60 and over through a competitive process. They must advertise the availability of funds and solicit proposals from service providers for supportive and nutrition services. Both profit and non-profit agencies will be able to compete for subcontracts with AAAs to provide direct services under Title III of the OAA.

P.F. "Pete" Arceneaux, Jr. Robert E. Hosse
Executive Director General Government Section Director
9910#075 Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Certified Social Work Examiners

Standards and Procedures
(LAC 46:XXV.Chapters 1-7)

The Louisiana State Board of Board Certified Social Work Examiners intends to adopt Rules, Standards and Procedures repealing the Board's current Rules, Regulations and Procedures and to implement Act 1309 of the 1999 Regular Session of the Louisiana Legislature. The rules will apply to applicants for the RSW registration, GSW certification and the LCSW license. They will also set fees, establish supervision rules, change current procedural rules for the disposition of complaints, establish application procedures, clarify continuing education rules, and define the Standards of Practice for all credential levels.

The proposed rules have no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXV. Licensed, Certified or Registered Social Workers Rules, Standards and Procedures

Chapter 1. Standards of Practice

§101. Scope and Applicability

The standards of practice apply to all applicants, and those who are registered, certified or licensed. The use of the term social worker within these standards of practice includes all applicants, and those who are registered, certified or licensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§103. Purpose

The Standards of Practice/Code of Conduct provide a basis upon which to assess and measure the professional

conduct of an applicant and those who are registered, certified or licensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§105. Violations

A violation of the Standards of Practice/Code of Conduct constitutes unprofessional or unethical conduct and constitutes grounds for disciplinary action or denial of credential.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§107. General Practice Parameters

A. Character. A social worker shall maintain good moral character.

B. Client Welfare. Within the context of the specific standards of practice prescribed herein, a social worker shall make reasonable efforts to advance the welfare and best interests of a client.

C. Self-Determination. Within the context of the specific standards of practice prescribed herein, a social worker shall respect a client's right to self-determination.

D. Nondiscrimination. A social worker shall not discriminate against a client, colleague, student, or supervisee on the basis of age, gender, sexual orientation, race, color, national origin, religion, disability, political affiliation, or social or economic status. If the social worker is unable to offer services because of a concern about potential discrimination against a client, student, or supervisee, the social worker shall make an appropriate and timely referral. When a referral is not possible, the social worker shall obtain supervision or consultation to address the concern.

E. Professional Disclosure Statement. A social worker shall display at the social worker's primary place of practice or make available for all clients a statement that the client has the right to:

1. expect that the social worker has met the minimal qualifications of education, training, and experience required by state law;

2. examine public records maintained by the Board which contain the social worker's qualifications and credentials;

3. be given a copy of the standards of practice upon request;

4. report a complaint about the social worker's practice to the Board;

5. be informed of the range of fees for professional services before receiving the services;

6. privacy as allowed by law, and to be informed of the limits of confidentiality;

7. expect that the social worker will take reasonable measures consistent with the social worker's duty of confidentiality to limit access to client information and any expressed waivers or authorizations executed by the client. Reasonable measures include restricting access to client information to appropriate agency or office staff whose duties require such access;

8. receive information that a social worker is receiving supervision and that the social worker may be reviewing the client's case with the social worker's supervisor or consultant. Upon request, the social worker shall provide the name of the supervisor and the supervisor's contact information;

9. be free from being the object of discrimination while receiving social work services; and

10. have access to records as allowed by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§109. Competence

A. Provision of Services

1. Social workers should provide services and represent themselves as competent only within the boundaries of their education, training, credential, consultation received, supervised experience, or other relevant professional experience.

2. Social workers should provide services in substantive areas or use intervention techniques or approaches that are new to them only after engaging in appropriate study, training, consultation, and supervision from persons who are competent in those interventions or techniques.

3. When generally recognized standards do not exist with respect to an emerging area of practice, social workers should exercise careful judgment and take responsible steps (including appropriate education, research, training, consultation, and supervision) to ensure the competence of their work and to protect clients from harm.

B. Continued Competence. A social worker shall take all necessary and reasonable steps to maintain continued competence in the practice of social work.

C. Limits on Practice. A social worker shall limit practice to the permissible scope of practice for the social worker's credential.

D. Referrals. A social worker shall make a prompt referral to other professionals when the services required are beyond the social worker's competence. Such referrals are always based solely on the best interests of the client.

E. Delegation. A social worker shall not assign, oversee or supervise the performance of a task by another individual when the social worker knows that the other individual is not credentialed to perform the task or has not developed the competence to perform such a task.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§111. Practice Requirements

A. Assessment or Diagnosis. A social worker shall base services on an assessment or diagnosis. A social worker shall evaluate on an ongoing basis whether the assessment or diagnosis needs to be revised.

B. Assessment or Diagnostic Instruments. A social worker shall take reasonable steps to ensure that appropriate explanations of results are given. A social worker shall ensure that an explanation of the results is provided using language that is reasonably understandable to the person

assessed or to another legally authorized person on behalf of the client.

C. Plan. A social worker shall develop a plan for services which includes goals based on the assessment or diagnosis. A social worker shall evaluate on an ongoing basis whether the plan needs to be revised.

D. Supervision or Consultation. A social worker shall obtain supervision or engage in consultation when necessary to serve the best interests of a client.

E. Informed Consent

1. Social workers shall provide services to clients only in the context of a professional relationship with valid informed consent. Social workers should use clear and understandable language to inform clients of the plan for services, relevant costs, reasonable alternatives, the client's right to refuse or withdraw consent, and the time frame covered by the consent. Social workers shall provide clients with an opportunity to ask questions.

2. If the client does not have the capacity to provide consent, the social worker shall obtain consent for the services from the client's legal guardian or other authorized representative.

3. If the client, the legal guardian, or other authorized representative does not consent, the social worker shall at the earliest opportunity discuss with the client that a referral to other resources may be in the client's best interests.

F. Records

1. A social worker shall make and maintain records, written or electronic, of services provided to a client. At a minimum, the records shall contain documentation of the assessment or diagnosis; documentation of a plan, documentation of any revision of the assessment or diagnosis or of the plan; any fees charged and other billing information; copies of all client authorization for release of information and any other legal forms pertaining to the client. These records shall be maintained by the social worker or agency employing the social worker at least for a period of six years after the last date of service, or for the time period required by federal or state law, if longer. In regards to a minor client, records must be kept six years after client reaches majority. In addition, adoption records must be kept for perpetuity.

2. A social worker shall not represent by signature or any other means the extent of his/her participation in the provision of services (such as psychosocial evaluation, assessment, diagnosis, treatment plan, progress note or report) unless the social worker has formulated the psychosocial evaluation, assessment, diagnosis, treatment plan, progress note or report through direct contact with the client who provided the information included in the record.

3. A social worker shall not conspire or collude with another person or entity to misrepresent by signature or any other means the extent of his/her participation in the social worker's provision of services.

4. Social work students in field placement are specifically allowed to provide services under supervision. Social work supervisors may cosign all records indicating his/her supervisory function.

5. A social worker shall accurately complete and submit reports, assessments, evaluations, forms or similar documentation in a timely manner. This includes all forms

requested by the Louisiana State Board of Social Work Examiners.

G. Termination of Services

1. A social worker shall terminate a professional relationship with a client when the client is not likely to benefit from continued services or the services are no longer needed.

2. A social worker has an affirmative duty to take reasonable steps to avoid under-treatment and/or precipitous termination of a client.

3. A social worker who anticipates the termination of services shall give reasonable notice to the client. A social worker shall take reasonable steps to inform the client of the termination of the professional relationship. A social worker shall provide referrals as needed and/or upon the request of the client. A social worker shall not terminate a professional relationship for the purpose of beginning a personal or business relationship with a client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§113. Social Work Relationships

A. Exploitation. A social worker's duty requires the promotion and advancement of the best interests and welfare of clients, students and supervisees with whom the social worker has a professional social work relationship. It is a breach of this duty for a social worker to use the professional relationship to promote or advance the social worker's emotional, financial, sexual or personal needs. Examples of exploitative behavior may include, but are not limited to, the following:

1. inappropriately disclosing aspects of the social worker's life or personal problems;

2. seeking out or accepting advice or consultation from a client on financial, personal, real estate or other business matters;

3. hiring or bartering for services of a personal nature with the client, supervisee or student at the social worker's office, home or other location. If a social worker engages in this practice the burden of proof is on the social worker to prove exploitation has not occurred;

4. entering into a sale, lease, or joint venture or other business venture with a client, supervisee or student;

5. encouraging planned social meetings or contacts between the social worker and the client such as meals, parties, sporting and recreational events or similar functions; as distinguished from unplanned or unavoidable meetings at which both the social worker and the client are in attendance; and further distinguished from such activities where social workers are legitimately expected to participate in such events;

6. inappropriate touching, holding, kissing or physical contact between social worker and client, supervisee or student;

7. giving or exchanging inappropriate gifts, gratuitous services, or personal items between the social worker and the client, supervisee or student.

B. Dual Relationships. Social workers have an affirmative duty to maintain the best interest of clients and former clients as the predominant consideration during the existence of the social worker/client relationship and

thereafter. While clients and former clients with whom the social worker has or had a clinical/therapeutic relationship are at greater risk, any relationship with a client or a former client exposes clients and former clients to the risk of exploitation. Such contact tends to change the focus of the social worker's intent and impair professional judgment.

C. Burden of Proof. Social workers shall be aware, even in those instances where other relationships are not specifically prohibited, that the social worker by promoting, encouraging, or participating in any relationship with a client or former client assumes the burden of proof. The social worker must fully demonstrate that the client or the former client was neither exploited nor harmed by such relationships. This burden applies to all of the following subparts, regardless of the intent of the social worker.

1. Personal Relationships with Clinical/Therapeutic Clients. A social worker shall not engage in a personal relationship with a clinical/therapeutic client. When a social worker may not avoid a personal relationship with a clinical/therapeutic client, the social worker shall take necessary protective measures consistent with the best interests of the clinical/therapeutic client. In addition to the general burden of proof set out in §113.C, the social worker has the burden of demonstrating the appropriate measures employed.

2. Personal Relationships with Former Clinical/Therapeutic Clients. A social worker may engage in a personal relationship, except as prohibited by §113.C.4, with a former clinical/therapeutic client, if the former clinical/therapeutic client was notified of the termination of the professional relationship. The social worker has a continuing duty to safeguard the best interests of the former clinical/therapeutic client.

3. Sexual Contact with a Client, Supervisee or Student. A social worker shall not engage in or request sexual contact as defined in §113.C.5, with a client, a client's spouse or former spouse, any member of the client's immediate family or with any person with whom the client has or has had a sexual relationship. The prohibition of this rule extends to supervisees and students during such times and under such circumstances where the social worker is in a supervisory or teaching relationship. This rule also expressly prohibits social workers from engaging in any behavior which a reasonable person would find sexually stimulating, seductive or sexually demeaning when such behavior is either directed toward or exhibited in the presence of any person with whom sexual contact is otherwise prohibited by this Rule. Social workers shall not sexually harass a client, supervisee or student.

4. Sexual Contact with a Former Client. A social worker who has provided clinical/therapeutic social work services to a client shall not engage in or request sexual contacts as defined in §113.C.5, with the former client under any circumstances. A social worker who has provided other social work services to a client should not engage in or request sexual contact as defined in §113.C.5, with the former client at any time if such contact exposes the former client to exploitation or harm.

5. Sexual Contact Defined. Sexual contact means sexual touching, sexual intercourse, either genital or anal, cunnilingus, fellatio, or the handling of the breasts, genital

areas, buttocks, or thighs, whether clothed or unclothed, by either the social worker or the client.

6. **Business Relationship with a Client, Supervisee or Student.** A social worker shall not engage in any type of business relationship other than the provision of social work services, including social work supervision. Business relationships do not include purchases made by the social worker from the client, supervisee or student when they are providing necessary goods or services to the general public.

7. **Business Relationship with a Former Client.** A social worker should avoid engaging in a business relationship with a former client. The social worker has a continuing duty to safeguard the best interests of the former client.

8. **Prior Personal or Business Relationships.** A social worker should exercise caution before engaging in a professional relationship with an individual with whom the social worker had a previous personal or business relationship.

9. **Social Worker Responsibility.** A social worker shall be solely responsible for acting appropriately in regard to relationships with clients or former clients. A client or a former client's initiation of a personal, sexual, or business relationship shall not be a defense by the social worker for a violation of §113.C.1.-8.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§115. Client Confidentiality

A. **Written Informed Consent.** A social worker shall protect all information provided by or obtained about a client. Client information includes the social worker's personal knowledge of the client and client records, written or electronic. Except as provided herein, client information may be disclosed or released only with the client's written informed consent. The written informed consent shall explain to whom the client's information will be disclosed or released and the purpose and time frame for the release of information.

B. **Release of client information without written consent.** A social worker may disclose client information without the client's written consent only under the following circumstances:

1. where required by federal or state law, including mandatory reporting laws, requiring release of client information;

2. where the treating social worker has made a clinical judgment that a client has communicated a significant threat of physical violence against an identifiable victim(s), with the apparent intent and ability to carry out the threat. In such case, the social worker has a duty to warn which is discharged by reasonable efforts to communicate the threat to the potential victim(s) and to notify law enforcement authorities in the vicinity of the client and the victim(s). See La. R.S. 9:2800.2;

3. where one of the enumerated exceptions to the healthcare provider-patient privilege, as specified in Article 510 of the La. Code of Evidence is applicable and the social worker is being required to give testimony at trial (hearing) or at a legally authorized deposition. See Article 510(E) of the La. Code of Evidence;

4. where the social worker is the subject of a malpractice or professional negligence claim relating to a client or former client who is claiming damage or injury; the social worker may provide such information that is directly and specifically related to the factual issues pertaining to the social worker's alleged liability. However, in such a case, information concerning the client's current treatment or condition may only be disclosed pursuant to testimony at trial or legally authorized discovery methods. See Article 510(F) of the La. Code of Evidence;

5. where the social worker is required to address allegations of a complaint brought by a client or former client which are the subject of adjudication or disciplinary hearing involving the social worker;

6. where the Louisiana State Board of Social Work Examiners issues a lawful subpoena to a social worker and the Board provides adequate safeguards to maintain confidentiality of client information or identify such as prescribed in La. R.S. 13:3715.1(J);

C. **Release of client records without written consent.** A social worker may release client records without the client's written consent under the following circumstances:

1. where a client's authorized representative consents in writing to the release;

2. where mandated by the federal or state law requiring release of records;

3. where circumstances described in §115.B and §115.B. 4 apply and the social worker is lawfully issued and served with a subpoena duce tecum which complies with the formalities prescribed in La. R.S. 13:3715.1.

4. where the circumstances described in Rule 115.B.5. and Rule 115.C.6. apply and the social worker received a lawfully issued subpoena from the Louisiana State Board of Social Work Examiners.

D. **Limits of Confidentiality.** The social worker shall inform the client of the limits of confidentiality as provided under applicable law. Confidentiality limits shall include, but are not limited to, the following situations:

1. where circumstances giving rise to the list of exceptions to the healthcare provider-patient privilege listed in the La. Code of Evidence Article 510;

2. where communications to the social worker reveal abuse or neglect of children and elders which impose an obligation on social workers as mandatory reporters under the Louisiana Children's Code Article 609, La. R.S. 14:403, and La. R.S. 14:403.2;

3. where communications to the social worker relate to abuse or neglect of residents of healthcare facilities which impose duty to report under La. R.S. 40:2009.20;

4. where the social worker has a duty to warn in relation to communications of threats of physical violence under La. R.S. 9:2800.2;

5. where the social worker has been appointed to conduct an evaluation for child custody or visitation by the court or where prior communications to the social worker relate to the health conditions of a client(s) who are parties to proceedings or custody or visitation of a child and the condition has substantial bearing on the fitness of the person claiming custody or visitation.

E. **Confidentiality and Minor Clients.** In addition to the general directive in Rule 115.D., a social worker must inform a minor client, at the beginning of a professional

relationship, of any laws which impose a limit on the right to privacy of a minor.

F. Third Party Billing. A social worker shall provide client information to a third party for the purpose of payment for services rendered only with the client's written informed consent. The social worker shall inform the client of the nature of the client information to be disclosed or released to the third party payor.

G. Continued Privacy of Information. A social worker shall continue to maintain confidentiality of client information upon termination of the professional relationship, including upon the death of the client, except as provided under applicable law.

H. Recording/Observation. A social worker shall obtain the client's written informed consent before the taping or recording of a session or a meeting with the client, or before a third party is allowed to observe the session or meeting. The written informed consent shall explain to the client the purpose of the observing, taping or recording, how the taping or recording will be used, how it will be stored and when it will be destroyed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§117. Conduct

A. Impairment. A social worker shall not practice while impaired by medication, alcohol, drugs, or other chemicals. A social worker shall not practice under a mental or physical condition that impairs the ability to safely practice.

B. Mind or Mood Altering Substances. Unless permissible by state law, a social worker shall not dispense medication or controlled substances to a client, or accept these substances from a client for personal use or gain. In an appropriate setting, a social worker, may disperse medication to a client provided that the medication was prescribed by a licensed physician who has specifically authorized the social worker to disperse the medication. The social worker may accept medication or controlled substances from a client for purposes of disposal or to monitor use. Under no circumstances shall a social worker offer alcoholic beverages or mood altering substances to a client.

C. Investigation. All social workers shall cooperate with a social work Board investigation of any social worker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§119. Representation to the Public

A. Use of Social Worker Designation. A social worker shall use only the social worker designation to which they are entitled. Such designation shall be used after the social worker's name and in all written communications relating to social work practice, including any advertising, correspondence, and client records.

B. Information to Clients or Potential Clients. A social worker shall provide accurate and factual information concerning the social worker's credentials, education, training, and experience upon request from a client, potential client or supervisee. A social worker shall not misrepresent directly or by implication the social worker's license,

certificate, registration, degree, and/or professional qualifications in any oral or written communication or permit or continue to permit any misrepresentations by others. A social worker shall not misrepresent, directly or by implication, affiliations, purposes, and characteristics of institutions and organizations with which the social worker is associated.

C. Restriction on Social Work Designation. Social workers, regardless of the license, certificate, or registration, shall not use such designation as a claim, promise, or guarantee of successful service, nor imply that the holder has competence in another service. A social worker must not misrepresent his/her qualifications, training or experience. If a social worker engages in advertising, his/her credentials must be presented factually.

D. Display of Credentials. A social worker shall conspicuously display a current license, certificate, or registration issued by the Board at the social worker's place of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§121. Fees and Billing Practices

A. Fees and Payments. A social worker who provides a service for a fee shall inform a client of the fee at the initial session or meeting with the client. Payment arrangements must be made at the beginning of the professional relationship. If other services are necessary during the course of the professional relationship, the full fee for those services must be negotiated with the client, their legal guardian, or other authorized representative prior to the service being rendered. A social worker shall provide, upon request from a client, a client's legal guardian or other authorized representative, a written explanation of all charges for any services rendered.

B. Necessary Services. A social worker shall bill only for services which he/she has provided. A social worker shall provide only services which are necessary. If fees are to be charged for cancellation or failure to appear for an appointment, a clear description of that policy must be provided to the client in advance of its implementation.

C. Referrals

1. A social worker shall neither accept nor give a commission, rebate, fee split or other form of remuneration for the referral of a client.

2. A social worker shall not solicit a private fee or other remuneration for providing services to clients who are entitled to such available services through the social workers' employer or agency without employer or agency approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§123. Evaluation and Research

A. Protocol. When undertaking research activities, the social worker shall abide by accepted protocols for protection of human subjects.

B. Informed Consent. A social worker must obtain a client's or a client's legal guardian's written informed consent

for the client to participate in a study or research project. The researcher should explain in writing the purpose of the study or research, as well as the activities to be undertaken by the client, should the client agree to participate in the study or research project. The social worker must inform the client of the client's right to withdraw from the project at any time.

C. Participant Protection and Confidentiality. The social work researcher should protect participants from unwarranted harm or damage as a result of the research, and should avoid conflict of interest or dual relationships with participants. The participant's confidentiality or anonymity should also be fully explained and protected.

D. Evaluation Reports. Social work researchers must report evaluation and research findings accurately and truthfully. Participants in research should be informed of the results of the research in which they have participated if they so desire.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

Chapter 3. General Provisions

§301. Definitions

Board Approved Supervision Workshop—this workshop shall be pre-approved by the Board. At least ten (10) clock hours required for workshop to be acceptable.

Clinical Social Work Practice—the practice of clinical social work requires the application of specialized clinical knowledge and advanced clinical skills in the areas of prevention, assessment, diagnosis and treatment of mental, emotional, and behavioral and addiction disorders. Treatment methods include the provision of individual, marital, couple, family, and group psychotherapy. The practice of clinical social work may include, but is not limited to, private practice, employee assistance and addiction services.

Client—the individual, couple, family, group, organization, or community that seeks or receives social work services.

Continuing Education—education and training, which are oriented to maintain, improve or enhance social work practice.

Continuing Education Contact Hour—a sixty (60) minute clock hour of instruction, not including breaks or meals.

Conviction—conviction of a crime by a court of competent jurisdiction and shall include a finding or verdict of guilt, whether or not the adjudication of guilt is withheld or not entered on admission of guilt, a no contest plea, a plea of nolo contendere, and a guilty plea.

Counseling—a method used by social workers to assist individuals, couples, families, and groups in learning how to solve problems and make decisions about personal, health, social, educational, vocational, financial, and other interpersonal concerns.

Credentialed—can be the registration (RSW), certification (GSW) or license (LCSW) regulated by the Louisiana Social Work Practice Act.

Detrimental to the Client—an act or omission of a professional responsibility that is damaging to the physical, mental, social or financial status of the client.

Examination—a standardized test or examination of social work knowledge, skills, and abilities, which has been approved by the Board.

Felony—criminal conduct punishable by imprisonment at hard labor or as otherwise defined as a felony by this state or any other state or by federal law.

Good Moral Character—the aggregate of qualities evidenced by past conduct, social relations, or life habits, which actually provide persons acquainted with the applicant a basis to form a common favorable opinion regarding the social worker's ethics and responsibility to duty.

Gross Negligence—in the practice of social work, means conduct by either act or omission involving a legal or professional duty about which the social worker displays conscious indifference and where the consequences of such conduct could adversely affect the rights or welfare of those persons to whom the social worker owes the duty.

Independent Practice—means practice of social work outside of an organized setting, such as a social, medical, or governmental agency, after completion of all applicable supervision requirements, in which the social worker assumes responsibility and accountability for services provided.

Private Practice—an activity characterized by contracting directly and receiving direct payment from clients or agencies to provide clinical services, educational services, consultation, research or supervision, as an autonomous practitioner solely responsible for the welfare of the client and for the services rendered.

Psychotherapy—the use of treatment methods utilizing a specialized, formal interaction between a social worker and an individual, couple, family, or group in which a therapeutic relationship is established, maintained and sustained to understand unconscious processes, intra personal, interpersonal and psychosocial dynamics. Psychotherapy requires the application of diagnosis and treatment to mental, emotional, and behavioral disorders, conditions and addictions.

Social Work Employee—such status requires that the social worker provide direct or indirect social work services, receive remuneration from an employer for these services, and that the social worker's employer deduct federal withholding tax, FICA or other retirement benefits from the salary or wages.

Supervisee—any person under the supervision of a credentialed social worker. The supervisee may be an applicant for social work credentials, an employee under the supervision of the LCSW, GSW or RSW, or a person who contracts with the licensed social worker for supervision.

Supervision within an Agency—the professional relationship between a supervisor and a social worker that provides evaluation and direction over the services provided by the social worker and promotes continued development of the social worker's knowledge, skills, and abilities to provide social work services in an ethical and competent manner.

Supportive Counseling—the methods used by social workers to help individuals create and maintain adaptive patterns. Such methods may include building community resources and networks, linking clients with services and resources, educating clients and informing the public,

helping clients identify and build strengths, leading client and community groups, and providing reassurance and support.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§303. Practice

A. Social Work Practice. Any person practicing social work without license, certification, provisional certification, or registration is subject to the provisions of R.S. 37:2720, including injunctive proceedings and prosecution.

B. Independent and Private Practice. Only a licensed clinical social worker may engage in the independent and private practice of social work.

C. Graduate Social Workers, Provisional Graduate Social Workers and Registered Social Workers shall not:

1. contract directly with individuals, couples, families, agencies or institutions for clinical services, consultation, supervision or educational services;
2. bill for services rendered;
3. receive direct payment for services;
4. claim to be licensed or in private practice.

D. Graduate Social Workers and Provisional Graduate Social Workers may:

1. practice clinical social work within an agency under the supervision of a licensed clinical social worker and shall meet the supervision requirements of Chapter V. Minimum Supervision Requirements. Rule No. 505.

E. Applicants for registration, certification, or licensure who indicate on their application that they have been employed for more than 30 days as a social worker in the State of Louisiana are subject to the provisions of R.S. 37:2720.

F. An applicant who meets all the requirements of R.S. 37:2706, 2707, or 2708 and who has worked more than 30 days as a social worker in the State of Louisiana and who has not otherwise violated any part of R.S. 37:2701-2723 or its Rules, may be offered the following options in the form of a consent order and agreement to resolve the situation:

1. completion of ten (10) pre-approved continuing education hours in ethics to be completed within three (3) months of issuance of the registration, certification or license, in addition to the 20 clock hours of continuing education required for the annual renewal of the registration, certification or license, or

2. passing score on an open book examination on the Louisiana Social Work Practice Act and the Rules, Regulations and Procedures, to include the Standards of Practice for Social workers.

3. the consent order and agreement shall not be considered disciplinary action and shall not be reported to the professional organizations or published in the Board's newsletter.

G. In accordance with R.S. 37:2709, which states in part that the license, certificate, provisional certificate, or registration shall be kept conspicuously posted in the office or place of business at all times, it is permissible to post the original certificate of license, certification, provisional certification, or registration or a copy of the original certificate of license, certification, provisional certification or registration, or the current identification card received

from the Board upon renewal of the license, certification, provisional certification or registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§305. Qualifications for Registration, Certification, Licensure

A. Registered Social Worker (RSW)

1. Must be of good moral character.
2. The applicant shall have his/her university submit official transcript indicating the receipt of a bachelor of social work, bachelor of arts, or bachelor of science degree from an undergraduate social work program, accredited by the Council on Social Work Education.

B. Graduate Social Worker (GSW)

1. Must be of good moral character.
2. The applicant shall have his/her university submit official transcript indicating the receipt of a master's degree of social work from a graduate social work program, accredited by the Council on Social Work Education.
3. The applicant shall obtain a passing score on an examination approved by the Board.
4. Grandfather Period: The Board shall waive the examination requirement for applicants who submit a completed and notarized application and appropriate fee at any time within one calendar year from January 1, 2000.

C. Provisional Graduate Social Worker (Provisional GSW)

1. The Board may issue provisional certification to an applicant who meets all requirements for the GSW certification except for passing the examination approved by the Board.
2. The individual may hold the provisional certificate for up to three (3) years from the date of issuance of the original certificate provided the individual takes the examination approved by Board at least once each year.
3. It is the responsibility of the Provisional GSW to submit proof of examination to the Board office once each year of eligibility.

D. Licensed Clinical Social Worker (LCSW)

1. The applicant must be of good moral character.
2. The applicant shall have his/her university submit official transcript indicating the receipt of a master's degree of social work from a graduate social work program, accredited by the Council on Social Work Education.
3. The applicant shall submit documentation verifying at least 36 accumulated months of full-time post graduate social work practice on a form provided by the Board.
4. The applicant shall submit documentation verifying at least 24 accumulated months of supervision post graduate social work experience in accordance with the Board's supervision rules and on the form provided by the Board.
5. Supervised experience must be under the supervision of a Board approved clinical supervisor.
6. The applicant shall obtain a passing score on an examination approved by the Board.

E. Board certified social workers who hold valid, current licenses on January 1, 2000, must submit a notarized affidavit to the Board on or before December 31, 2000, requesting that their status be changed to licensed clinical social worker. Board certified social workers who do not

submit a notarized affidavit by December 31, 2000, will be assigned the graduate social work status effective January 1, 2001, and shall be subject to the qualifications listed in R.S. 37:2708 to change their status after January 1, 2001.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§307. Administration of Examination

A. Examination

1. The social work examination shall be administered at least once per calendar year at a time and place designated by the Board.

2. The Louisiana State Board of Social Work Examiners recognizes the examinations of the American Association of State Social Work Boards as the national examination for social workers.

3. Examination Pass Point. The Board shall administer and grade a written examination or employ a national recognized testing firm to do the same. Whichever method is used, the Board will consistently strive to improve reciprocity with other states having licensure comparable to Louisiana. A pass score of 70 will be used to grade the examination for the licensed clinical social worker and the graduate social worker.

B. Retake of Examination

1. Applicants must complete a Retake Application and submit the retake fee to the Board office.

2. If more than eighteen months has lapsed since the last examination an applicant for retake must submit an updated application for license.

3. Applicants for the LCSW license must submit an Employer Verification Affidavit for each place of employment after receipt of the MSW degree.

4. The Board shall observe the retake policy of the testing service.

C. Examination Review Policy. The Board may allow candidates to review failing examinations, at applicant's expense, in accordance with the rules of the American Association of State Social Work Boards.

D. Preparatory Course

1. The Board shall not endorse nor in any way participate in the operation or planning of any preparatory or cram course allegedly preparing applicants for the social work examination.

2. No former member of the Board of examiners may take part in the development, sponsorship or administration of any preparatory or cram course offered to candidates for the social work examination for two (2) years after said Board member's term of office has expired.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§309. Application Procedure

A. Application forms and instructions may be obtained by making a written, telephone or electronic request to the Board office.

B. Applications for license, certification or registration are reviewed and approved by the Board at regularly scheduled Board meetings.

C. Applications must be submitted to the Board office at least seven days prior to the Board's meeting to be eligible for consideration.

D. The Board shall refuse to consider any application not complete in every detail, including submission of every document required by the application form. At the Board's discretion a more detailed or complete response to any request for information set forth on the application form may be required.

E. The application fee for licensure, certification, provisional certification, or registration must be submitted in the form of a money order or certified check.

F. Applicants for the LCSW license must submit an Employer Verification Affidavit for each place of employment in Louisiana after receipt of the MSW degree.

G. Applicants for the LCSW license must submit proof of 24 months of accumulated supervised experience on the forms provided by the Board.

H. Non-resident applicants may submit verification of 36 months of out-of-state accumulated social work employment to qualify for the LCSW license.

I. The official transcript from a university accredited by the Council on Social Work Education verifying receipt of a master's degree must be received directly from the university.

J. The application for licensure, certification, provisional certification and registration requests the applicant's social security number for identification purposes; however, submission is optional.

K. Procedure for social workers with Felony Convictions.

1. The burden of proof for submitting the requested documentation is the responsibility of the BSW or MSW applicants in order to convince the Louisiana State Board of Social Work Examiners that he/she has good moral character and fitness to practice social work.

2. The BSW or MSW applicant should collect and deliver the following documents to the Board office promptly:

a. copies of all court records containing information of the conviction and the imposition of sentence;

b. the current name, address, and telephone number of the judge who imposed sentence and who presided at the trial and/or accepted any plea upon which the felony conviction was based;

c. any documentation or records which reflect the term of any probationary period, the conditions of probation and the fulfillment and completion of all terms and conditions of probation;

d. the current name(s), addresses and telephone numbers of any probation officers or persons of similar title or job function to whom the applicant has reported or who has any information concerning the applicant's conduct during any probationary period;

e. if any form of restitution to a victim or victims was part of a sentence imposed or a condition of probation the applicant must provide the names, current addresses and telephone numbers of any such victim or victims and an affidavit of the applicant that affirms that all required restitution has been completed;

f. if the sentence included any form of imprisonment, residence at a half-way house, other forms of

correctional and/or treatment facilities, the applicant must provide the complete address, names and current addresses of any persons having information relating to the satisfactory completion of any such prison term, residence or treatment, and any related documents. In the event that medical, psychiatric, psychological, substance or alcohol abuse evaluation, treatment and rehabilitation was in any way part of the sentence or a term or condition of probation, the applicant will execute any releases which may be required for the Board to obtain information. Such information obtained will be maintained by the Board on a confidential basis;

g. all records or documents relating to any arrest or conviction of any felony or misdemeanor which has occurred at any time since the applicant's original felony conviction or which occurs at any time during which the application is pending or being investigated (this requirement is an ongoing responsibility of the applicant);

h. any documents, records, or information which the applicant wishes to present in support of his or her application which shows or evidences rehabilitation, positive social contributions, awards, commendations, social or lifestyle adjustments, positive treatment outcomes, employment or academic evaluations, volunteer work or any other area in which the applicant participated which would reflect on the applicant's good moral character and fitness to practice social work. (The applicant should provide the names, current addresses and telephone numbers of any references or persons having information in support of the application. While information in support of an application which occurred prior to the conviction may be submitted, the Board will place greater emphasis on supporting documentation and information concerning events which have occurred since the felony conviction);

i. true copies of any licenses, certificates to practice or similar documents issued by any Board or licensing authority of any other state or the state of Louisiana obtained by the applicant since the date of the felony conviction. The applicant should provide a complete listing of any college, graduate school, trade or business school and employers to whom he or she has made application since the date of the felony conviction. This request includes any applications which were denied for any reason, including the felony conviction.

3. BSWs and MSWs should be aware of the following:

a. any delay in providing the requested information will delay the Board's action on the application;

b. providing any false or misleading information, being evasive, concealing or making material omissions, or failing to cooperate shall form a basis for the denial of the application;

c. in the event that the application is denied by the Board, the applicant may request a Compliance Hearing provided the application for such a hearing is made in writing within thirty days after the applicant receives the notice of the denial of the application. The request shall contain the applicant's receipt of the notice of the denial of the application, and the applicant's grounds for opposition to the denial of the application. The applicant is further aware that at such a hearing the applicant may be represented by

legal counsel and the applicant bears the burden to establish that he or she meets the criteria for licensure;

d. the intent of the above enumerated items is to obtain the information upon which the Board will evaluate the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§311. Renewals and Cancellation

A. Renewal notices are mailed on June 20 of each year. The renewal fee is due between June 20 and November 30 of each year.

B. Licensed Clinical Social Workers must list those Graduate Social Workers under their supervision for licensure requirements and agency setting on their renewal form.

C. Twenty clock hours of continuing education in programs approved by the Board shall be obtained prior to June 30 of each year.

D. A lapsed license fee may be paid between December 1, and February 28, of each year and the license, certificate or registration will be renewed. (The lapsed fee equals twice the amount of the renewal fee.)

E. Without payment of the lapsed fee, the license, certification or registration is canceled after February 28, and a certified notice of cancellation is mailed.

F. When a LCSW license is allowed to lapse after February 28, the applicant will be required to pay the appropriate application and examination fees and retake and pass the examination. If the individual is unsuccessful at a compliance hearing concerning this matter, s/he shall be required to file a new application, subject to the examination procedures, and pay those required fees. However, such an applicant need not duplicate the two years of social work supervision or proof of graduate degree and may be reinstated upon successful completion of the examination and payment of the appropriate fee to the Board.

G. When a GSW certification is allowed to lapse after February 28, the applicant will be required to pay the appropriate application and examination fees and retake and pass the examination. If the individual is unsuccessful at a compliance hearing concerning this matter, s/he shall be required to file a new application, subject to the examination procedures, and pay those required fees. However, such an applicant need not duplicate the proof of graduate degree and may be reinstated upon successful completion of the examination and payment of the appropriate fee to the Board.

H. When a RSW registration is allowed to lapse after February 28, the applicant will be required to pay the appropriate application fee. If the individual is unsuccessful at a compliance hearing concerning this matter, s/he shall be required to file a new application and pay the Registration fee to the Board.

I. It is the social worker's responsibility to keep the Board informed of his/her current mailing address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§313. Fees

A. The fees charged by the Louisiana State Board of Social Work Examiners shall be as follows:

Application Fee for LCSW	\$100.00
Application Fee for GSW	75.00
Application Fee for RSW	50.00
Application fee for retake of LCSW	50.00
Application fee for retake of GSW	50.00
Renewal Fee for LCSW	75.00
Renewal Fee for GSW	50.00
Renewal Fee for RSW	25.00
Late Renewal Fee for LCSW (after November 30,)	150.00
Late Renewal Fee for GSW (after November 30,)	100.00
Late Renewal Fee for RSW (after November 30,)	50.00
Directory Fee	25.00
Registration Fee for Supervision for LCSW License	35.00
Fee for Returned Checks	25.00
Reissuance of lost or destroyed certificate	25.00
Seal of Authenticity	5.00
Reissuance of lost or duplicate identification card	5.00
Fee for mailing labels	\$0.03 per label plus postage & handling
Fee for mailing labels	\$0.25 per page plus postage & handling
Fee for Board publications	5.00 each plus postage & handling
Fax transmissions	5.00 first page 1.00 each additional page

B. Subpoena Fees. Fees must be submitted in advance for issuing a subpoena. A written request must be submitted to the Board office, listing the name and address of the individual to be subpoenaed.

Subpoenas issued in East Baton Rouge Parish	\$50.00
Subpoenas issued outside of East Baton Rouge Parish	50.00 plus \$0.30 per mile for service
Written verification of license, certificate or registration	5.00

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§315. Board Members

A. Officers. The Board shall elect annually at the June Board meeting, a Chairman, vice-chairman, and secretary/treasurer whose responsibilities are included in the Policy Manual.

B. Meetings

1. The Board shall schedule monthly meetings in December for the following calendar year.

2. A schedule of meeting dates shall be published in the Board newsletter.

3. Any Board member who misses three (3) Board meetings, barring extenuating circumstances approved by the Board, during the course of one calendar year shall resign from the Board.

4. Special travel requests, other than regularly monthly meetings, must be approved by the Board at regular monthly meetings.

C. Expense Reimbursement

1. Expenses charged to the Board must be consistent with the time frame and mission of Board meetings and other function. Expenses which are exceptions to this policy may be paid with justification and approval by the Board.

2. Board members shall be reimbursed for actual traveling, incidental, and clerical expenses incurred while engaged in official duties.

a. Mileage expenses shall be reimbursed at the official state rate.

b. Airfare expenses must be at the state contract rate or economy class rate when contract rates are not available.

c. Lodging and meals shall be reimbursed at actual cost if receipts are submitted. Without receipts, lodging and meals shall be reimbursed at the appropriate state rate.

d. Incidental expenses are defined as telephone calls, fees for storage and handling of equipment, tips for baggage handling, parking fees, ferry fees, and road and bridge tolls.

3. Registration fees for conferences and room rental for a conference meeting are reimbursed at actual cost, but must be approved by the Board at a regular monthly meeting.

4. Clerical expenses for individual Board members shall be pre-approved by the Board at a regular monthly Board meeting.

D. Vacancies. The Board shall notify all social workers and professional social work organizations of vacancies on the Board, the qualifications required to serve, and the process for nominations by placing a notice in the board's newsletter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§317. Continuing Education Requirements

A. The purpose of continuing education is to protect the public by:

1. ensuring that the practitioner has formal opportunities to upgrade and update professional knowledge and skills; and

2. encouraging the practitioner to learn from other professionals; and

3. assisting the professional to expand his/her expanded professional resource network.

B. Consequently, approved learning situations emphasize opportunities for professional interaction and relationship-building.

C. Any credentialed social worker may be audited, so it is important to keep good records of continuing education experiences for at least one year and to be able to explain the nature of the content covered.

D. Random audits are done to ensure that the continuing education mandate is applied fairly to all credentialed social workers.

E. The collection period for continuing education hours is July 1, through June 30 of each fiscal year.

F. Continuing education hours are pro-rated as follows during the initial year of registration, certification or licensure:

Month Received	# Hours Required
April, May, June	0
July, August, September	20
October, November, December	15
January, February, March	10

G. Continuing education hours collected in the month of June may be used for the current collection period or may be carried over to the next collection period.

H. In the case of extenuating circumstances, when the individual does not fulfill the continuing education requirements, the individual shall submit a written request for extension to the Board for consideration.

I. Continuing Education Requirements for the Registered Social Worker:

1. twenty clock hours of continuing education in programs approved by the Board shall be obtained prior to each renewal date including three (3) clock hours in social work ethics once every two years.

J. Continuing Education Requirements for Graduate Social Worker:

1. twenty clock hours of continuing education in programs approved by the Board shall be obtained prior to each renewal date, including three (3) clock hours in social work ethics once every two years.

K. Continuing Education Requirements for Licensed Clinical Social Worker:

1. twenty clock hours of continuing education in programs approved by the Board shall be obtained prior to each renewal date to include:

a. three (3) clock hours in social work ethics once every two (2) years;

b. ten (10) clock hours in social work supervision, once every five (5) years to maintain the Board approved supervisor status; and

c. ten (10) clock hours each year shall be clinical content including diagnosis and treatment.

2. for the collection period July 1, 1999 through June 30, 2000 only, LCSWs must collect twenty clock hours of continuing education in programs approved by the Board to include:

a. three (3) clock hours in social work ethics once every two years;

b. ten (10) clock hours in social work supervision, once every five (5) years to maintain the Board approved clinical supervisor status, and

c. five (5) clock hours of clinical content, including diagnosis and treatment.

L. The following learning forums are approved for continuing education:

1. educational offerings (workshops, conferences, courses, seminars, teleconferences, telecourses, and Internet courses) sponsored by professional organizations such as: Louisiana Council for Social Work Education, National

Association of Social Workers, National Federation of Clinical Social Work Society, Council on Social Work Education, American Medical Association, American Psychiatric Association, American Psychological Association, American Hospital Association and American Association of State Social Work Boards or other appropriate professional organizations. Workshops with a social work focus which are offered by individual social workers and approved by one of the above professional organizations for CE credits are also acceptable;

2. distance learning (teleconferences, telecourses, and Internet courses) cannot exceed a total of 8 clock hours of the required 20 clock hours of continuing education required annually for renewal of social work credentials;

3. continuing education activities or academic courses provided by accredited schools of social work. Academic course work counts per actual class hour;

4. presentations of social work content at professional conferences, staff development meetings, and other appropriate forums in which you are the primary presenter. These presentations count 1½ times the actual time of the presentation, in order to give credit for preparation time. (Example: You prepare a presentation on Holiday Stress that last one (1) hour. You will receive 1½ hours continuing education credit for this presentation.) Presentation and preparation time may only be counted once for each topic. Academic preparation and teaching of social work content (undergraduate or graduate) may be counted once in the same manner, unless the course has been revised to include substantially new content and text books. Please be prepared to provide the exact nature of the content and presentation;

5. teleconferences offered via public television which deal with social work content, are presented by a creditable and knowledgeable presenter, and are aimed at a professional audience;

6. attendance at staff development presentations with a social work focus (such as staff meeting with a formal and in-depth presentation on working with clients who present borderline symptoms). Please be prepared to provide the dates and nature of the content covered. Case based staffing meetings are not included as appropriate continuing education experiences;

7. attendance at professional social work meetings, American Association of State Social Work Boards (AASSWB) item writing workshops, symposiums, panel discussions, or conferences sponsored by the professional associations suggested in Rule #117. L. 1. Please be prepared to provide the dates and nature of content covered;

8. formal study groups of three or more participants with peer supervision. Names and work addresses, and telephone numbers of group members should be submitted to the Board office. Study groups should maintain records of topics, attendance, meeting times, and presenters;

9. contracted professional consultation which the licensee receives. Please provide the paid consultant's name, address, and telephone number;

10. preparation of substantial written material with a social work focus which requires literature search, research, and explication of social work content (such as writing a social work article or book for publication, or a major grant application). Please provide specific information about the nature of the written work, the effort required, and the

publisher or funding agency. These activities may be counted for no more than five (5) hours continuing education;

11. social workers should be doing consistent independent study. However, such study does not meet the goal of increasing professional relationships and networks. Consequently self-study programs are approved only for rural areas or if the licensee is physically incapacitated. All self-study programs must receive pre-approval from the Board:

M. The intent of the continuing education requirement is to enhance competence, not to cause undue expense or burden to the credentialed social worker. The Board encourages social workers to develop learning options which enhance their abilities to do their various social work roles. For instance:

1. a study group might have presentations from professionals who represent different community resources for clients, or might have formal book reviews and discussions of substantial social work books;

2. a staff development meeting might examine recent federal or state policies which affect social work services, or ways to increase cultural diversity and sensitivity among staff;

3. a social work faculty meeting might have a formal presentation on how to work with students who have diagnosed mental health conditions;

4. an administrator might contract for consultation on how to deal with staff who are drug or alcohol impaired.

N. The following learning situations will not be accepted:

1. banquet speeches;

2. non-social work content courses not directly related to enhancement of social work skills or performance as a social work employee. (Example: Computer, financial or business management courses designed to enhance the business of private practice);

3. staff orientation, administrative staff meetings and case management meetings;

4. book reports or critiques of professional journal articles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§319. Reciprocity and Endorsement

A. Reciprocity with other states and territories having comparable licensure, certification or registration is permissible as approved by the Board.

B. In cases wherein no formal reciprocity agreement has been made, the Board may endorse the license, certification or registration of a social worker moving to Louisiana from a state or territory with equivalent license, certification or registration standards.

C. The written examination may be waived by the Board and a Louisiana license or certification issued if the following specific requirements are met:

1. the applicant is currently licensed or certified to practice social work in another state with standards equivalent or greater to those of Louisiana;

2. the applicant presents evidence that he/she meets the qualifications of L.S. 37:2701-2723;

3. the applicant has passed the Advanced, Clinical, or Intermediate examination of the American Association of State Social Work Boards in order to secure current social work license or certification in the state of Louisiana;

4. the applicant submits the required fees;

5. the applicant submits the completed application for endorsement;

6. the Verification of License in Other State Form is completed by the state in which the applicant has current licensure or certification and submitted to the Louisiana Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§321. Certificate Lettering

A. Only the individual's name will be placed on the certificate. No degrees, honors, or other information shall be added.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§323. Causes for Disciplinary Action

A. Disciplinary action, including denial, suspension, revocation and other disciplinary options available to the Board are set out in LSA-R.S. 37:2717, these Rules, Standards, and Procedures and the Louisiana State Administrative Procedure Act.

B. The Board will notify the professional community within 30 days of any disciplinary action including the discipline, the social worker's name, location, offense and sanction imposed. A notice of the disciplinary action also will be published in the Louisiana State Board of Social Work Examiners' Newsletter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

Chapter 5. Minimum Supervision Requirements

§503. GSWs Seeking the LCSW Credential

A. GSWs seeking the LCSW credential must receive a minimum of 24 accumulated calendar months of supervised full-time postgraduate social work practice under the supervision of a Board-Approved Clinical Supervisor (BACS).

B. A calendar month is counted from the first working day of the month to the last day of that month. GSWs may obtain a list of Board-Approved Clinical Supervisors (BACS) from the Board Office.

C. Face-to-face supervision for licensure must total at least 96 hours.

D. Supervision segments of no fewer than 30 minutes will be counted toward meeting the supervision requirement.

E. The requirement for supervision is at least 4 hours per calendar month with at least two different supervision contacts per month.

F. One-half (48 hours maximum) of the supervision requirement may be met through group supervision, occurring in increments of no more than two (2) hours per

group. No more than five (5) supervisees may be involved in supervision groups.

G. The supervisee and supervisor must keep accurate records of both the dates of supervision times and the hours spent in supervision for potential audit of records. This information must be submitted to the Board office on the supervision form entitled *Record of Supervision*.

H. Supervised work experience eligible to be counted towards licensure begins on the first working day of the first full calendar month after the first supervisory session.

I. School social workers may only count supervision that occurs during the full months in which they are employed in a social work position.

J. Supervisees and supervisors must submit on a timely basis all required forms as designated in the Louisiana State Board of Social Work Examiners' *Supervision for Professional Development and Public Protection: A Guide* (available from the Board Office).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§505. The GSW Not Pursuing the LCSW Credential

A. The GSW who is not pursuing LCSW licensure, or who is fulfilling the experience requirement toward licensure, may deliver those clinical services which constitute psychotherapy only under the supervision of an LCSW. Supervision under these circumstances does not require that the supervising LCSW have the Board Approved Clinical Supervisor (BACS) designation.

B. Regardless of the time spent in clinical practice, the GSW must be supervised in accordance with the following rules.

C. The employing agency ultimately is responsible and accountable for services rendered by the GSW; therefore, the agency may provide access to LCSW supervision to ensure quality of services. The GSW may independently secure LCSW supervision.

D. On-site supervision by LCSWs is the preferred method of supervision.

E. Supervision may be rendered through individual supervision, group supervision, telephone contact or by secure electronic media to meet the needs of the agency and to provide timely services to clients in emergencies.

F. Supervision for GSWs rendering clinical services constituting psychotherapy shall total a minimum of two hours per month, counted in increments of no fewer than 30 minutes, for the duration of the time that the GSW is rendering psychotherapeutic services.

G. The supervisee and supervisor must keep accurate records of both the dates of supervision, times and hours spent in supervision for potential audit of records. The Board at its discretion may ask for a copy of the record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§507. Board-Approved Clinical Supervisor

A. To qualify for the Board-Approved Clinical Supervisor (BACS) designation, a social worker must:

1. hold the LCSW license;

2. verify at least 3 years of full-time social work experience at the LCSW level;

3. submit two letters of reference to the Board from other professionals (one of whom should be an LCSW) who are familiar with the licensee's work, including supervision skills;

4. participate in a Board Orientation Workshop;

5. participate in a Board pre-approved workshop on the theory and techniques of supervision of at least 10 hours duration;

6. all requirements must be met before the social worker becomes a BACS.

B. To continue the BACS designation in good standing, the social worker must:

1. maintain LCSW licensure;

2. appropriately conduct all supervisory duties explicated in the Louisiana State Board of Social Work Examiners' *Supervision for Professional Development and Public Protection: A Guide* (available from the Board Office);

3. participate in a Board pre-approved workshop on the theory and techniques of supervision of at least ten (10) hours duration every five (5) years (counting from the date of first receiving the BACS designation);

4. failure to comply with all regulations explicated in the Board's *Supervision for Professional Development and Public Protection: A Guide* may result in the Board lifting the BACS designation from the LCSW.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

Chapter 7. Procedural Rules

§701. Authority

Consistent with the legislative purpose specified in LSA-R.S. 37:2701 through 2723, and to protect the safety and welfare of the people of this state against unauthorized, unqualified and improper practice of social work, the following rules, standards, and procedures are established under the Board's rule making authority of LSA-R.S. 37:2705(C), 37:2717(C)(E) and LSA-R.S. 49:952.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§703. Complaint Origination

A. The Board is authorized to receive from any person a complaint or complaints against social workers licensed, certified, provisionally certified, or registered under LSA-R.S. 2701, *et seq.*, (hereinafter referred to as Social Workers), as well as complaints against any level of social work applicant. Throughout these rules, the term license or licensed includes the term certification, provisional certification, and registration and also applies to any social workers who are certified, provisionally certified, or registered. The Board is also authorized to initiate such complaint(s) when the Board otherwise possesses or obtains information which satisfies the Board that such a complaint is warranted.

B. Any complaint bearing on a social worker's professional competence, conviction of a crime,

unauthorized practice, the assisting of unauthorized practice, mental competence, neglect of practice, or violation of the Social Work Practice Act (including these rules and standards), or for any of the causes specified for disciplinary action in LSA-R.S. 37:2717 shall be submitted to the Board in a timely manner and in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§705. Investigation Procedures

A. When the Board receives a written complaint, report, or other information which, if established as being true, would constitute just cause under the law for revocation, suspension, denial of license, or any other form of discipline specified in LSA-R.S. 37:2717(B), the Board may refer the complaint, report or information to the Board Administrator and/or to the Board's designated complaint investigation officer (hereinafter referred to as the CIO). The CIO may be an employee of the Board or provide investigation services under contract with the Board. The Board's Administrator and staff and/or the CIO shall conduct such investigation or inquiry as the Board deems appropriate to determine whether there is probable cause to initiate formal administrative proceedings against the involved social worker. To assist in the investigation, the Board is authorized to issue, as necessary or upon request, such investigative subpoenas as may be required to obtain documents, the appearance of witnesses, or sworn statements or testimony.

B. Except for the notice required by Rule 711.B. and Rule 737.C., all other notices, correspondence or written communication relating to complaints, investigations, notices of investigations, conferences, decisions, orders, etc., may be served on or delivered to the involved social worker, complainant(s), or witnesses by regular mail or, when deemed appropriate or necessary by the Board or its administrator, by personal delivery (service) or other available means. Notices shall be delivered with the designation *Personal and Confidential* clearly marked on the outside of the envelope.

C. Under normal circumstances, the involved social worker will receive prompt written notice from the Board's Administrator of the initiation or pendency of an investigation. The notice shall contain sufficient detail of the nature and the basis of the complaint or other information giving rise to the investigation, as well as a preliminary statement of the possible violations involved. The notice shall also provide the social worker with an opportunity to respond in writing to the complaint or to provide other information relating to the investigation. When such notice, in the judgment of the CIO and/or the Board's Administrator, is likely to prejudice the investigation, the notice may be delayed. Any delay in the notice to the involved social worker beyond the first 20 days of the investigation will require the Board's Administrator to obtain Board approval for any additional delay.

D. Board members as members assigned by the agency to make findings of fact and conclusions of law will not and may not participate in the investigation. No Board member shall accept contact or communicate with a social worker involved in an investigation, any person on behalf of the social worker, legal counsel for any party, the complainant,

witness, or potential witness. If any of these persons attempt to contact a Board member, the Board member shall promptly refer the matter to the Board's Administrator and/or the Board's legal counsel. This restriction conforms with LSA-R.S. 49:960(A) and is not intended to restrict those routine communications which are in no way related to a case under active investigation or adjudication.

E. The investigation and recommended action or report should be completed within 60 days following the date of the Board's written referral for investigation. If the Board's Administrator and/or CIO shows good cause, the Board may extend the time for investigation for a reasonable time not to exceed an additional 60-day period.

F. The Board will not authorize a delay in notice to the involved social worker or an extension of time for concluding an investigation if this action would be inconsistent with the limitations set out in LSA-R.S. 37:21. The Board shall schedule hearings and provide notice of hearings consistent with those statutory limitations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§707. Disposition of Investigation

A. The Board may, before, during, or following an investigation, or after the filing of an administrative complaint, dispose of any complaint informally through correspondence or conference with the social worker and/or the complainant. This action may occur whether requested by the involved social worker or recommended by the CIO, or at any time as deemed appropriate by the Board. Such informal resolution may take the form of any informal disposition recognized in LSA-R.S. 49:955(D) or any other form of agreement which adequately addresses the complaint or the matter under investigation. Such agreement is binding upon the involved social worker and the Board. When an informal disposition occurs after an administrative complaint is filed with the Board, the agreement requires the concurrence of the assistant attorney general handling the case. This concurrence further requires a certification by the assistant attorney general that the social worker's conduct as specified in the informal disposition documents is consistent with the known evidence which could be presented at an adjudication hearing.

B. Any attempt by the Board to resolve a complaint by informal disposition which does not result in a disposition of the complaint or matter under investigation, will in no way preclude further investigation of that matter or complaint. The participation in any such attempt by the Board or any of its members will in no way disqualify the Board or any of its members from serving on an adjudication hearing panel dealing with an administrative complaint on the same subject matter as the attempted informal resolution. The Board and the hearing panel is authorized to obtain waivers related to their participation in informal disposition procedures signed by the involved social worker and the social worker's legal counsel, if any, prior to its participation in such informal procedures.

C. At the conclusion of the investigation, the Board's Administrator will receive a written report from the CIO and/or the Board's administrative staff. The written report shall provide a summary of the complaint or basis for the

investigation, a general statement of the evidence relating to the investigation and the investigator's determination and recommendation. If the report contains a recommendation that the complaint be dismissed due to a lack of evidence, inadequate legal cause for the filing of an administrative complaint, or for any other reason, the Administrator promptly shall notify the Board chairperson who will, on a rotating basis, designate a Board member to review the complaint, the complete investigative materials of the CIO or the Board's administrative staff, and any investigative reports and recommendations. This review shall include an assessment of the quality and thoroughness of the investigation and the legal and/or factual basis for the recommended dismissal. The reviewing Board member shall promptly report to the Board his or her assessment of the investigation and the basis for the recommended dismissal. Unless the complaint is the subject of an informal disposition as specified in Subpart A. of this Rule, no complaint may be dismissed without Board member review of the investigation and a vote of the Board on the recommendation of the investigator's report. The Board may accept the recommendation of the report and dismiss the complaint or may refer the matter back to the Board's administrator for further investigation as it deems necessary. In the event the Board votes to dismiss the complaint, both the involved social worker and the complainant will be notified in writing concerning the Board's action. Notwithstanding Rule 705. D., no Board member will be disqualified from serving on a hearing panel on a complaint merely because the Board member was designated to review the complaint or participated in a vote related to the recommendation of the dismissal of any complaint.

D. If the investigation report contains a determination that there is probable cause to believe that the involved social worker has engaged or is engaging in conduct, acts, or omissions constituting legal cause under the law, these rules and regulations, or ethical standards for any form of disciplinary action as specified in LSA-R.S. 37:2717, then the Administrator shall promptly notify the attorney general or the assistant attorney general assigned to prosecute such matters on behalf of the state pursuant to LSA-R.S. 37:2717(C). The notice shall deliver to the assistant attorney general all investigative reports, statements, notes, recordings, court records, and other data obtained in the course of the investigation. It will also request the preparation of a draft of an administrative complaint regarding any violations which are disclosed in or suggested by the investigation. The assistant attorney general prosecuting the matter may request and obtain other information from the Board's Administrator, including access to consultants to assess the results of the investigation and prepare a draft of the administrative complaint. The draft of the administrative complaint shall identify the involved social worker and be prepared in the same form and content as the administrative complaint specified in Section 709(B) of these Rules. The draft of the administrative complaint shall be signed by the assistant attorney general and delivered to the Board's Administrator within 30 days of the notice and delivery to the assistant attorney general of the investigation, report and specified materials. The Board's Administrator is authorized to extend the time for the submission of the draft of the administrative

complaint for a reasonable time as requested by the assistant attorney general, provided that such extensions do not foreclose action on the complaint or the scheduling of a hearing due to the limitations contained in LSA-R.S. 37:21.

E. Upon receiving a signed draft of the administrative complaint, the Administrator shall mail a copy of the draft complaint together with a notice letter to the involved social worker. The letter will advise of the intent to file the administrative complaint and give the social worker a reasonable opportunity pursuant to LSA-R.S. 49:961(C) to show compliance with all legal requirements of the social worker's license, or to show that the complaint is unfounded.

F. Should the involved social worker fail to respond within the time provided (which time may be extended by the Administrator upon good cause shown), or if the social worker's response does not satisfactorily demonstrate that the social worker is in lawful compliance or that the complaint is unfounded; the Administrator shall in consultation with the assistant attorney general prepare an original complaint in the form of the draft complaint for filing with the Board. In determining the adequacy of any response submitted by the social worker, the Administrator should consult with the assistant attorney general. The Administrator may also consult with its general legal counsel (also referred to in these procedural rules as independent counsel) on any legal issues relating to the response submitted by the social worker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§709. Administrative Complaint Procedure

A. An original of the administrative complaint shall be signed and approved by the assistant attorney general and delivered to the Board's Administrator prior to being filed with the Board. The Board's Administrator shall place the administrative complaint on the Board agenda for the next scheduled meeting of the Board. When the Board receives the administrative complaint, the Board will docket the complaint under its designated numbering system and schedule a hearing.

B. The administrative complaint shall identify the involved social worker and any license, provisional license, certificate or registration number. In separately numbered paragraphs, the complaint shall concisely state the material facts and the matters alleged to be proven, including the facts giving rise to the Board's jurisdiction over the respondent social worker, the facts constituting legal cause for the complaint against the respondent under law (including the specification of the Practice Act, the Administrative Procedure Act, the Board's Rules, Standards, and Procedures, or any other statutory law alleged to have been violated by the respondent social worker). The complaint shall request an administrative sanction or relief which the assistant attorney general seeks in the name of the State of Louisiana. It shall bear the name, address and telephone number of the assistant attorney general.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§711. Notice of Administrative Complaint and Hearing Scheduling

A. Upon the docketing of the administrative complaint, the Board should schedule the complaint for a hearing before a hearing panel of the Board. This hearing shall take place not less than 30 days nor more than 150 days of the docketing of the complaint, provided that the time for the hearing may be lengthened as the Board deems necessary or appropriate, or upon good cause shown by motion of the attorney general or respondent. Any requests for extension of time to schedule the hearing beyond 150 days after docketing shall be considered the filing of a procedural motion under LSA-R.S. 37:21(A)(5).

B. If the Board finds that public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, the Board may enter an order of summary suspension of the respondent social worker's license pending proceedings for revocation or other action in accordance with LSA-R.S. 49:961(C). In that event, the scheduled hearing on the summary suspension shall be noticed and scheduled not more than 45 days after the order of such summary suspension. Scheduling may extend beyond the 45 day period if requested by the involved social worker.

C. The respondent social worker will be served written notice of the administrative complaint; the time, date, and place of the scheduled hearing; and a copy of the Board's Rules, Standards, and Procedures by registered, return-receipt-requested mail, as well as by regular first class mail. The notice will be sent to the most current address for the respondent social worker as reflected in the official records of the Board. The notice shall include a statement of the legal authority and jurisdiction under which the hearing is to be held and shall be accompanied by a certified copy of the administrative complaint. If the hearing panel of the Board has been designated at the time of the notice, the notice shall contain the names of the panel members.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§713. Response to Complaint, Notice of Representation

A. Within 15 days of service of the complaint (or such longer time as the Board may permit, on motion of the respondent social worker, hereafter called "respondent"), the respondent may answer the complaint, admitting or denying each of the separate allegations of fact or law. The respondent may offer any explanation or assert whatever defense(s) are applicable. Any matters admitted by respondent shall be deemed proven and established for purposes of adjudication. In the event that respondent does not file a response to the complaint, all matters asserted in the complaint shall be deemed denied.

B. In any adjudication proceeding before the Board, respondent may be represented by an attorney at law duly admitted to practice in this State. Respondent who is represented by legal counsel shall personally or through such counsel give written notice to the Board of the name, address and telephone number of the attorney. Following the Board's receipt of proper notice of representation, all further notices, complaints, subpoenas, orders, or other process related to the

proceedings shall be served on respondent through his or her designated counsel of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§715. Pleadings; Motions and Service

A. All pleadings, motions, and other papers permitted or required to be filed with the Board in a pending adjudication shall be filed by personal delivery at or by mail to the Board office. Concurrent service by mail or personal delivery shall be filed with the assistant attorney general, if filed by or on behalf of the respondent, or upon respondent or respondent's counsel of record (if any), if filed by the assistant attorney general.

B. All pleadings, motions, discovery, or other papers shall be submitted on plain white letter-size (8½" x 11") bond, with margins of at least 1" on all sides. The text shall be double-spaced, except for quotations and other matter customarily single-spaced. Submitted materials shall bear the caption and docket number of the case as it appears on the complaint, and shall include a certificate of the attorney or person making the filing that service of a copy of the materials has been effected in the same manner by regular mail or by personal delivery.

C. The Board may refuse to accept for filing any pleading, motion or other paper not conforming to the requirements of this section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§717. Pre-Hearing Motions

A. Pre-hearing motions, including a motion to dismiss, shall be filed not less than 30 days following the service of the complaint on the respondent or 15 days prior to the hearing, whichever is earlier. Each pre-hearing motion shall be accompanied by a memorandum which sets forth a concise statement of the grounds upon which the relief sought is based and the legal authority therefor. A motion may be accompanied by an affidavit(s) as necessary to present or support factual content of the motion. Within 10 days of the filing of any such motion and memorandum or such shorter time as the Board may order, the party opposing the motion (whether the opposing party is the assistant attorney general or the respondent or respondent's counsel), may file a memorandum which may be supported by affidavit(s) in opposition to or setting forth the opposing party's position on the motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§719. Motions for Continuance of Hearing

A. A motion for continuance of hearing shall be filed within the delay prescribed by Rule 317 of these Rules, provided that the Board may accept the filing of a motion for a continuance at any time prior to hearing upon a showing of good cause not discoverable within the time otherwise provided for the filing of pre-hearing motions.

B. A scheduled hearing may be continued by the Board only upon a showing by respondent or the assistant attorney general that there are substantial legitimate grounds that the hearing should be continued. These grounds must balance the respondent's right to a reasonable opportunity to prepare and present a defense, with the complaint and the Board's responsibility to protect the public health, welfare, and safety. Except in extraordinary circumstances evidenced by verified motion or accompanying affidavit, the Board ordinarily will not grant a motion to continue a hearing that has been previously continued upon motion of the same party. The Board may, but is not required to continue a scheduled hearing, where both respondent and/or respondent's legal counsel and the assistant attorney general jointly request continuance.

C. If an initial motion for continuance is not opposed, it may be granted by the Board's Administrator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§721. Disposition of Pre-Hearing Motions

A. Any pre-hearing motion, other than an unopposed initial motion for continuance of hearing which may be granted by the Administrator, shall be referred for decision to the presiding officer of the hearing panel designated for that proceeding. The presiding officer may make a ruling or, at his or her discretion, may refer any pre-hearing motion to the entire panel for disposition. Any party aggrieved by the decision of the presiding officer on a pre-hearing motion may request that the motion be reconsidered by the entire panel.

B. The presiding officer or the hearing panel shall ordinarily rule on pre-hearing motions on the papers filed, without a hearing. On written request by the respondent or the assistant attorney general, however, and on grounds satisfactory to the presiding officer of the hearing panel, the presiding officer may grant opportunity for hearing, by oral argument, on any pre-hearing motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§723. Rules of Evidence; Official Notice; Oaths and Affirmations; Subpoenas; Depositions and Discovery; Confidential Privileged Information; and Executive Session

A. Rules relating to evidence, notice, authority to administer oaths, issue subpoenas, conduct depositions and discovery, and the control of confidential and privileged information will be applied in adjudication proceedings before the Board as specified in LSA-R.S. 49:956, or as may be modified by LSA-R.S. 13:3715.1(J) and LSA-R.S. 44:4(25).

B. To the extent applicable, the testimonial privileges set out in the Social Work Practice Act, LSA-R.S. 37:2718 and the Louisiana Code of Evidence will apply to the hearings before the Board. By bringing a complaint against his or her social worker, the client waives the privilege of confidentiality for the purposes of the hearing.

C. The hearing panel and its designated presiding officer shall take reasonable steps to protect patient/client identity on any medical/psychotherapy records or similar records as required by LSA-R.S. 13:3715.1(J), and to the extent that any information presented at a hearing involves peer review material within the meaning of LSA-R.S. 13:3715.3. If protection of peer review material is required, the Board is authorized to conduct that portion of the hearing in executive session to preserve the confidentiality of peer review privilege materials, including information, data, reports, and records in compliance with LSA-R.S. 13:3715.3(G). The Board may also go into executive session for the limited purpose of discussing the character, professional competence, or physical or mental health of a licensee, pursuant to LSA-R.S. 42:6 and 6.1 and Op. Atty. Gen. No. 94-561, Dec. 8, 1994.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§725. Designation of Hearing Panel, Disqualification and Replacement

A. At the time the administrative complaint is docketed with the Board or within 30 days thereafter, the Board chairperson will designate five members of the Board (one of whom may, but is not required to be, the Board chairperson) to serve as the hearing panel for that complaint. The selected Board panel members shall elect from the membership a person to serve as presiding officer. The presiding officer at the hearing may make rulings on objections and the admissibility of evidence, and will insure that the conduct of the hearing proceeds without delay and pursuant to law. The other panel members may not delegate any of their decision-making or fact-finding duties to the presiding officer, nor shall the presiding officer have any greater weight in the decision-making process.

B. Any panel member having reason to believe that he or she is biased or prejudiced either for or against one of the parties to the proceeding, or who has a personal interest in the outcome, shall immediately notify the remaining Board members and request to be disqualified. Likewise, any party to such a hearing or a compliance hearing as provided in Rule 743, may file with the Board a motion supported by an affidavit requesting disqualification because of bias, prejudice or personal interest. Motion for disqualification shall be filed with the Board and the opposing party within 15 days following the notice of the composition of the hearing panel. Absent good cause shown, motions for disqualification filed more than 15 days following such notice will not be considered. As soon as possible, but not later than 10 calendar days preceding the beginning of the hearing, the majority of the hearing panel will consider the merits of the disqualification request and any opposition to that request filed by the opposing party. The concerned Board member shall not participate in the action to disqualify and shall not vote on that issue. If the Board hearing panel determines there is no merit to the request for disqualification, the Board will proceed with the hearing before the designated panel. However, any doubt as to the merits of the request for disqualification should be resolved in favor of disqualification, and the Board chairperson shall

immediately appoint one of the remaining Board members as the replacement to the hearing panel.

C. Ordinarily, the composition of a hearing panel is five members of the Board. However, in the event that the respondent social worker and the assistant attorney general agree to a hearing panel of three Board members, the chairperson may designate three of the five designated panel members to serve as the hearing panel. Any stipulation regarding a three-Board-member hearing panel must be in writing and signed by the respondent and/or respondent's attorney and the attorney general. Such stipulation further provides that the three member hearing panel may completely adjudicate all issues specified in the complaint, render findings of fact, conclusions of law, decision and sanction, and that no appeal of any decision or sanction will be based on a challenge to the Board's jurisdiction to adjudicate the matter with a three member hearing panel. Any such stipulation to a three-member hearing panel shall be delivered to the Board at least 15 days prior to the scheduled hearing. The written stipulation shall be filed in the adjudication record and shall constitute a waiver of the application of and the need to comply with LSA-R.S. 49:957.

D. At least one member of the hearing panel including the panel members of a compliance hearing specified under Rule 734 shall have the same social work credential as the respondent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§727. Board's Independent Legal Counsel

A. The Board may designate its general counsel to serve as independent counsel relating to complaints and adjudication and compliance hearings.

B. The Board's independent counsel may provide the Board, any hearing panel member, or the Board's Administrator with advice on the issues of legal sufficiency, notice, procedural and substantive due process of law (constitutional, statutory and rules), interpretations relating to any complaint, or the investigation or adjudication thereof. Such independent counsel may not participate in the investigation or prosecution of any case pending before the Board or Board hearing panel.

C. The Board's independent counsel may also provide other services relative to the complaint or adjudication which the Board or the hearing panel deems necessary, except as may be expressly limited by these rules, standards, and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§729. Pre-Hearing Conference

A. In any case of adjudication noticed and docketed for a hearing before the Board, the respondent and/or respondent's legal counsel and the assistant attorney general may agree, or the Board chairperson or the presiding officer of the hearing panel may require, that a pre-hearing conference be held among such counsel or together with the Board's independent legal counsel. This conference will be held for

the purpose of simplifying the issues for the hearing, and promoting stipulations as to facts and proposed evidentiary offerings which will not be disputed at the hearing.

B. If the parties and/or their legal counsel reside in different cities within the state, or if for other reasons it is inconvenient for parties to appear in person at a pre-hearing conference, the conference may be conducted by telephone.

C. Following the pre-hearing conference, the parties shall (and without such conference the parties may) agree in writing on a pre-hearing order which should include:

1. a brief statement by the assistant attorney general about what such counsel expects the evidence presented against the respondent to show;

2. a brief statement by respondent as to what the evidence and arguments in defense are expected to show;

3. a list of witnesses to be called by the assistant attorney general and/or respondent, together with a brief general statement of the nature of the testimony each witness is expected to give;

4. any stipulations which the parties may be able to agree upon concerning undisputed claims, facts, testimony, documents or issues; and

5. an estimate of the time required for the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§731. Consolidation of Cases

A. The Board shall have the discretion to consolidate one or more cases for hearing when they involve the same or related parties, or substantially the same questions of law or of fact. The Board may also grant separate hearings if a joint hearing would be prejudicial to one or more of the parties. If hearings are to be consolidated, notice must be given to all parties in advance of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§733. Conduct of Hearing; Record

A. Adjudication hearings are generally conducted in open session, except where closed or executive session is specifically authorized by law, as identified in these rules.

B. At the adjudication hearing, the assistant attorney general and the respondent and respondent's counsel shall be afforded the opportunity to present evidence on all issues of fact and argument on all issues of law and policy involved. They will also have opportunity to call, examine, and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for a full and true disclosure of the facts and disposition of the complaint.

C. The Board through its Administrator shall arrange for a certified court reporter/stenographer who shall be retained by the Board to prepare a written transcript of the proceedings.

D. During the hearing, the presiding officer of the hearing panel shall rule upon all evidentiary objections and other procedural questions, but in his or her discretion may consult with the entire hearing panel in executive session. The independent counsel may assist the presiding officer and the hearing panel, either in open session or executive

session, in ruling on evidentiary objections and other procedural issues raised during the hearing.

E. The record in an adjudication shall include the items specified in LSA-R.S. 37:2717 and LSA-R.S. 49:955. The record shall also contain the administrative complaint, the notice of hearing, the respondent's response to the complaint (if any), copies of subpoenas issued in connection with the case or the hearing of the adjudication, as well as all pleadings, motions and intermediate rulings.

F. The order of presentation in adjudication proceedings, unless the parties stipulate otherwise and the hearing panel approves, is first the presentation of evidence by the assistant attorney general, the presentation of evidence by the respondent, rebuttal by the assistant attorney general (if any). Rebuttal should be directed to issues raised by the evidence and defenses presented by respondent's case. Should the hearing panel determine, in the interest of fairness, that respondent be provided a limited opportunity to present additional evidence following rebuttal, the panel may so order.

G. Hearing panel members may direct questions to any witness at any time during the hearing process. Should questions posed by the hearing panel members suggest the need for additional direct examination, cross-examination or redirect examination by either party, the hearing panel will allow such additional examination as it deems appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§735. Evidence; Burden of Proof

A. In an adjudication hearing, the Board or the designated Board hearing panel may give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent people in the conduct of their affairs. To the extent applicable or not subject to exception, effect will be given to the rules of privilege recognized by law. The panel may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interest of the parties will not be prejudiced, any part of the evidence may be received in written form.

B. Any records and documents in the Board's possession which either party desires the Board to consider may be offered and made a part of the record. Such materials may be received into the record in the form of copies or excerpts and shall be available for the respondent's legal counsel to examine before being received into evidence.

C. To the extent not prohibited by law, the hearing panel will honor and receive written stipulations arrived at between the parties as a proven fact at the hearing. The hearing panel, as appropriate, will also accept verbal stipulations arrived at between the parties during the hearing as proven fact, provided both parties and/or their respective legal counsel acknowledge the factual content of the stipulation on the record. The hearing panel may use stipulations as well as other evidence in arriving at any decision.

D. The hearing panel may take notice of judicially cognizable facts and of generally recognized technical or scientific facts within the hearing panel's social work or clinical social work knowledge. The parties shall be notified either before or during the hearing of any material noticed or sought by any party to be noticed. All parties will be afforded an opportunity to contest any materials so noticed. The hearing panel may draw upon its knowledge of social work, social work methodology, and clinical social work methods in evaluating any evidence presented.

E. The presiding officer at the hearing shall have the power to administer oaths or affirmations to all witnesses appearing to give testimony. The presiding officer shall regulate the course of the hearing, set the time and place of continued hearings, fix the time for the filing of briefs and other documents (if any are required or requested), and may direct the parties to appear and confer to consider simplifying issues.

F. In adjudication hearings before the Board or any Board hearing panel, the Louisiana Code of Evidence may be used as a reference by the panel for admissibility of evidence and other evidentiary issues. The provisions of the Code of Evidence relating to hearsay are not strictly applicable to adjudication hearings.

G. At an adjudication hearing, the burden of proof rests with the attorney general or the assistant presenting the evidence before the hearing panel. No sanction shall be imposed or order issued except upon consideration of the entire record as supported by and in accordance with reliable, probative and substantial evidence. The burden of proof related to any issue is a preponderance of evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§737. Decisions; Notice

A. Following the presentation of evidence and any arguments, submission of briefs or written memorandum (if requested by the hearing panel), the hearing panel shall deliberate and reach its findings of fact and conclusions of law as soon as practicable after the hearing concludes. The hearing panel shall render its decision in writing within 60 days of the last hearing date, unless the hearing panel extends time for submission of any post-hearing briefs, memoranda or suggested findings of fact and conclusions of law.

B. The hearing panel's findings of fact and conclusions of law, including any sanction if applicable, shall be signed by the presiding officer of the hearing panel on behalf of and in the name of the Board. In any decision in which the hearing panel's decision was not unanimous, those hearing panel members deciding with the majority shall also sign the decision. Any panel member disagreeing with the findings of fact and conclusions of law or sanction should note his/her dissent on the decision and may record thereon any reasons for his/her dissent.

C. A certified copy of the final decision shall be served promptly upon respondent's counsel of record, or on respondent personally in the absence of counsel, and on the

assistant attorney general in the same manner of service prescribed for the service of complaints.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§739. Rehearings

A. A decision by the Board or a Board hearing panel in the case of adjudication shall be subject to rehearing, reopening, or reconsideration by the Board as provided for in LSA R.S. 49:959, provided the Board receives such a request at its office within 10 days of the entry of the Board's final decision. If the Board receives such a written request by mail after 10 days of the entry of its final decision, the request will be considered timely if the request is post-marked within the 10-day period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§741. Miscellaneous Rules

A. Social workers have a continuing obligation to keep the Board informed about their current addresses. Accordingly, if notice of an investigation, service of an administrative complaint, or notice of a hearing cannot be delivered by mail or by personal delivery, the Board shall make reasonable efforts to contact the social worker and obtain the social worker's new address. If, after the Board makes reasonable efforts to locate the social worker, notice or service cannot be made because the social worker cannot be located, then the Board or any designated hearing panel is authorized to proceed with the investigation, complaint procedure, and adjudication of the complaint, notwithstanding the social worker's absence, lack of participation in the process, or failure to appear.

B. If the social worker receives due notice of an adjudication hearing and fails to appear and participate, and does not notify the Board of good cause for the social worker's absence, the Board and its designated hearing panel may proceed with the adjudication notwithstanding the social worker's absence.

C. If a social worker is unable to attend an adjudication hearing because the social worker is incarcerated as the result of the conviction of any criminal conduct recognized as a felony under either State or Federal law, or is under federal detention subject to a removal or deportation order, the Board and its designated hearing panel may proceed with the adjudication hearing after providing the incarcerated or detained social worker reasonable opportunity to participate in the hearing. That participation may be through legal counsel authorized to practice in this state, participation by telephone at the social worker's expense, and the opportunity to present evidence through deposition, affidavit, or such other reasonable means as the Board and/or the hearing panel deems fair and appropriate.

D. Social workers who are subject to an investigation and/or are named as a respondent in an administrative complaint filed with the Board are entitled to defend themselves with or without the benefit of legal counsel. If a social worker chooses not to defend and instead surrenders his/her license, certificate, provisional certificate, or

registration at any time during an investigation, complaint or adjudication hearing, but prior to the hearing panel's decision thereon, the Board will deem such surrender as an attempt to avoid the disciplinary process. The Board will then subject the involved social worker to the revocation of the license, certificate, provisional certificate, or registration, or impose other sanction or disposition which the Board deems appropriate, based on the information available to the Board. Such Board action may also impose restrictions on any subsequent application to the Board which the involved social worker may make. Such restrictions may include restricting the social worker from making subsequent application for as much as five years following the surrender or resignation by the social worker. The Board is also authorized to report in its newsletter a summary of the circumstances surrounding the social worker's surrender or resignation of license, certificate, or registration while under investigation or subject to an administrative complaint.

E. The Board shall have authority to delegate to the CIO or the Board Administrator the investigation of any alleged violations of LSA-R.S. 37:2720 or prior to bringing any injunctive proceedings under LSA-R.S. 37:2721. Following the Board's review of any investigation conducted thereon, the Board shall contact the appropriate district attorney or bring injunctive proceedings through the attorney general, or both. Final authority for appropriate action rests solely with the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§743. Compliance Hearing

A. Any applicant whose application is rejected may seek a compliance hearing as provided for in LSA-R.S. 37:2710, provided that the request for such compliance hearing is submitted to the Board in writing within 30 days after the applicant receives notice of rejection. In the request for a compliance hearing, the applicant shall state the specific reasons for the opposition to the rejected application.

B. After receiving a request for a compliance hearing, the Board's Administrator shall contact the Board chairperson, who will designate three Board members to sit on a hearing panel for the compliance hearing. The purpose of the compliance hearing is to provide a forum for the applicant or licensee to present documentary evidence through affidavits, court records, official records, letters, etc., along with under-oath testimony to establish that the applicant in fact meets the lawful requirements for the application or for the retention or renewal of the license, certificate, provisional certificate, or registration. The hearing panel shall elect from its membership one Board member to serve as the presiding officer. The presiding officer shall administer oaths, maintain order at the hearing, fix new hearing dates as required, and rule on other matters relating to the hearing. A record of the hearing will be maintained by the Board's Administrator, although a court reporter or stenographer is not required. The applicant may be represented by counsel or may represent himself/herself. If the applicant requests a court reporter, a court reporter may be provided at the applicant's expense.

C. In any compliance hearing, the burden shall be on the applicant to establish that he or she meets the criteria for the

application renewal or retention of license or that the renewal was timely.

D. An applicant whose license, certificate, provisional certificate, or registration is deemed lapsed under LSA-R.S. 37:2714 may request a compliance hearing provided the applicant requests the hearing in writing within 10 days after receiving the notice of the lapsed license, certificate, provisional certificate, or registration. In the event that the applicant did not receive such notice, then the applicant must request a compliance hearing within 30 days of the date upon which the license, certificate, provisional certificate, or registration would have lapsed by operation of law.

E. Whenever possible, the compliance hearing shall be conducted within 30 days after the Board receives the request for the compliance hearing. In the event that the Board is unable to schedule a compliance hearing within 30 days of the request, the Board may schedule the hearing at its next regularly scheduled Board meeting.

F. At the compliance hearing, the hearing panel may consult with its general counsel (independent counsel) on any legal issues emerging from the evidence submitted. Within 15 days after the compliance hearing concludes, the hearing panel will render its final decision, including findings of fact and conclusions of law. The decision will be delivered by registered mail, return receipt requested, to the applicant requesting the compliance hearing. In the event that the hearing panel's decision is adverse to the applicant, the applicant may apply for rehearing before the entire Board by submitting a written request within ten days as provided in LSA-R.S. 49:959, subject to further judicial review pursuant to LSA-R.S. 49:964, 965. Any rehearing before the Board will be conducted on the record made before the hearing panel, including the hearing panel's findings of fact, conclusions of law, and recommendations. To the extent practicable, the rehearing will be held at the next regularly scheduled Board meeting. The Board will review the findings of fact and conclusions of law of the hearing panel and the evidence and exhibits as submitted, as well as any written submissions or assignments of error. Unless requested by the Board, oral presentations or arguments will not be permitted on rehearing. The Board will render its decision on rehearing within 30 days of its hearing the matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

§745. Declaratory Ruling

A. Any person or entity deemed to be governed by or under the jurisdiction of LSA-R.S. 37:2701-2723 may apply to the Board for a declaratory order or ruling in order to determine the applicability of any of the above statutory provisions or any of the rules of this Board. The Board shall issue the declaratory order or ruling in connection with the request by majority vote of the Board, signed and mailed to the requesting party within thirty days of the request. However, the Board may seek legal counsel or an attorney general's opinion in connection with the request for such a declaratory ruling, in which case the Board's decision on that ruling or order may be issued within sixty days of the request. Any judicial review of the validity or applicability

of any of these rules shall be in conformity with LSA-R.S. 49:963.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

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

Public hearings on the proposed rules will be held at 9:00 AM and again at 5:00 PM on Thursday, November 11, 1999 and at 9:00 AM on Monday, November 29, 1999 in the Creole Room of the Radisson Hotel, 4728 Constitution Drive, Baton Rouge, Louisiana.

Interested persons may submit written comments to Suzanne L. Pevey, Administrator, Louisiana State Board of Board Certified Social Work Examiners, 11930 Perkins Road, Suite B, Baton Rouge, Louisiana, by facsimile to (225) 763-5400 or by email at social.work@labswe.org. All comments must be postmarked by 4:30 PM, Friday, November 29, 1999. You may review the rules on the Board's web site located at: <http://www.labswe.org>.

Dorinda N. Noble, Ph.D., BCSW
Chair

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Standards and Procedures

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

Implementation of this rule will increase the Louisiana State Board of Social Work Examiners' costs to credential social workers in the State of Louisiana (not already licensed as Board Certified Social Workers (BCSWs)) by approximately \$236,101 for the fiscal year 1999-2000. The increase in cost to the Board for the fiscal year 2000-2001 will be approximately \$150,228 and approximately \$160,716 for the fiscal year 2001-2002. The estimates are based on the addition of two (2) new employees in the 1999-2000 fiscal year to deal with the increased workload associated with the credentialing of an estimated 4,000 social workers. Included in the expenses is salaries, benefits, office furniture, and computer for the new employees, along with an increase in operating expenses to cover printing and postage.

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

The Board anticipates collecting approximately \$290,000 in self-generated fees from the application fees submitted by individual social workers for the 1999-2000 fiscal year. Revenues to the Board will increase in the following fiscal years based on annual renewal fees paid by licensees and will generate sufficient monies for the Board's operation.

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

Individual social workers, regardless of educational level or work setting, will be required to be credentialed by the Louisiana State Board of Social Work Examiners by December 31, 2000. The initial application fee for the Licensed Clinical Social Worker will be \$100.00, the Graduate Social Worker will be \$75.00 and the Registered Social Worker will be \$50.00.

The implementation of this rule and Act 1309 of the 1999 Regular Session of the Louisiana Legislature will provide public protection to all citizens of the State against the

unauthorized, unqualified and improper practice of social work and will assure that only individuals with educational degrees in social work from accredited universities use the title Social Worker.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Act 1309 of the 1999 Regular Session of the Louisiana Legislature will require that every social worker in the State be licensed, certified or registered. Furthermore, only individuals licensed, certified or registered by the Louisiana State Board of Social Work Examiners may use the title Social Worker effective January 1, 2000. Social workers are currently employed in many areas of both the public and private sectors and the Board foresees no impact on competition and employment, only greater accountability in the area of public protection.

Suzanne L. Pevey
Administrator
9910#014

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Veterinary Medicine**

Certified Animal Euthanasia Technicians
(LAC 46:LXXXV.704 and Chapter 12)

The Louisiana Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.704 and Chapter 12 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, La. R.S. 37:1518 et seq. The proposed rule amendments have no known impact on family formation, stability, and autonomy as described in R.S. 49:972. The proposed amendments to the rules are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXXV. Veterinarians

Chapter 7. Veterinary Practice

**§704. Consulting and Providing Legend and Certain
Controlled Substances**

A. ...

B. Telazol (Tiletamine HCL and Zolazepam HCL) and Ketamine (Ketamine HCL)

1. When an animal control agency which is operated by a state or local governmental agency or which is operated by any duly incorporated humane society which has a contract with a local government agency to perform animal control services on behalf of the local governmental agency seeks to administer the controlled substance Telazol (tiletamine HCL and zolazepam HCL) or Ketamine (ketamine HCL), to an animal for the sole purpose of animal capture and/or animal restraint, the animal control agency, unless it has a Lead CAET as defined in R.S. 37:1552(4), must have a staff or consulting veterinarian who is licensed to practice veterinary medicine by the Board of Veterinary Medicine and who is registered with the Drug Enforcement Administration (DEA) and licensed by the state controlled dangerous substances program at the shelter location where the drugs will be stored and administered who obtains, and

who is responsible for, the Telazol (tiletamine HCL and zolazepam HCL) or Ketamine (ketamine HCL) used.

2. ...

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 20:666 (June 1994); amended LR 24:334 (February 1998), LR 25:519 (March 1999), LR 26:

**Chapter 12. Certified Animal Euthanasia Technicians
§1200. Definitions**

All definitions used in this Chapter shall have the meaning assigned to them in La. R.S. 37:1552. In addition, the following definitions shall be applied:

Board—the Louisiana Board of Veterinary Medicine.

CAET or Certified Animal Euthanasia Technician— a person who is instructed in a board-approved program in the proper methods of humanely euthanizing animals by injecting legal drugs in accordance with rules adopted by the board, in proper security precautions, in proper record keeping, and related skills, and who has been issued a certificate by the board.

Full Certification—means a certificate of approval granted to an applicant who has fulfilled all requirements of this chapter. Such certificates shall expire annually.

Lead Certified Animal Euthanasia Technician or Lead CAET—a CAET who also meets the requirements of La. R.S. 1552(4).

Temporary Certification—a certificate of approval granted to an applicant who has satisfied the requirements of this Chapter for the issuance of a temporary certificate, but who has not fulfilled the requirements of this Chapter for full certification. Such certificates shall expire 30 days after the next available board-approved course in animal euthanasia has been held unless the temporary certificate is otherwise extended by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 26:

§1201. Applications for Certificates of Approval

A. Pursuant to La. R.S. 37:1553, applicants shall submit the following items to the board:

1. a completed application form approved by the board, which shall be sworn to and subscribed before a Louisiana notary public;

2. a current passport type photograph of the applicant;

3. an official copy of a birth certificate or a notarized copy of a current driver's license as proof of age;

4. an official transcript of the applicant's high school records or photocopy of the applicant's high school diploma or GED or an official transcript indicating attendance at an institution of higher learning;

5. certified scores on any previous examinations in animal euthanasia and/or proof of successful completion of a Board-approved course in animal euthanasia within a three-year period;

6. certification by the applicant that he has never been convicted, pled guilty or pled nolo contendere to either a

felony or misdemeanor, other than a minor traffic violation. In the event that the applicant is unable to so certify, the Board shall require the applicant to explain in full and/or provide further documentation;

7. certification that the applicant has never had certification as a certified animal euthanasia technician revoked, suspended, or denied. In the event that the applicant is unable to so certify, the Board shall require the applicant to explain in full and/or provide further documentation;

8. a list of all professional certificates or licenses that the applicant currently holds and/or has held;

9. two letters of reference on Board-approved forms from licensed veterinarians or other professional persons associated with animal control administration who can attest to the applicant's professional character and ethical standards;

10. a release waiver form to authorize a background check regarding the applicant's history with dangerous and/or controlled substances to be performed by the Drug Enforcement Administration or other law enforcement agency at the Board's request. A photostatic copy of the applicant's authorization is accepted with the same authorization as the original. The background check must be successfully passed, which means that the Drug Enforcement Administration or other law enforcement agency has indicated to the board that the applicant has no previous criminal convictions involving dangerous and/or controlled substances.

11. certification by the applicant that he has not violated or been subject to any of the grounds for denial of a certificate of approval as listed in La. R.S. 37:1554.

12. unless otherwise already in possession of the board, evidence that the applicant has successfully completed a board-approved program in animal euthanasia, which shall include instruction in the proper methods of humanely euthanizing animals by injecting legal drugs in accordance with rules adopted by the board, in proper security precautions, in proper record keeping, and related skills identified by the board.

B. The Board may reject any applications which do not contain full and complete answers and/or information as requested and may reject any application if any information furnished in the application is fabricated, false, misleading, or incorrect.

C. The Board shall reject the application of an applicant who has practiced veterinary medicine, veterinary technology, or euthanasia technology with sodium pentobarbital in this state without a license, temporary permit, exception, or certificate of approval during the two-year period immediately prior to the date of application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 23:963 (August 1997), LR 26:

§1203. Examinations

A. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), repromulgated LR 26:

§1205. Passing Scores

A. A passing score on any written and/or oral portions of the examination shall be deemed to be the correct answering of seventy percent of the questions contained on that portion of the examination.

B. A passing grade on the practical portion of the examination will be determined by the successful completion of a series of hands-on demonstrations which indicate that the applicant has been properly trained in procedures which will enable him to safely and effectively perform humane euthanasia with sodium pentobarbital.

C. Applicants who fail to achieve a passing score on any portion of the examination, either written or practical, will not be eligible for a certificate of approval nor may they apply for a temporary certificate of approval.

D. Appeals concerning the examination must be made in writing to the Board within 30 days of the administration of the examination. All such formal appeals will be reviewed at the next available meeting of the Board. The Board may call witnesses and/or hold public hearings as it deems necessary although it is not required to do so unless otherwise specified by statute. The decision of the Board regarding such appeals is final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 26:

§1207. Certificates Without Examination

The Board shall not issue full certificates of approval without examination under any circumstances, except as provided in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 26:

§1209. Temporary Certificate of Approval

A. The Board may issue a temporary certificate of approval when an applicant meets all of the following requirements:

1. - 2. ...

3. Applicant has submitted a release waiver form to authorize a background check regarding the applicant's history with dangerous and/or controlled substances to be performed by the Drug Enforcement Administration or other law enforcement agency at the Board's request. A photostatic copy of the applicant's authorization is accepted with the same authorization as the original. The background check must be successfully passed, which means that the Drug Enforcement Administration or other law enforcement agency has indicated to the board that the applicant has no previous criminal convictions involving dangerous and/or controlled substances;

4. ...

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR

§1211. Fees

A. The Board hereby adopts and establishes the following fees for CAET program:

Application fee	\$25
Course Fee	\$80
Annual renewal of certificate	\$50
Examination fee	\$50
Late renewal fee	\$25
Original fee—full certification	\$50
Temporary certification fee	\$50

B. Renewals received after the expiration date as provided in La. R.S. 37:1546, shall be charged a late renewal fee.

C. The Board may direct that examination fees be assigned or remitted directly to the agency selected to prepare, administer, and score the examination in animal euthanasia. Said agency may not assess fees in addition to those set by the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 26:

§1213. Renewal of Certificates

A. All certificates of approval shall expire annually at midnight September 30. Certificates shall be renewed by completing a re-registration form which shall be provided by the Board and by payment of the annual renewal fee established by the Board.

B. Each year, ninety days prior to the expiration date of the license, the Board shall mail a notice to each certified animal euthanasia technician stating the date his certificate will expire and providing a form for re-registration.

C. The certificate of approval will be renewed for any person who complies with the requirements of this chapter.

D. Re-registration forms for renewal of certificates of approval, complete with payment of fee and any other documents required by this chapter, shall be postmarked no later than the expiration date of the license each year. Re-registration forms postmarked after midnight of the expiration date will be subject to a late renewal fee as established by the Board. This fee is in addition to the regular fee for annual renewal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 23:1685 (December 1997), LR 26:

§1215. Expired Certificate

A. A certified animal euthanasia technician whose certificate has expired may be reinstated within one year of its expiration by making written application for renewal, paying the current renewal fee plus all delinquent renewal fees and late fees, and meeting the continuing education requirements prescribed by the board.

B. A CAET who fails to renew a certificate of approval within one year of its expiration must reapply for a new certificate. A certificate of approval shall not be issued without the approval of a majority of the quorum of the board.

C. The identifying number of an expired certificate of approval shall not be issued to any person other than the original holder of that number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 26:

§1217. Revoked Certificate

A. A person whose certificate of approval has been revoked pursuant to La. R.S. 37:1554 must reapply for a new certificate.

B. A person whose certificate of approval has been revoked pursuant to La. R.S. 37:1554 shall not be issued a new certificate unless approved by a majority of the quorum of the board.

C. The identifying number of a revoked certificate of approval shall not be issued to any person other than the original holder of that number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:

§1219. Appeals and Review

A. Any applicant for a certificate of approval desiring to review his examination and/or the master answer sheet and/or the examination questions shall make arrangements with the board, its agent, designee or any other person, firm, corporation, or entity charged with the preparation, grading and/or administration of the course for such review.

B. Persons Aggrieved by a Decision of the Board

1. Any certified animal euthanasia technician aggrieved by a decision of the board, other than a holder of a certificate of approval against whom disciplinary proceedings have been brought pursuant to R.S. 37:1551 et seq. may, within 30 days of notification of the board's action or decision, petition the board for a review of the board's actions.

2. A petition shall be in the form of a letter, signed by the person aggrieved, and mailed to the board at its principal office.

3. Upon receipt of such petition, the board may proceed to take such action as it deems expedient or hold such hearings as may be necessary, and may review such testimony and/or documents and/or records as it deems necessary to dispose of the matter, but the board shall not, in any event, be required to conduct any hearings or investigations, or consider any offerings, testimony, or evidence unless so required by statute or other rules or regulations of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 26:

§1221. Disciplinary Proceedings

Any CAET against whom disciplinary proceedings have been instituted and against whom disciplinary action has been taken by the board pursuant to R.S. 37:1551 et seq. and/or the board's rules, shall have rights of review and/or rehearing and/or appeal in accordance with the terms and provisions of the Administrative Procedure Act and §1401 et seq. of the board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:

§1223. Maintenance and Security of Sodium Pentobarbital

A. Storage. All sodium pentobarbital shall be stored either in a securely locked cabinet which is of substantial construction or in a safe or in a locked metal cabinet. The cabinet, safe or locker shall be locked at all times. The CAET(s) shall have the responsibility for the safe-keeping of the keys and/or combination to the cabinet, safe, or locker.

B. Usage Log

1. A usage log shall be maintained to account for the use of each cubic centimeter (cc) or parts thereof of sodium pentobarbital. The log shall include:

- a. the date of usage;
- b. the lot number and bottle number used;
- c. the amount (in cc's) of usage;
- d. the tag number or other identification number for the animal;
- e. the name of the person who drew the sodium pentobarbital;
- f. any amount of drug wasted, spilled, or lost; and
- g. the name of a witness to the waste, spillage, or loss of sodium pentobarbital.

2. The usage log shall be maintained on a standardized form provided by the Board or its designated agent. Copies of the log so provided may be made by the shelter.

3. Usage logs shall be made available to any official of the Drug Enforcement Administration without prior notification.

C. Inventory

1. A perpetual inventory of all sodium pentobarbital shall be maintained. An initial inventory must be conducted when a CAET first obtains a DEA registration and/or Louisiana Controlled Dangerous Substances License. A physical inventory shall be conducted every three months.

2. The inventory shall indicate the amount of sodium pentobarbital ordered, the amount presently on hand, the amount used for euthanasia, the amount lost due to spillage or waste, the amount lost due to the drug's expiration, and the time of day the inventory was taken.

3. The inventory shall be made and signed by the certified animal euthanasia technician(s) or licensed veterinarian who is the registrant of the Drug Enforcement Administration.

4. Upon written request from either the Louisiana Board of Veterinary Medicine or the Department of Health and Hospitals, the certified animal euthanasia technician shall provide a copy of the inventory records.

5. Inventory logs shall be made available to any official of the Drug Enforcement Administration without prior notification.

6. The inventory log shall be maintained on a standardized form provided by the Board or its designee. Copies of the form so provided may be made by the shelter.

D. Orders, Destruction, and Thefts

1. Placing Orders. All sodium pentobarbital must be purchased by way of a DEA 222 order form. Alterations and scratch-outs are not allowed on this form. If a mistake is

made on the form, "void" must be written on the form and the form must be maintained in the file.

2. Receiving Orders. The date and amounts received must be logged in on the order form.

3. Returns of Sodium Pentobarbital to Suppliers. If sodium pentobarbital must be returned to a supplier or transferred to another person possessing a DEA registration and Louisiana Controlled Dangerous Substances License, the supplier or person to whom the drugs are transferred must complete a DEA 222 order form. Both the person returning or transferring the sodium pentobarbital and the recipient must maintain a copy of the DEA 222 form.

4. Destruction of Sodium Pentobarbital. Sodium pentobarbital shall not be destroyed without the prior approval of the U.S. Drug Enforcement Administration. Any destruction approved must be witnessed by a law enforcement officer.

5. Any theft of sodium pentobarbital must be reported to the local police, U.S. Drug Enforcement Administration, and the Louisiana Controlled Dangerous Substances Program.

E. Record Retention. All controlled substances records, including, but not limited to, inventory documents, usage logs, order forms, reports of theft or destruction of controlled substances, must be maintained for a minimum of five years plus the current calendar year.

F. Leaving Employment. A CAET registered with the U.S. Drug Enforcement Administration who leaves employment at a registration site must return his DEA registration any unused DEA order form 222s to the DEA. A CAET licensed with the Louisiana Controlled Dangerous Substances Program who leaves employment at a licensed site must return his license to the Louisiana Controlled Dangerous Substances Program.

G. Changing Site Address. It is the responsibility of the CAET registered with the U.S. Drug Enforcement Administration or licensed by the Louisiana Controlled Dangerous Substances Program to inform in writing either or both of those agencies if the address of the site at which he is registered or licensed changes. The written notification must include the name of the CAET, his registration or license number, the current address of the site, the pending new address of the site, the site name, and the signature of the CAET. Written notification must be submitted to the Drug Enforcement Administration and/or Louisiana Controlled Dangerous Substances Program prior to the relocation of the site.

H. Failure of a CAET to comply with any and all provisions of this Section shall be considered a violation of the rules of professional conduct within the meaning of La. R.S. 37:1554(A)(12).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 26:

§1225. Responsibilities of a Lead CAET

A. Designation

1. Pursuant to R.S. 37:1552(4), a person seeking designation as a Lead CAET must submit the following to the board:

- a. a completed application form approved by the board which shall be sworn to and notarized before a Louisiana notary public;
- b. a copy of his current Louisiana state controlled dangerous substances license;
- c. a copy of his current registration with the U. S. Drug Enforcement Administration;
- d. documentation from the sponsor of a board-approved chemical capture training course that
 - i. he has completed the chemical capture training course; or
 - ii. until December 31, 2000, if a designee applicant completed a chemical capture training course prior to August 1, 2000, he may submit documentation of such completion along with information concerning the content of the course to the board; the board may approve the course and accept it as sufficient to meet the requirements of R.S. 37:1552(4)(c).

B. Legal Drugs. Pursuant to R.S. 37 1556.B, those controlled substances a Lead CAET may legally order and maintain for the sole purpose of restraining, capturing and euthanizing animals shall be limited to the following:

- 1. Sodium Pentobarbital at a minimum strength of six grains per milliliter;
- 2. Tiletamine hydrochloride and Zolazepam hydrochloride; and
- 3. Ketamine hydrochloride.

C. Providing Chemical Capture Drugs

1. A Lead CAET shall provide chemical capture drugs only to persons who have completed a board-approved training course in the use of chemical capture drugs.

2. Prior to transferring chemical capture drugs to a person who has completed a board-approved training course in the use of chemical capture drugs, a Lead CAET shall have and maintain on file documentation from the sponsor of the board-approved course that the person completed the course. Until December 31, 2000, if a person to whom the Lead CAET provides chemical capture drugs completed a chemical capture training course prior to August 1, 2000, the Lead CAET may submit documentation of such completion along with information concerning the content of the course to the board; the board may approve the course and accept it as sufficient to meet the requirements of R.S. 37:1556(B)(4).

3. Prior to ordering, maintaining, or providing any controlled substance under his own authority to another person, the lead CAET must be registered with the Drug Enforcement Administration (DEA) and licensed by the state controlled dangerous substances program at the shelter location where the drugs will be stored and administered.

4. The Lead CAET must maintain and store the controlled substances allowed for use under §1225.B in a manner which meets or exceeds the requirements of all federal or state drug enforcement agencies, including storage of controlled substances in a securely locked, substantially constructed cabinet and the keeping of a perpetual inventory as required by LAC Title 48: Chapter 39).

5. Use of controlled substances allowed under §1225.B shall be documented to include, but not limited to:

- a. date of each use of the drug;
- b. species of animal;
- c. estimated weight of animal;
- d. dose administered;

- e. name of animal control officer to whom the drug was transferred and who administered the drug;
- f. a perpetual (running) inventory of the drug present at the facility; and
- g. both the Lead CAET and person to whom the drug is transferred shall sign a drug sign-out document each time the drug is transferred for use.

6. The Lead CAET shall review each use of the controlled substances allowed under §1225.B and the Lead CAET shall initial the usage log entries to indicate this review. A review of the usage logs shall be made at least quarterly and the quantities of drug used and on hand shall be tallied and authenticated. Any variance shall be noted in the log and steps should be taken and documented to correct the problem.

7. Any removal of the controlled substances allowed under §1225.B from the securely locked, substantially constructed cabinet shall be in minimal amounts, shall be maintained in a locked container when not in use, and shall be documented in a manner to include, but not be limited to:

- a. a signed log indicating the person removing the drug;
- b. the date on which the drug was removed;
- c. an accounting for all drug used and the amount returned;
- d. the date on which the remaining drug was returned and the signature of the person returning it.

8. This section does not pertain to any drug(s) listed in any DEA classification schedule (also known as controlled drugs) or State of Louisiana classification schedule, except those allowed under §1225.B.

D. Failure of a Lead CAET to comply with any and all provisions of §1223 and §1225 shall be considered a violation of the rules of professional conduct within the meaning of La. R.S. 37:1554(A)(12).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:

§1227. Continuing Education

A. Basic Requirements

1. A minimum of six (6) continuing education units is required each fiscal year (July 1 through June 30) as a prerequisite for renewal of certification. A CAET who fails to obtain a minimum of six (6) continuing education units within the prescribed twelve-month period will not meet the requirements for renewal of his certificate.

2. All continuing education programs must be approved by the board prior to attendance.

3. Proof of attendance, which shall include the name of the course, date(s) of attendance, hours attended, and specific subjects attended, shall be attached to the annual certificate renewal form. Proof of attendance must include verification from the entity providing or sponsoring the educational program.

4. All hours shall be obtained in the twelve months preceding the renewal period of the certificate.

5. Each CAET must fulfill his annual educational requirements at his own expense or through a sponsoring agency other than the board.

B. Failure to Meet Requirements

1. If a CAET fails to obtain a minimum six (6) continuing education units within the prescribed twelve-

month period, his certificate shall be expired and his certificate shall remain expired until such time as the continuing education requirements have been met and documented to the satisfaction of the board.

2. The board may grant extensions of time for extenuating circumstances. The CAET must petition the board at least 30 days prior to the expiration of the certificate. The board may require whatever documentation it deems necessary to verify the circumstances necessitating the extension.

C. Approved Continuing Education Programs

1. Organizations sponsoring a continuing education program for CAETs must submit a request for approval of the program to the board no less than 75 days prior to the commencement of the program. Information to be submitted shall include:

- a. the name of the proposed program and sponsor organization;
- b. course content;
- c. the number of continuing education units to be obtained by attendees.

2. CAETs may also submit a request for approval of a continuing education program no less than 75 days prior to the commencement of the program. Information to be submitted shall comply with the requirements of §1227.C.1.

3. Continuing education units which are submitted for renewal and were not pre-approved by the board may be reviewed by the board. If units are not approved, the CAET will be required to take additional continuing education in an approved program prior to renewal of his certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:

Interested parties may submit written comments to Kimberly Barbier, administrative director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801. Comments will be accepted through the close of business on November 19, 1999. If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedure Act, the hearing will be held on November 29, 1999, at 9:00 a.m. at the office of the Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA.

Kimberly B. Barbier
Administrative Director

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

**RULE TITLE: Certified Animal Euthanasia
Technicians**

**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, except for those associated with publishing the new rule (estimated \$800). Certified Animal Euthanasia Technicians will be informed of this rule via the board's regular newsletter or other direct mailings, which are a budgeted cost of the board.

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

The proposed fee increases and new fees will not have an impact until next fiscal year, 2001/2001. The anticipated increase in agency self-generated funds for FY 2000/2001 is based on the following:

Category	Current Revenue	Proposed Revenue	Net Effect
Application Fee	\$0	35 x \$25=\$875	\$875
Course Fee	\$0	35 x \$80=\$2,800	\$2,800
Annual Renewal Fee	75 x \$25= \$1,875	75 x \$50=\$3,750	\$1,875
Examination Fee	35 x \$75= \$2,625	35 x \$50=\$1,750	(\$875)
Late Renewal Fee	1 x \$25=\$25	1 x \$25=\$25	\$0
Original Registration Fee	20 x \$50 = \$1,000 (temps to full) +15 x \$25 = \$375	35 x \$50=\$1,750	\$375
Temporary Certification Fee	15 x \$25=\$375	15 x \$50=\$750	\$375
Total	\$6,275	\$11,700	\$5,425

The additional revenue in subsequent fiscal years is projected to be the same.

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

Certified Animal Euthanasia Technicians (CAET) and applicant/examinees will be affected by the proposed action. The net cost effect on each category is illustrated in item II above. The proposed amendments will require some additional paperwork be submitted when applying for Lead CAET designation. Certified Animal Euthanasia Technicians will also be required to perform continuing education and submit proof with renewals annually. All CAETs who will be renewing a certificate will be responsible for the cost of continuing education programs.

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

No impact on competition and employment is anticipated as a result of the proposed new rule.

Kimberly B. Barbier
Administrative Director
9910#079

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Veterinary Medicine**

Registered Equine Dentists
(LAC 46:LXXXV.Chapter 15)

The Louisiana Board of Veterinary Medicine proposes to adopt LAC 46:LXXXV.1500 through 1519 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, La. R.S. 37:1518 et seq. These proposed new rules pertain to the registration and regulation of individuals to practice equine dentistry and other related matters. The

proposed rules have no known impact on family formation, stability, and autonomy as described in R.S. 49:972. These proposed new rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 15. Registered Equine Dentists

§1500. Definitions

A. All definitions used in this chapter shall have the meaning assigned to them in La. R.S. 37:1560. In addition, the following definitions shall be applied.

Approval—as used in R.S. 37:1562(C)(2) means the veterinarian shall make an informed decision based upon his professional judgment after giving consideration to the notification provided by an equine dentist which shall include a visual inspection conducted by the veterinarian prior to the commencement of the procedure.

Continuing Education—board-approved educational experiences in equine dentistry, which may be in the form of institutes, seminars, lectures, conferences, workshops, and other modes of delivery so as to maintain and improve technical competency for the health, welfare, and safety of the citizens of Louisiana.

Continuing Education Unit (CEU)—one hour of activity or participation in a continuing educational program approved by the board.

Equine Owner's Veterinarian—veterinarian licensed by the board who has established a veterinary-client-patient relationship as a primary care provider or as a consultant to the primary care provider.

Notify or Notification—

a. with regards to the rasping (floating) of molar, premolar and canine teeth, and the removal of deciduous incisor and premolar teeth (caps), shall mean full written or verbal person to person communication with the veterinarian prior to the commencement of the procedure; or

b. with regards to extracting equine first premolar teeth (wolf teeth), shall mean full written or verbal person to person communication with the veterinarian prior to commencement of the procedure and after approval is given by the veterinarian; however, written confirmation of the notification prepared by the registered equine dentist shall be sent to and received by the veterinarian within seven days after the procedure, which written confirmation shall include:

- i. owner's name, address, and phone number;
- ii. identifying information concerning the horse, which shall include name, permanent identification marks, age, sex, and color;
- iii. method of restraint used during the procedure;
- iv. type of dental procedure performed, including methods used;
- v. description of the outcome of the procedure;
- vi. recommendations, if any, to the owner following extraction of any first premolar teeth.

Possession—actual possession whereby the registered equine dentist has his certificate readily available.

Practice of Equine Dentistry—means the rasping (floating) of molar, premolar and canine teeth, and the removal of deciduous incisor and premolar teeth (caps); additionally, an equine dentist may extract equine first

premolar teeth (wolf teeth) after complying with the requirements set forth in R.S. 37:1562(C)(2) and the board's rules.

Referral—a verbal request to perform equine dentistry made to a registered equine dentist by a veterinarian licensed by the board who has established a veterinarian-client-patient relationship as defined in LAC 46:LXXXV.700 and who is readily accessible by beeper or cell phone as well as present within a 30 mile radius of and 30 minutes or less travel time from the treatment site.

Referral Veterinarian—a veterinarian licensed by the board authorized by the existence of a veterinarian-client-patient relationship as defined in LAC 46:LXXXV.700 to make a referral to perform equine dentistry to a registered equine dentist and who is readily accessible by beeper or cell phone as well as present within a 30 mile radius of and 30 minutes or less travel time from the treatment site.

Substantially Involved in the Care and Maintenance of Horses in the Horse Racing Industry in Louisiana—previous practical experience within the horse racing industry that included equine dental procedures.

Unprofessional Conduct—in addition to the definition set forth in R.S. 37:1564(A)(10), shall include the following:

a. making or participating in any communication, advertisement or solicitation which is false, fraudulent, deceptive, misleading or unfair, or which contains a false, fraudulent, deceptive, misleading or unfair statement or claim;

b. initiation or continuation of services that are contraindicated or cannot reasonably result in beneficial outcome;

c. abuse or exploitation of the provider-patient relationship for the purpose of securing personal compensation, gratification, or benefit unrelated to the provision of service;

d. failure to comply with the practice requirements set forth in R.S. 37:1562;

e. failure to comply with the duties established in R.S. 37:1560 et seq. and/or the board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1501. Applications for Certificates of Approval

A. Pursuant to La. R.S. 37:1561 and 1562(D), applicants shall submit the following items to the board:

1. a completed application form approved by the board, which shall be sworn to and subscribed before a Louisiana notary public;

2. evidence that the applicant is a current resident of this state on July 1, 1999, which evidence must be one of the following:

a. a utility bill statement in the name of the applicant and for a Louisiana address which includes service for July 1, 1999; or

b. any other document providing evidence of residency on July 1, 1999, which is approved by a majority of a quorum of the board;

3. evidence that the applicant is substantially involved in the care and maintenance of horses in the horse racing industry in Louisiana, which evidence shall be the following:

a. an affidavit from the applicant sworn to and subscribed before a Louisiana notary public; and

b. two letters of reference on board-approved forms from veterinarians licensed by the board which shall attest to the applicant's character and ethical standards as they apply to his knowledge in the field of equine dentistry and his substantial involvement in the care and maintenance of horses in the horse racing industry in Louisiana; and

4. evidence that the applicant was licensed in good standing as an equine dentist by the Louisiana Racing Commission on or before July 1, 1995, which evidence must be a certified statement directly forwarded to the board office from an authorized official of the Louisiana Racing Commission attesting to the applicant's licensure in good standing on or before July 1, 1995;

5. payment of all applicable fees for registered equine dentist fees established by the board;

6. a current passport type photograph of the applicant;

7. certification by the applicant that he has not violated or been subject to any of the grounds for denial of a certificate of approval as listed in La. R.S. 37:1564;

8. a list of all professional certificates or licenses that the applicant currently holds and/or has held.

B. The Board may reject any applications which do not contain full and complete answers and/or information as requested and may reject any application if any information furnished in the application is fabricated, false, misleading, or incorrect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1503. Fees

A. The Board hereby adopts and establishes the following fees for registered equine dentists.

Original Registration Fee	\$ 200
Annual Renewal of Registration Fee	\$ 125
Late renewal fee	\$ 100
Application fee	\$ 100

B. Renewals received after the expiration date as provided in La. R.S. 37:1566, shall be charged a late renewal fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1505. Renewal of Certificates

A. All certificates of approval shall expire annually at midnight September 30. Certificates shall be renewed by completing a re-registration form which shall be provided by the board, submitting any other documents required by this chapter, and by payment of the annual renewal fee established by the board.

B. Each year, ninety days prior to the expiration date of the license, the board shall mail a notice to each registered equine dentist stating the date his certificate will expire and providing a form for re-registration.

C. The certificate of approval will be renewed for any person who complies with the requirements of this chapter.

D. Re-registration forms for renewal of certificates of approval, complete with payment of fees and any other documents required by this chapter, shall be postmarked no later than the expiration date of the certificate each year. Re-

registration forms postmarked after midnight of the expiration date will be subject to a late renewal fee as established by the board. This fee is in addition to the regular fee for annual renewal.

E. Continuing education requirements prescribed by this chapter must be satisfied before a certificate of approval is renewed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1507. Expired Certificate

A. A registered equine dentist whose certificate has expired may be reinstated within one year of its expiration by making written application for renewal, paying the current renewal fee plus all delinquent renewal fees, and meeting the continuing education requirements prescribed by the board.

B. The identifying number of an expired certificate of approval shall not be issued to any person other than the original holder of that number.

C. A registered equine dentist who fails to renew a certificate of approval within one year of its expiration must reapply for a new certificate. A certificate of approval shall not be issued without the approval of a majority of the quorum of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1509. Revoked Certificate

A. A registered equine dentist whose certificate has been revoked pursuant to La. R.S. 37:1564 must reapply for a new certificate.

B. A person whose certificate of approval has been revoked pursuant to La. R.S. 37:1564 shall not be issued a new certificate unless approved by a majority of a quorum of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1511. Review or Appeal of Denial of Application

A. Any registered equine dentist aggrieved by a decision of the board, other than a holder of a certificate of approval against whom disciplinary proceedings have been brought pursuant to R.S. 37:1560 et seq. may, within 30 days of notification of the board's action or decision, petition the board for a review or appeal of the board's actions.

B. Such petition shall be in the form of a letter, signed by the person aggrieved, and mailed to the board at its principal office.

C. Upon receipt of such petition, the board may proceed to take such action as it deems expedient or hold such hearings as may be necessary, and may review such testimony and/or documents and/or records as it deems necessary to dispose of the matter, but the board shall not, in any event, be required to conduct any hearings or investigations, or consider any offerings, testimony, or evidence unless so required by statute or other rules or regulations of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1513. Disciplinary Proceedings

A. The Board, after due notice and hearing as set forth in the Louisiana Administrative Procedure Act, LSA R.S. 49:950 et seq. and LAC 46:LXXXV.1401, may deny, reprimand, restrict, fine, probate, suspend, revoke or pursuant to LSA R.S. 37:1560 et seq. otherwise sanction a registered equine dentist or applicant for certification on a finding that the person has violated LSA R.S. 37:1560 et seq. or any of the rules promulgated by the board, or prior final decisions and/or consent orders involving the registered equine dentist or applicant for certification.

B. Any registered equine dentist against whom disciplinary proceedings have been instituted and against whom disciplinary action has been taken by the Board pursuant to R.S. 37:1560 et seq. and/or the board's rules, shall have rights of review and/or rehearing and/or appeal in accordance with the terms and provisions of the Administrative Procedure Act and LAC 46:LXXXV.1401.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1515. Practice and Duties

A. Except as provided in R.S. 37:1562, no person shall practice equine dentistry in Louisiana unless issued a certificate of approval by the board.

B. Pursuant to La. R.S. 37:1562(C)(1), a registered equine dentist who practices equine dentistry at a location other than at a racetrack shall notify the horse owner's veterinarian prior to the commencement of the practice of equine dentistry.

C. Pursuant to La. R.S. 37:1562(C)(1), in the event that the horse owner does not have a veterinarian, the equine dentist shall obtain a referral from a veterinarian licensed by the board who has established a veterinarian-client-patient relationship as defined in LAC 46:LXXXV.700. Such referral must be documented by the veterinarian to include:

1. the establishment of the veterinarian-patient-client relationship as defined in LAC 46:LXXXV.700 prior to referral; and

2. that the referral veterinarian is readily accessible by beeper or cell phone as well as present within a 30 mile radius of and 30 minutes or less travel time from the treatment site;

3. the referral veterinarian must submit a copy of the written referral which must be received by the registered equine dentist within seven days from the referral;

4. such documentation shall be made part of the records maintained by the veterinarian and the registered equine dentist.

D. Pursuant to La. R.S. 37:1562(C)(2), prior to the initiation of an extraction of first premolar teeth (wolf teeth), the registered equine dentist shall notify and obtain the approval of the equine owner's veterinarian or referral veterinarian.

E. Duties

1. Prohibition on Drugs. A registered equine dentist shall not prescribe, recommend, or administer any legend drug or controlled substance.

2. Record Keeping. A registered equine dentist shall establish and maintain legible records which can provide a

veterinarian with a full understanding of the findings concerning and treatment provided to each horse. Each registered equine dentist shall maintain an individual record on each horse to include, but not limited to, the following:

a. owner's name, address, and phone number; identifying information concerning the horse, which shall include name, permanent identification marks, age, sex, and color; nature of dental complaint; method of restraint used during a procedure; type of dental procedure performed; description of the outcome of the procedure; and recommendations, if any, to the owner following the procedure;

b. original of written notifications submitted to veterinarians regarding treatment;

c. records shall be maintained for at least five years;

d. records are the responsibility and property of the registered equine dentist. The registered equine dentist shall maintain such records and shall not release the records to any person other than the client or a person authorized to receive the records for the client, except that the registered equine dentist shall provide any and all records as requested by the board to the board; and

e. copies of records shall be provided to the client or the client's authorized representative upon written request of the client. A reasonable charge for copying and providing records may be required by the registered equine dentist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1517. Continuing Education

A. Basic Requirements

1. A minimum of six (6) continuing education units is required each fiscal year (July 1 through June 30) as a prerequisite for renewal of certification. A registered equine dentist who fails to obtain a minimum of six (6) continuing education units within the prescribed twelve-month period will not meet the requirements for renewal of his certificate. Notwithstanding the requirements of this section, for the period August 20, 1999 - June 30, 2000, a minimum of six (6) continuing education units is required as a prerequisite for renewal of certification during the July 1, 2000 - September 30, 2000 renewal period.

2. All continuing education programs must be approved by the board prior to attendance.

3. Proof of attendance, which shall include the name of the course, date(s) of attendance, hours attended, and specific subjects attended, shall be attached to the annual certificate renewal form. Proof of attendance must include verification from the entity providing or sponsoring the educational program.

4. All hours shall be obtained in the twelve months preceding the renewal period of the certificate.

5. Each registered equine dentist must fulfill his annual education requirements at his own expense.

B. Failure to Meet Requirements

1. If a registered equine dentist fails to obtain a minimum of six (6) continuing education units within the prescribed twelve-month period, his certificate shall be expired and his certificate shall remain expired until such time as the continuing education requirements have been met and documented to the satisfaction of the board.

2. The board may grant extensions of time for extenuating circumstances. The registered equine dentist must petition the board at least 30 days prior to the expiration of the certificate. The board may require whatever documentation it deems necessary to verify the circumstances necessitating the extension.

3. Failure to comply with the requirements of this section shall be considered unprofessional conduct.

C. Approved Continuing Education Programs

1. It is the responsibility of the registered equine dentist to submit a request for approval of a continuing education program no less than 60 days prior to the program. Information to be submitted shall include:

- a. the name of the proposed program and sponsor organization;
- b. course content;
- c. the number of continuing education units to be obtained by attendees.

2. Continuing education units which are submitted for renewal and were not pre-approved by the board may be reviewed by the board. If the units are not approved, the registered equine dentist will be required to take additional continuing education in an approved program prior to the renewal of his certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1519. Unprofessional Conduct on Part of the Veterinarian

After due notice and hearing as set forth in the Louisiana Administrative Procedure Act, LSA R.S. 49:950 et seq. and the board's rules, more particularly section 1401 et seq., a veterinarian who fails to comply with a rule promulgated by the board regarding the practice of equine dentistry shall be subject to disciplinary action and sanction by the board for unprofessional conduct pursuant to the Louisiana Veterinary Practice Act, LSA R.S. 37:1526(A)(14) and the board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1526(A)(14), 37:1518(A)(9) and 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

Kimberly B. Barbier
Administrative Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Registered Equine Dentists**

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, except for those associated with publishing the new rule (estimated \$800). Registered equine dentists will be informed of this rule via the board's regular newsletter or other direct mailings, which are already a budgeted cost of the board.

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

The proposed fees for original registration and application will have an impact in fiscal year 1999/2000, with the *certificate renewals not taking place until July 1, 2000

(2000/2001). The anticipated increase in agency self-generated funds for FY 1999/2000 and 2000-01 is based on the following:

Category	Current Revenue	Proposed Revenue	Net Effect
Original Registration Fee	\$0	6 x \$200=\$1,200	\$1,200
Annual Renewal Fee	\$0	6 x \$125=\$750	\$750
Late Renewal Fee	\$0	1 x \$100=\$100	\$100
Application Fee	\$0	6 x \$100=\$600	\$600
Total	\$0	\$2,650	\$2,650

The additional renewal fee and late renewal fee in subsequent FYs is projected to be the same

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

Registered equine dentists and applicants will be affected by the proposed action. The net cost effect on each category is illustrated in item II above. There will be no new paperwork required.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated as a result of the proposed new rule.

Kimberly B. Barbier
Administrative Director
9910#025

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Veterinary Medicine**

Renewals (LAC 46:LXXXV.305)

The Louisiana Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.305 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, La. R.S. 37:1518 et seq. The proposed rule amendment has no known impact on family formation, stability, and autonomy as described in R.S. 49:972. The proposed amendment to the rule is set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part LXXXV. Veterinarians**

**Chapter 3. Licensure Procedures
§305. Renewals**

A. Annual Renewal of License. Pursuant to LSA-R.S.37:1524, all licenses expire annually on September 30 of each year and must be renewed by making application for renewal of license with the board and payment of the annual renewal fee. A complete application for renewal of license must be submitted to the board or the license shall be expired. For an application for renewal of license to be considered complete, the following conditions must be met:

- 1. application for renewal must be postmarked by September 30 of the year of application for renewal;
- 2. full payment of renewal fee must be submitted;

3. documentation of compliance with continuing education requirements in accordance with Chapter 4 of this Part must be submitted; and

4. if applicable, late continuing education fee must be submitted.

B. Renewal of Expired Licenses. A license which expires may be renewed within five years of the date of its expiration by submitting an application for renewal which meets the following conditions:

1. application for renewal must be submitted;

2. full payment of current renewal fee must be submitted;

3. full payment of delinquent annual renewal fees must be submitted;

4. full payment of late fees for delinquent license renewal must be submitted;

5. documentation of compliance with continuing education requirements, for the current year and delinquent years, in accordance with Chapter 4 of this Part must be submitted; and

6. if applicable, late continuing education fee must be submitted.

C. Notice

1. A person failing to renew his license shall receive one notification via certified mail, return receipt requested, which notification shall be mailed within ten days after expiration of license. Such notice will advise that any person who shall practice veterinary medicine after the expiration of his license and willfully or by neglect fails to renew such license shall be guilty of practicing in violation of LSA-R.S. 37:1514. Such notice shall also state that the board may publish the name of any person holding an expired license and that the board may distribute the name of any person holding an expired license to agencies which may include, but is not limited to, the Louisiana state controlled dangerous substances program, the United States Drug Enforcement Administration, the United States Food and Drug Administration, the United States Department of Agriculture, drug supply wholesalers, veterinary supply wholesalers, the Louisiana Board of Pharmacy, the Louisiana Board of Wholesale Drug Distributors, the Louisiana Veterinary Medical Association, and any other entity that requests or is entitled to such information.

2. Pursuant to LSA-R.S. 37:1525, after five years have elapsed since the date of expiration, a license may not be renewed. No later than 60 days prior to the end of the five-year period, the board shall mail notice via certified mail, return receipt requested, to the person holding such expired license. Such notice shall state that if the license is not renewed prior to the end of the five-year period, the license shall be permanently removed from the board's rolls and that the holder shall be required to make application for a new license.

D. It is the duty of the licensee to maintain a current address with the office of the Board of Veterinary Medicine and to notify the board's office if an annual re-registration form is not received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:343 (March 1993); amended LR 23:965 (August, 1997), LR 24:941 (May 1998), LR 25:

Interested parties may submit written comments to Kimberly Barbier, administrative director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801. Comments will be accepted through the close of business on November 19, 1999. If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedure Act, the hearing will be held on November 29, 1999, at 9:00 a.m. at the office of the Louisiana Board of Veterinary Medicine, 263 Third St., Suite 104, Baton Rouge, LA.

Kimberly B. Barbier
Administrative Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Renewals

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, except for those associated with publishing the amendment (estimated \$120). Licensees will be informed of this rule change via the board's regular newsletter or other direct mailings, which are already a budgeted cost of the board.

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. There will be no revenue impact as no increase in fees will result from the amendment.

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

There are no anticipated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated as a result of the proposed rule change.

Kimberly B. Barbier
Administrative Director
9910#019

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

Eligibility—Native American Fishing Rights

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is adopted in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Bureau of Health Services Financing adopted a rule promulgating the Medicaid Eligibility Manual in its entirety by reference in July of 1996 (*Louisiana Register* Volume 22, No. 7). Section I of the Medicaid Eligibility Manual explains

the eligibility factors used to determine Medicaid eligibility, including countable income and resources.

The Technical and Miscellaneous Revenue Act (TAMRA) of 1988 (Public Law 100-647) amended sections 209(a)(18), 211(a)(14) and 1612(a) of the Social Security Act by excluding the income of Native Americans derived from the exercise of fishing rights from the definitions of wages and self-employment income for Supplemental Security Income (SSI), thereby making it considered as unearned income. The Bureau proposes to amend section I of the Medicaid Eligibility Manual governing countable income and resources by adopting the provisions of P. L. 100-647, which requires that the income of Native Americans derived from the exercise of recognized fishing rights be considered as unearned income in the determination of Medicaid eligibility.

In compliance with Act 1183 of the 1999 Regular Session, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family formation, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends Section I of the Medicaid Eligibility Manual governing countable income and resources by adopting the provisions of P.L. 100-647, which requires that the income of Native Americans derived from the exercise of recognized fishing rights be considered as unearned income in the determination of Medicaid eligibility.

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 Monday, November 29, 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: Eligibility—Native American Fishing Rights

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

Estimated costs to the state cannot be determined at this time, as currently there are no known cases affected by implementation of this proposed rule. However, it is anticipated that costs, once determined, will be minimal. Included SFY 1999-00, \$410 (\$205 SGF and \$205 FED) for the state's administrative expense of promulgating this proposed rule, the final rule and the Medicaid Eligibility Manual revisions.

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

The estimated effect on revenue collections cannot be determined at this time, as currently there are no known cases affected.

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

Income of Native Americans that is derived from exercise of recognized fishing rights shall be considered as unearned income in the determination of Medicaid eligibility. State programmatic costs cannot be determined at this time as currently there are no known cases affected by implementation of this proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9910#078

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

TEFRA Optional Eligibility Group

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is proposing to adopt the following rule as authorized by LA. R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is in accordance with the Administrative Procedure Act R.S. 49:950 et seq.

In §134 of the Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982, the U.S. Congress defined a new optional group for Medicaid eligibility called the Disabled Children Home Care State Plan Option. In the Omnibus Budget Reconciliation Act (OBRA) of 1987, changes were made to the qualifying criteria to make eligibility more consistent with the requirements for persons who are eligible because they are receiving institutional care (living in a hospital, nursing home, or intermediate care facility for the mentally retarded). These provisions amended §1902(e)(3) of the Social Security Act to create an optional eligibility group referred to as "TEFRA". The TEFRA eligibility group is composed of disabled children who meet certain conditions.

Current federal regulations describe this eligibility group as individuals under age 19 who would be eligible for Medicaid if they were in a medical institution.

The State Medicaid agency may provide Medicaid benefits to children 18 years of age or younger who qualify under section 1614(a) of the Act, who would be eligible for Medicaid if they were in a medical institution and who are receiving, while living at home, medical care that would be provided in a medical institution.

If the agency elects to cover this optional eligibility group, it must determine in each case that the following conditions are met:

(1) The child requires the level of care provided in a hospital, skilled nursing facility(SNF), or intermediate care facility (ICF).

(2) It is appropriate to provide that level of care outside such an institution.

(3) The estimated Medicaid cost of care outside an institution is no higher than the estimated Medicaid cost of appropriate institutional care.

TEFRA is a Medicaid eligibility category; it is not a program of specialized services. TEFRA eligibility does not confer access to specialized services offered in a facility or home and community based services waiver. It entitles the child to the same Medicaid benefits available to every Medicaid eligible child.

The Department is establishing this optional eligibility group in compliance with Act 10 of the 1999 Regular Session of the Louisiana Legislature which mandates the implementation of TEFRA. In compliance with Act 1183 of the 1999 Regular Session, the impact of this proposed rule on the family has been considered. It is anticipated that the implementation of the TEFRA optional eligibility category will strengthen the family by allowing those disabled children who do not meet the eligibility criteria because of parental income and/or resources to remain at home rather than being admitted to a medical institution in order to become Medicaid eligible.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provisions of §1902(e)(3) of the Social Security Act as amended by §134 of the Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982 and the Omnibus Budget Reconciliation Act (OBRA) of 1987 to provide Medicaid eligibility to a new optional group of Medicaid recipients known as TEFRA.

Eligibility Criteria

The eligibility criteria for TEFRA is as follows:

1. the child must be 18 years of age or younger;
2. the child must be disabled according to SSI standards;
3. the child must meet the level of care criteria for residence in an institutional placement for which Medicaid funding would be provided;
4. it must be determined that it is safe and appropriate to provide in-home care to this child;
5. the child's cost of care must be individually cost effective. The annual cost to Medicaid for services in the home must not be higher than the annual cost to Medicaid for services in an institutional setting.

Only the income and assets of the child are considered for TEFRA eligibility. All other eligibility factors applicable to Medicaid eligibility for institutional care are applicable to TEFRA applicants.

Children determined eligible for Medicaid through the TEFRA option will receive regular Medicaid State Plan services, including Early Periodic Screening, Diagnosis, and Treatment (EPSDT) services. They are not eligible for those services only available in a home and community based services waiver.

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 Monday, November 29, 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: TEFRA Optional Eligibility Group

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

Implementation of the TEFRA optional eligibility group will result in additional costs to the state of approximately \$2,902,836 for SFY 1999-00, \$5,712,714 for SFY 2000-01, and \$5,875,430 for SFY 2001-02. Included in the SFY 1999 is \$250 (\$125 SGF and \$125 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)

The estimated effect on federal revenue collections is approximately \$6,880,733 for SFY 1999-00, \$13,567,454 for SFY 2000-01, and \$13,953,898 for SFY 2001-02.

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

The economic benefit of this proposed rule is that it will provide Medicaid eligibility to disabled children 18 years of age or younger who are living at home, but would be eligible for Medicaid benefits if they were in a medical institution. This proposed rule will result in an increase in expenditures in the Medicaid Program of approximately \$9,000,000 for SFY 1999-00, \$18,504,000 for SFY 2000-01, and \$19,022,112 for SFY 2001-02. Costs reflected are for services for an estimated 5,000 new eligibles and do not include administrative expenditures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9910#073

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Labor Plumbing Board

Fees (LAC 46:LV.309)

The Louisiana State Plumbing Board ("Board"), pursuant to La. 37:1366(A) and (D) and 1377, proposes to amend and restate Plumbing Regulation, LAC 46:LV.309, in accordance with the Administrative Procedure Act. The proposed rule change notifies the public of the board's intent to increase

certain fees and charges relative to journeyman plumbers; master plumbers; medical gas piping installers; water supply protection specialists, and establish a fee structure for medical gas and vacuum systems verifiers, as authorized by Act 1020 of the 1999 Regular Session. The proposed amendment has no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part LV. Plumbers

Chapter 3. Licenses

§309. Fees

A. The fees and charges of the board relative to journeyman plumbers shall be as follows:

Special examinations	\$500
Examinations	\$125
Illiterate examinations	\$150
Initial license fee (This fee to be paid after applicant has successfully passed the exam, in order to receive his first license)	\$ 40
Renewal fee	\$ 40
Revival fee	\$ 15
If renewed after March 31	\$ 30
Temporary permits	\$ 75
Administrative charges for processing application (to be retained by the board should applicant withdraw his application before taking the examination)	\$ 62.50
Fee for N.S.F. or returned check	\$ 20
Special enforcement fee imposed under §305.H	\$500

B. - D. ...

E. The fees and charges of the board relative to medical gas and vacuum systems verifier shall be as follows:

1. Application fee	\$200
2. Renewal fee	\$200
3. Revival fee	\$ 65
If renewed after March 31	\$130

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, promulgated as amended LR 7:588 (November 1981), amended LR 15:1089 (December 1986) amended by the Department of Employment and Training, Plumbing Board, LR 16:1088 (January 1990), amended LR 17:53 (January 1991), amended by the Department of Labor, Plumbing Board, LR 19:898 (July 1993), LR 19:1594 (December 1993), LR 21:1594 (December 1995), amended by the Department of Labor, Plumbing Board, LR 25:

All currently stated Rules of the board, including existing fees, unless amended herein, shall remain in full force and effect.

Any interested person may submit written comments regarding the content of this proposed rule to Don Traylor, Executive Director, 2714 Canal Street, Suite 512, New Orleans, Louisiana, no later than 5:00 p.m., November 19, 1999.

Don Traylor
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Fees

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

No costs are associated with implementation of the fees increased by Act 1020 of the 1999 Regular Session.

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

It is estimated that the fees authorized by Act 1020 will generate an additional \$53,475 in FY's 99-00, 00-01, and 01-02.

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

Annual costs of \$53,475 will be borne by persons seeking licensure by the board in all aspects of plumbing. These fees cover the cost of the board's licensing and enforcement activities and are authorized by Act 1020.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment as a result of increased fees enacted by Act 1020. New fees authorized for medical gas and vacuum systems verifiers will enhance competition and employment in this specialized area of the plumbing industry.

Don Traylor
Executive Director
9910#066

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Labor
Plumbing Board

Integrity of Examination (LAC 46:LV.311)

The Louisiana State Plumbing Board ("Board"), pursuant to La. 37:1366(A) and (D) and 1377, proposes to amend and restate Plumbing Regulation LAC 46:LV.311.A and to add LV.311.B in accordance with the Administrative Procedure Act. The proposed rule restates the board's authority to discipline an applicant for a board license for violating examination security procedures and to extend that authority to examinations conducted by authorized third-party organizations, including those organizations certifiable under

related proposed rules authorized by Act 1020 of the 1999 Regular Session. The proposed amendment has no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LV. Plumbers

Chapter 3. Licenses

§311. Integrity of Examination

A. The board may reject an examination for any license or endorsement under this chapter, if it determined that the applicant completed any portion of any such examination with the assistance of any other person or unauthorized written materials secreted into the examination site. Examinees will be allowed to utilize resource or industry code materials approved by the board, or its examiners, or permitted by third-party examiners recognized by the board conducting the examination. Examinees determined to have violated the prohibitions of this section shall be notified in writing and, upon request by the examinee or at the direction of the executive director, an informal conference before the executive director or committee appointed by the Board will be conducted. An affected examinee may appeal the determination reached in the informal conference by filing a written appeal with the Board. Such appeal hearings shall comport with the provisions of R.S. 49:955(B). Based on the evidence adduced at any such hearing, the board may impose sanctions upon the examinee with respect to any subsequently administered examination and related licensing.

B. The board is empowered to act upon reports of violation of §311.A by examinees received from private or public organizations recognized as examiners under §§ 304.H, 306.F, 310.F or 312.B and impose sanctions as described in §311.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 24:1948 (October 1998), amended by the Department of Labor, Plumbing Board, LR 25:

All currently stated Rules of the board, unless amended herein, shall remain in full force and effect.

Any interested person may submit written comments regarding the content of this proposed rule to Don Traylor, Executive Director, 2714 Canal Street, Suite 512, New Orleans, Louisiana, no later than 5:00 p.m., November 19, 1999.

Don Traylor
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Integrity of Examination

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

There will be no implementation costs or savings to State or local governmental units as a result of the proposed rules.

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 caused by the proposed rule.

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

There will be no appreciable costs or economic benefits to directly affected persons.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule enhances competition and employment in the Plumbing Industry as it seeks to strengthen measures securing the integrity of the board's examination procedures.

Don Traylor
Executive Director
9910#064

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Labor
Plumbing Board

Medical Gas and Vacuum Systems Verifiers
(LAC 46:LV.101, 303, 307, 312, 313, 801 and 901)

The Louisiana State Plumbing Board ("Board"), pursuant to La. 37:1366(A) and (D) and 1377, proposes to amend and restate Plumbing Regulations LAC 46:LV.101, 303, 304, 307, 801, and 901 and proposes to add Plumbing Regulations LAC 46:LV.312 and 313 in accordance with the Administrative Procedure Act. The proposed rule changes provide licensing requirements and procedures relative to medical gas and vacuum systems verification, a specialized aspect of medical gas systems which is now subject to the Board's jurisdiction by Act 1020 of the 1999 Regular Session. The proposed amendments and additions have no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part LV. Plumbers

Chapter 1. Introductory Information
§101. Definitions

* * *

Medical Gas and Vacuum System Verification—the work or business of testing and verifying medical gas pipeline installations and systems. Medical gas pipeline systems include vacuum piping. The medical gas pipeline systems subject to this definition include facilities and laboratories within the scope of Standard for HealthCare Facilities (ANSI) NFPA 99, latest edition. It shall include the ability to understand and apply NFPA99, as well as all standards listed in Section 1.4 of the Professional Qualifications Standard for Medical Gas Systems Installers, Inspectors and Verifiers, ASSE Series 6000, Standard 6030, and to properly document and report findings to the Louisiana State Fire Marshal or other governmental agencies with compliance and enforcement authority.

Medical Gas and Vacuum Systems Verifier—a natural person who possesses the necessary qualifications and knowledge to test and verify the operation of medical gas and vacuum pipeline systems, subject to the professional qualification standards established by the American Society of Sanitary Engineers (ASSE) Series 6000, Standard No. 6030 (latest edition), and who is licensed as such by the board.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, promulgated as amended by Department of Employment and Training, Plumbing Board LR 17:48 (January 1991), amended by the Department of Labor, Plumbing Board, LR 21:1348 (December 1995), amended LR 25:

Chapter 3. Licenses

§303. Application for License

A. - E. ...

F. An application for medical gas and vacuum systems verifiers license shall be completed and sworn to before a notary public by the applicant. The applicant must submit proof that he has successfully completed a course of training and related certification testing described in §312.B of these regulations by an organization certified by the board pursuant to R.S. 37:1368(I). The applicant must furnish whatever information relevant to his experience that is requested in the application form or specifically requested by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, promulgated as amended by the Department of Employment and Training, Plumbing Board, LR 17:50 (January 1991), amended by Department of Labor, Plumbing Board, LR 21:1348 (December 1995), LR 25:

§307. Renewals

A. All plumbing, medical gas piping installer licenses, medical gas and vacuum systems verifier, as well as water supply protection endorsements, expire December 31 of each year. Applications for renewal will be mailed out by the end of October. The issuance of renewals will commence November 1 of each year. The term "renewal application" as used in §307 shall refer to all licenses and endorsements issued by the board.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, promulgated LR 2:419 (December 1976), amended LR 7:588 (November 1981), amended by Department of Employment and Training, Plumbing Board, LR 17:53 (January 1991), LR 18:30 (January 1992), amended by the Department of Labor, Plumbing Board, LR 21:1348 (December 1995), LR 25:

§312. Medical Gas and Vacuum Systems Verifier

A. No natural person shall engage in the work of a medical gas and vacuum systems verifier unless he possesses a license or renewal thereof issued by this board. The board shall issue a medical and vacuum systems verifier license to any person who qualifies under the board's regulations and who desires to engage in the work or business of a medical gas and vacuum systems verifier if he passes a written and manual examination conducted by a

nationally recognized organization for this purpose and pays the fees established by the board.

B. As authorized by R.S. 37:1368(I), the board shall recognize and certify certain programs of education and training of medical gas and vacuum systems verifiers offered by private or public organizations or institutions. A natural person's satisfactory completion of any such program and related exit examination shall qualify him for licensing under §312.A of these regulations. Any such organization must satisfy the board that its program or programs meet the following criteria:

1. The program is conducted at a training facility and given to those members of the public that provide proof of training or experience in any aspect of the piping industry.

2. The program requires 32 hours of medical gas and vacuum systems training that meets criteria prescribed by the board and is included in the National Fire Protection Association (NFPA) 99 Gas and Vacuum Systems, latest edition, and American Society of Sanitary Engineers (ASSE), Series 6000, Standard 6030 (latest edition). Program testing must cover the following areas:

- a. the history of medical gas piping;
- b. application of ANSI/NFPA 99, as well as standards listed in Section 1.4 of ASSE Series 6000, Standard 6030 (latest edition), and all laws, codes, rules, listing agencies and regulations from federal, state and local jurisdictions;
- c. industry terminology, definitions and vocabulary;
- d. understanding of basic concepts pertaining to absolute pressure, atmospheric pressure, gauge pressure, static pressure, dynamic (flowing) pressure, vacuum measurement, pressure and vacuum sensors, alarm panel locations, alarm setting, oxygen deficiency, all piped medical gases and patient safety;
- e. identification of the parts and components of medical gas and vacuum systems and equipment, and their application and limitations with respect to health care facilities;
- f. description of the operating principles and performance characteristics of medical gas and vacuum pipeline systems and their components;
- g. description of the proper installation requirements for medical gas and vacuum pipelines systems relating to manufacturer recommendations, physical location, ventilation and accessibility, and local jurisdiction requirements;
- h. identification of failures and the possible causes for component failure of medical gas and vacuum systems;
- i. identification and description of the tests applicable to medical gas piping equipment, its physical operation, maintenance and calibration requirements;
- j. identification and description of the hazards and precautions required for field testing of medical gas and vacuum piping systems;
- k. understanding of test forms containing information described in ASSE Series 6000, Standard 6030 (latest edition), and its appendices.

3. The program must employ or utilize instructors who are certified as medical gas and vacuum systems verifiers by a governmental agency having jurisdiction over medical gas piping. In the absence of a governmental agency

exercising such jurisdiction, the board will recognize private or public organizations who have conducted 32-hour programs of training in the field of medical gas and vacuum system verification, including written and practical examination covering all facets of ASSE Series 6000, Standard 6030 (latest edition).

C. To be eligible for board certification pursuant to R.S. 37:1368(I), an interested organization providing medical gas and vacuum systems verification training and education must complete a written application on a form or forms supplied by the board. The board shall be entitled to receive timely information on the program or programs administered by such organization and background of instructors upon request at any time. The board, acting through its representatives, may also inspect the facility and observe the actual training and education programs used or offered by such organizations. Failure to cooperate with the board and its representatives may be grounds for denial or withdrawal of board certification of any such organization. The board may investigate complaints concerning such programs. Adverse administrative action affecting an organization's application for certification or its continued status as an organization certified by the board pursuant to R.S. 37:1368(I) will be subject to the Administrative Procedure Act.

D. An applicant for a medical gas and vacuum systems verifier license must attach to his application a money order or check for the appropriate fees established in §309 of these regulations.

E. The board may accept, in lieu of an examination directly administered by the board to any applicant, the verifiable results of an examination administered by an organization certified pursuant to R.S. 37:1368(I), as evidence of successful completion of the examination necessary for the issuance of a license for medical gas and vacuum systems verifier. Any papers from such examinations must be available for inspection and the board may require notarized affidavits from the applicant and the administering organization representative attesting to the accuracy of the examination results and the scope of any such examination, which must minimally include the subject areas described in §311B.2 of the regulations.

F. Any person, who at any time is cited by the board for working as a medical gas and vacuum systems verifier without possessing the necessary license issued by the board, shall be subject to a special enforcement fee as a precondition to any subsequent examination or licensing of any nature. The fee shall be in addition to the regular fees assessed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 25:

§313. Standards for Medical Gas and Vacuum Systems Verifiers

A. A medical gas and vacuum systems verifier shall not certify to any party the results of any tests on medical gas pipeline systems or equipment installed or repaired by any person not licensed by the board as a medical gas piping installer.

B. As a condition for licensing and renewal thereof, and subject to the disciplinary powers of the board under R.S. 37:1378(3) and (8), any person licensed by the board as a

medical gas and vacuum systems verifier shall be obligated to cooperate with the Louisiana State Fire Marshall and his agents in connection with his regulation of medical gas piping installation and systems verification.

C. The duties described in §313.B include the responsibility of a medical gas and vacuum systems verifier to timely and accurately report to the Fire Marshall the following as to any gas and vacuum system subject to his verification:

1. the successful completion of pressure testing of all manufactured assemblies for both positive gases and vacuum systems, as supplied by the manufacturer of any such systems, prior to this installation;

2. satisfactory cleaning of piping and fittings from the cleaning agency in accordance with the standard "Cleaning Equipment for Oxygen Service" (CGA G-4.1);

3. documentation of each board-licensed medical gas piping installer's Brazer Procedure Qualification Record and Braze Performance Qualification in accordance with NFPA 99 standard on Gas and Vacuum Systems, latest edition;

4. documentation of successful completion of the board-licensed installer's required testing, including a blowdown test, initial pressure test, cross-connection test, piping purge test and standing pressure test;

5. documentation of the verifier's successful completion of required testing, including cross-connection, valve test, outlet flow test, alarm testing, piping purge test, piping purity test, final tie-in test, operational pressure test, medical gas concentration test, medical air purity test and labeling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1336(D).

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 25:

Chapter 8. Preemption

§801. Preemption of Municipal or Other Local Regulatory Authorities

A - B. ...

C. The board may enter into cooperative arrangements with the Louisiana Department of Health and Hospitals, the Louisiana State Fire Marshall or local governing authorities to aid in the enforcement of the board's regulations.

D. Nothing herein shall prohibit the board from receiving and acting under R.S. 37:1378(7) or (8) upon notices of adjudications of violations of Louisiana Department of Health and Hospitals regulations, Louisiana State Fire Marshall regulations, or local municipal or parish plumbing codes not otherwise preempted or superseded by the Plumbing Law or these regulations.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board, 1968, repromulgated as amended by Department of Employment and Training, State Plumbing Board, LR 17:55 (January 1991), amended by Department of Labor, Plumbing Board, LR 25:

Chapter 9. Revocation and Related Administration Proceedings

§901. Revocation, Suspension and Probation Procedures

A. All adjudication proceedings initiated pursuant to R.S. 37:1378 and conducted by the board shall be in accordance with the Administrative Procedure Act, R.S. 49:955 et seq.

The term "licensee" as used in this Section, shall refer, where applicable, to the holder of a journeyman plumber, restricted journeyman plumber, master plumber, restricted master plumber, inactive master plumber, medical gas piping installer or medical gas and vacuum systems verifier license, and holder of a water supply protection specialist endorsement.

B. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, promulgated as amended by the Department of Employment and Training, Plumbing Board, LR 17:55 (January 1991), amended by Department of Labor, Plumbing Board, LR 21:1348 (December 1995), LR 25:

All currently stated Rules of the board, unless amended herein, shall remain in full force and effect.

Any interested person may submit written comments regarding the content of this proposed rule to Don Traylor, Executive Director, 2714 Canal Street, Suite 512, New Orleans, Louisiana, no later than 5:00 p.m., November 19, 1999.

Don Traylor
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Medical Gas and Vacuum Systems Verifiers

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

The board estimates \$8,175 in initial implementation costs associated with the licensing of medical gas and vacuum systems verifiers.

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

The board estimates the collection of \$2,400 (FY 99-00), \$2,500 (FY 00-01), and \$2,600 (FY 01-02) in licensing fees. The board is empowered to collect such fees to cover the cost of licensing. Act 1020 of the 1999 Regular Session also increased licensing and examination fees relative to other licenses.

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

The fees collected from affected applicants, estimated to be less than 20 persons annually through 2002, will be derived from persons seeking licensing as medical gas and vacuum system verifiers. These fees are authorized by Act 1020 of the 1999 Regular Session.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The implementation of new medical gas and vacuum systems verifier licensing and examination rules will enhance

competition, as it will provide statewide regulation of an important aspect of the plumbing industry and promote the development of quality private sector training and certification programs. The proposed regulation will also strengthen quality controls in private and public sector health care facilities.

Don Traylor
Executive Director
9910#065

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Board of Pardons

Hearing—Clemency
(LAC 22:V.109)

In accordance with the Administrative Procedure Act, LSA-R.S. 49:953(B), the Department of Public Safety and Corrections, Board of Pardons, hereby gives notice of intent to adopt amendments to rules and procedures dealing with the requirement for the publication of notice of application for clemency.

In accordance with the Administrative Procedure Act, LSA-R.S. 49:953(A)(1)(a)(viii) and LSA-R.S. 49:972, the Department of Public Safety & Corrections, Board of Pardons, hereby provides the Family Impact Statement. Adoption of this amendment will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed rule amendment.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part V. Board of Pardons

Chapter 1. Applications

§109. Hearing Granted

A. After notice to a applicant that a hearing has been granted the applicant must provide the Board of Pardons office with proof of advertisement within 90 days from the date of notice to grant a hearing. Advertisement must be published in the official journal of the parish where the offense occurred. This ad must state:

"I (applicant's name), (document number), (date of birth), currently residing in (parish/county), (state), have applied for clemency for my conviction for (crime) which occurred (day/month/year), in (parish/county), (state). If you have any comments or wish to communicate with the Board of Pardons please call (225) 342-5421."

B. Applicant may submit additional information, (e.g., letters of recommendation and copies of certificates of achievement and employment/residence agreement).

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 15:572.4, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1063 (December 1990), amended LR 24:

Irvin L. Magri, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Hearing—Clemency**

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. 15:572.4(C).

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
9910#049

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Operating Standards; Video Draw Poker; Check Cashing
(LAC 42:IX.2919-2924, 42:XI.2415, 42:XIII.4001-4013)

The Louisiana Gaming Control Board hereby gives notice that it intends to amend LAC 42:IX.2919 and adopt LAC 42:IX.2921 through 2924 to amend XI.2415 and to add XIII.4001-4013 in accordance with La. R.S. 27:15 and 24, and the Administrative Procedure Act, La. R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part IX. Landbased Casino Gaming

Chapter 29. Operating Standards

§2919. Advertising; Mandatory Signage

A. The Board may regulate and establish procedures for the regulation of advertising and marketing casino events and activities. Additionally, the board may require the casino operator or casino manager to advertise or publish specified information, slogans and telephone numbers relating to

avoidance and treatment of compulsive or problem gambling or gaming. The casino operator and casino manager shall immediately comply with any order of the board issued pursuant to this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1953 (October 1999), amended LR 25:

§2921. Entertainment Activities

A. No entertainment shall be offered within the designated gaming area unless the casino operator or casino manager receives approval from the Division to provide such entertainment.

B. The casino operator or casino manager shall file a written submission with the Division at least five days prior to the commencement of such entertainment, which shall include, at a minimum, the following information:

1. the date and time of the scheduled entertainment;
2. a detailed description of the type of entertainment to be offered;
3. the number of persons to be involved in the entertainment;
4. the exact location of the entertainment in the designated gaming area;
5. a description of any additional security measures that will be implemented as a result of the entertainment; and
6. a certification from the casino that the proposed entertainment will not adversely affect security, surveillance, the integrity of the gaming operations and the safety and security of persons in the casino.

C. The submission in Subsection B shall be deemed approved by the Division unless the casino is notified in writing to the contrary within five days of filing.

D. In reviewing the suitability of an entertainment proposal, the Division shall consider the extent to which the entertainment proposal:

1. may unduly interfere with efficient casino operations;
2. may unduly interfere with the security of the casino or any of the games therein or any restricted casino area; or may unduly interfere with surveillance operations; and
3. may unduly interfere with the safety and security of persons in the casino.

E. The Division, in its sole discretion, may grant ongoing approval for scheduled entertainment events that follow a set pattern. The duration of the approval shall be at the discretion of the Division.

F. The Division may at any time require the casino operator or casino manager to immediately cease any entertainment offered within the casino if the entertainment provided is materially different from the description contained in the submission filed pursuant to Subsection B above, or in any way compromises security, surveillance, the integrity of the gaming operations or the safety and security of persons in the casino.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§2922. Promotions; Increased Slot Jackpots; Coupons and Scrip

A. All promotion programs that are in contravention of any gaming law or regulation are prohibited. All promotions, including, but not limited to, contests or tournaments that involve any coupon or scrip that impact the integrity of the games, the security, surveillance and well-being of persons in the casino or the calculation of gross gaming revenue shall be subject to prior written approval by the Division unless otherwise provided in these rules and regulations. The Division may alter or waive the requirements of regulations §2922-2923.4 upon a showing of good cause.

B. The increased portion of the payout or jackpot that results from promotional activities shall be considered a promotional expense and accounted for on the casino operator's or casino manager's books accordingly. The increased portion of the payout or jackpot shall not be included as winnings unless approved in advance. Winnings for the purposes of the definition of gross gaming revenue means the total amount delivered by a gaming device as win to a patron or the amount determined by the approved table game odds as win to a patron, exclusive of any double jackpots, increased payouts in addition to table game odds or other increased payouts that result from promotional activities, unless approved, in advance, by the Board. The increased portion of a jackpot that results from the promotion shall not be paid by the machine itself, but shall be paid manually.

C. Request for approval shall be made in writing and received by the Division at least ten days prior to the commencement of the promotion. Request for approval shall include, at a minimum, a description of the proposed coupon or scrip, the dates that the promotion will be available to patrons, the proposed use of the coupon or scrip and the method of accounting. If approval is granted, the casino operator or casino manager shall adopt internal controls as prescribed by the Division.

D. Other promotions not specified in §§922-2924 shall require that the casino operator or casino manager give and the Division receive thirty days written notice of the promotion, unless a shorter time is approved by the Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§2923. Tournaments

A. All tournaments conducted in the casino are subject to prior written approval by the Division.

1. A tournament is a contest or event wherein persons play a game or games previously authorized by the Division in competition with each other to determine the winner of a prize or prizes.

2. A tournament shall include, but is not limited to, any contest or event wherein an entry fee is paid to play a game previously approved by the Division. An entry fee shall include any fee paid directly or indirectly, by or on behalf of the person playing in the tournament.

3. Unless a shorter time is approved by the Division, a request for approval of a tournament shall be made in writing and received by the Division at least thirty days prior to the commencement date of the tournament. The request for approval shall contain a complete description of the tournament; the manner of entry; a description of those

persons eligible to enter the tournament; the entry fee assessed, if any; the prizes to be awarded; the manner in which the prizes are to be awarded and the dates of the tournament. The Division may request additional information prior to rendering a decision. Any incomplete request for approval shall be denied.

4. All entry fees shall be included in gross gaming revenue. Cash prizes awarded in tournaments shall be deducted as payouts for the purposes of calculating gross gaming revenue. Neither the value of noncash prizes nor the cost thereof shall be deducted in the calculation of gross gaming revenue. No other deductions shall be made for the purposes of calculating gross gaming revenue.

5. All entry fees and cash prizes shall be reported on the gross gaming revenue report in a manner approved by the Division. Copies of source documents such as transfer slips of the participants' entry fees to either the vault or cage and transfer slips of the participants' winnings paid out from either the cage or the vault must accompany the gross gaming revenue report on which the entry fee or payout is reported.

6. All tournament slot meters shall be read both electronically and manually before the machine's EPROM is changed for tournament play and again once the tournament EPROM has been installed. The meters for these machines shall be read both electronically and manually once tournament play has ended. All meter readings shall be recorded and retained in accordance with the rules and regulations concerning record retention in Chapter 27.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§2924. Giveaways and Drawings

A. The casino operator or casino manager are allowed to give away prizes and cash awards by means of drawings of any kind only under the following circumstances.

1. Only persons 21 years of age and older shall be eligible to participate.

2. Persons eligible to receive anything, including cash, shall not be required to purchase anything, including the purchase of chips or tokens from the casino or from any other business, nor shall they be required to participate in any gaming activity or be required to put up anything of value or pay an entry fee.

3. Participation in drawings of any kind shall be made available to the general public. If entry forms are required they shall be conveyed to the general public in a prominent manner. Such forms may be made available in the casino, but shall not be perfunctorily distributed to patrons.

4. The casino operator or casino manager shall give, and the Division shall receive, at least five-days written notice, exclusive of weekends and holidays, of drawings of any kind. Such notice shall describe the drawing in detail including the manner in which a person becomes eligible to receive anything to be given away. The notice shall also provide the full name, telephone number, and complete address of the contact person who has authority to make decisions relative to the drawing.

5. The Division may disapprove a drawing at any time. If the Division disapproves a drawing, then it may not be conducted. If a drawing of any kind is already underway, it shall be discontinued upon notice of disapproval by the

Division. Disapproval does not need to be in writing to be effective, but any oral disapproval must be followed by written notice of the disapproval within three days of the oral disapproval.

B. In connection with any promotional program conducted by the casino operator or casino manager, the person conducting the promotional program shall comply with any and all requirements and restrictions contained in Louisiana law including, without limitation:

1. Charitable Gaming Laws, R.S. 33:4861.1-4861.28 and R.S. 40:1485.1-1485.11 and the regulations adopted pursuant thereto; R.S. 27:260 relating to underage gaming and the regulations adopted pursuant thereto; restrictions imposed by Chapter 37 of these regulations; and any other requirements or restrictions imposed by law or these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

Part XI. Video Poker

Chapter 24. Video Draw Poker

§2415. Gaming Establishments

A. - C.3 ...

D. Structural Requirements for Licensed Establishments

1. - 3.d. ...

4. A qualified truck stop facility shall have sufficient parking to accommodate at least fifty eighteen-wheel tractor motor vehicles and loads. The parking area including stalls and travel lanes, shall meet the following requirements and consist of the following dimensions regardless of the parking area layout.

a. Parking stalls shall be a minimum of twelve feet wide and sixty-five feet long.

b. Parking area travel lanes shall be a minimum of seventy-five feet wide, free from any motor vehicle traffic maneuvering obstruction.

c. The parking stalls and travel lanes shall be distinctly and clearly striped with yellow paint or other material to delineate traffic use. The ingress and egress points shall be properly and clearly marked.

d. The parking area design, plans and construction shall be in compliance with all applicable federal, state, and local laws and regulations.

e. The parking area and travel lanes shall be constructed of asphalt or concrete in accordance with a design and plans prepared by a registered civil engineer.

f. The licensee or applicant shall submit to the division written certification from the registered civil engineer that construction was in accordance with the design and plans.

g. The parking area and travel lanes shall be constructed in accordance with published design procedures of the Portland Cement Association or Asphalt Institute, as applicable.

h. The parking area and travel lanes shall be capable of supporting an 18,000 pound per single axle load for the number of repetitions recommended by the registered civil engineer based upon traffic studies conducted by appropriate industry, engineering or governmental entities.

5. The division may request additional documentation and require additional testing as it deems appropriate to

ensure that all of the requirements of the Act and this Section are complied with.

E.1. - 3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:1504 (August 1998), LR 25:

Part XIII. Riverboat Gaming

Subpart 2. State Police Riverboat Gaming

Enforcement Division

Chapter 40. Designated Check Cashing

Representatives

§4001. Definitions

Check Cashing Cage—the check cashing area on a riverboat not located within the designated gaming area to be accessed by the designated check cashing representative or its employees for the purposes of cashing checks and making credit card advances.

Designated Check Cashing Representative—a person designated by the licensee and permitted by the division to oversee and assume responsibility for cashing patrons' checks and facilitating credit card cash advances to patrons.

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:

§4002. Application for Permit for Designated Check Cashing Representative; Additional Requirements; Summary of Proposed Operations

A. The Division may require any applicant for a permit to conduct check cashing and credit card advance services pursuant to the provisions of this Chapter to provide the division with a summary describing the financial, internal, and security aspects of the proposed check cashing and credit card advance operations, including but not limited to:

1. accounting and financial controls, including the procedures to be utilized in counting, banking, storage and handling of cash;

2. procedures, forms, expense and overhead schedules, cash equivalent transactions, salary structure and personnel practices;

3. job descriptions and a system of personnel and chain of command, establishing a diversity of responsibility among employees engaged in operations and identifying primary and secondary supervisor positions for areas of responsibility;

4. procedures within the check cashing cage for the receipt, storage, and disbursement of cash and other cash equivalents;

5. procedures and security for the counting and recordation of transactions;

6. procedures for the cashing and recordation of checks exchanged by customers of the designated check cashing representative;

7. procedures governing the utilization of the licensee's security force within the check cashing cage.

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:

§4003. Cash Transaction Reporting

A. A designated check cashing representative shall report a cash transaction reporting violation to the division immediately upon obtaining knowledge by the designated check cashing representative of the violation.

B. Violation of check transaction reporting requirements in other states by a designated check cashing representative shall be reported to the division within thirty days of the notice of violation in the other jurisdiction.

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:

§4004. General Requirements

A. The check cashing cage may be accessed by security personnel of the licensee and personnel from the division upon presentation of proper identification.

B. The designated check cashing representative shall be a single source provider for these services and these responsibilities shall not be assigned or subcontracted to any party.

C. The designated check cashing representative shall not issue credit or credit instruments, chips, markers, counter checks, tokens or electronic cards which may be used directly in gaming on the riverboat.

D. The designated check cashing representative shall be located on the riverboat in an area not within the designated gaming area and shall not participate in management or operations of any riverboat gaming operations or activity.

E. The designated check cashing representative shall be located in a designated check cashing cage.

F. No employee of the designated check cashing representative shall be an employee of any licensee.

G. The designated check cashing representative shall maintain detailed records of all returned checks.

H. The designated check cashing representative shall maintain work papers supporting the daily reconciliation of cash and cash equivalent accountability.

I. The designated check cashing representative shall maintain detailed records required to be maintained by the division.

J. The division may review records of the designated check cashing representative at any time upon request.

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:

§4005. Imposition of Sanctions

The Division may impose any sanction authorized by the act for violation of the designated check cashing representative's internal controls as approved by the division.

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:

§4006. Record Retention

Each designated check cashing representative shall provide the division, upon its request, with the records required to be maintained by the act or these rules. Unless a

shorter time period is approved by the division in writing, each designated check cashing representative shall retain all records for a minimum of five years.

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:

§4007. Clothing Requirements

A. Designated check cashing representative's employees shall not bring purses, handbags, briefcases, bags or any other similar item into the check cashing cage unless it is transparent.

B. No employee shall wear clothing with pockets or other components.

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:

§4008. Internal Controls; Designated Check Cashing Representative

A. Each designated check cashing representative shall establish and implement, beginning the first day of operations, administrative and accounting procedures for the purpose of exercising effective control over the designated check cashing representative's internal physical affairs. The procedures shall be implemented to reasonably insure that:

1. all assets are safeguarded;
2. financial records are accurate and reliable;
3. transactions are performed only in accordance with the designated check cashing representative's internal controls as approved by the division;
4. access to assets is permitted only in accordance with the designated check cashing representative's internal controls as approved by the division;
5. functions, duties and responsibilities are appropriately segregated and performed in accordance with sound practices by competent, qualified personnel.

B. Each designated check cashing representative shall describe, in such manner as the division may approve or require, its administrative and accounting procedures in detail and a written system of internal controls. Each designated check cashing representative shall submit a copy of its written system to the division for approval prior to commencement of the designated check cashing representative's operations. Each written system shall include:

1. an organizational chart depicting appropriate segregation of functions and responsibilities;
2. a description of the duties and responsibilities of each position shown on the organizational chart;
3. a detailed, narrative description of the administrative and accounting procedures designed to satisfy the requirements of Subsection A;
4. a written statement signed by an officer of the designated check cashing representative attesting that the system satisfies the requirements of this section;
5. other information as the division may require; and
6. a flow chart illustrating the information required in Subsections 1, 2 and 3 above.

C. Each designated check cashing representative shall establish and provide, at the request of the division, the following:

1. an income statement summarizing the revenue and expenses of the entire check cashing cage operation;

2. summary credit card cash advance transaction information:

- a. number of transactions per day;
- b. total amount advanced by day; and
- c. fee revenue generated by day;

3. summary check cashing transaction information:

- a. number of transactions per day;
- b. total amount advanced by day; and
- c. fee revenue generated by day;

4. return check information:

- a. total amount of returned checks per month; and
- b. total amount of collections per month.

D. The designated check cashing representative shall not implement its initial system of internal control procedures unless the division determines that the designated check cashing representative's proposed system satisfies Subsection A, and approves the system in writing.

E. The designated check cashing representative shall provide to the division a monthly report detailing all insufficient fund checks. The report required under this subsection shall be submitted to the division within fifteen days of the end of each month.

F. Prior to changing any procedure required by this chapter to be included in the designated check cashing representative's internal control system, the designated check cashing representative shall obtain written approval by the division in the manner prescribed for obtaining approvals in Chapter 29.

G. The internal control system adopted by the designated check cashing representative and approved by the division shall be incorporated into the licensee's internal controls. A violation of any part of the approved internal control system committed by an employee of the designated check cashing representative shall constitute a violation by the designated check cashing representative and shall also constitute a violation by the licensee. The licensee may be sanctioned in the same manner as the designated check cashing representative for such violation.

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:

§4009. Internal Controls; Cage and Credit

Each licensee shall maintain a main bank which will serve as the financial consolidation of transactions relating to all gaming activity. Each casino cage or check cashing cage shall comply with the following minimum requirements:

A. All transactions that flow through the check cashing cage shall be summarized on a cage accountability form on a per shift basis.

B. Personal checks or cashier checks shall be cashed at the cage cashier or at the check cashing cage by the designated check cashing representative and subjected to the following procedures:

1. examine and record at least one item of patron identification;
2. record a bank number and social security number on all check transactions.

C. The cashier or designated check cashing representative shall comply with examination and documentation procedures as required by the issuer.

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:

§4010. Currency Transaction Reporting

A. Each designated check cashing representative shall be responsible for proper reporting of certain monetary transactions to which it is a party to the federal government as required by the Bank Records and Foreign Transactions Act (Public Law 91-508), commonly referred to as the "Bank Secrecy Act" as codified in Title 31 Section 5311-5323, and Title 12 Sections 1730 d, 1829, and 1951-1959. Specific requirements concerning record keeping and reports are delineated in Title 31 CFR 103 and shall be followed in their entirety. The Bank Secrecy Act and the rules and regulations promulgated by the federal government pursuant to the Bank Secrecy Act as they may be amended from time to time, are adopted by reference and are to be considered incorporated herein.

B. Civil and/or criminal penalties may be assessed by the federal government for willful violations of the reporting requirements of the Bank Secrecy Act. These penalties may be assessed against the designated check cashing representative, as well as any director, partner, official or employee that participated in the above referenced violations.

C. All employees of the designated check cashing representative shall be prohibited from providing any information or assistance to patrons in an effort to aid the patron in circumventing any and all currency transaction reporting requirements to which it is a party.

D. Designated check cashing representative employees shall be responsible for preventing a patron from circumventing the currency transaction reporting requirements if the employee has knowledge, or through reasonable diligence in performing their duties, should have knowledge of the patron's efforts at circumvention.

E. For each required Currency Transaction Report, a surveillance photograph of the patron shall be taken and attached to the licensee's or the designated check cashing representative's copy of the Currency Transaction Report. The employee consummating the transaction shall be responsible for contacting the surveillance department employee. The designated check cashing representative shall maintain and make available for inspection all copies of Currency Transaction Reports which it has prepared, with the attached photographs, for a period of 5 years. The designated check cashing representative shall be responsible for maintaining a transaction log in compliance with all requirements of Section 2731.G.

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:

§4011. Internal Controls Compliance

The designated check cashing representative shall have a continuing duty to review its internal controls to ensure the internal controls remain in compliance with the act and these rules.

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:

§4012. Servant of Licensee

The designated check cashing representative shall be considered a servant of the licensee for the limited purpose of R.S. 27:101 and shall not cash any of the checks identified in that section and will be subject to the enforcement provisions of that section.

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:

§4013. Violations by the Designated Check Cashing Representative

A violation of any applicable statute or rule by the designated check cashing representative shall constitute a violation of such statute or rule by the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

All interested persons may contact Thomas A. Warner, III, Attorney General's Gaming Division, telephone number (225) 342-2465, and may submit written comments relative to these proposed rules through November 9, 1999, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Family Impact Statement

Pursuant to the provisions of La. R.S. 49:953 A, the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of the proposed amendments to LAC 42:IX.2919, additions of 2921-2924, amendments to XI.2415, and addition of XIII.4001 et seq.

It is accordingly concluded that the amendments to 42:IX.2919, additions of 2921-2924, amendments to XI.2415, and addition of XIII.4001 et seq. would appear to have no impact on any of the following:

1. The effect on stability of the family.
2. The effect on the authority and rights of parents regarding the education and supervision of their children.
3. The effect on the functioning of the family.
4. The effect on family earnings and family budget.
5. The effect on the behavior and personal responsibility of children.
6. The ability of the family or a local government to perform the function as contained in the proposed rule.

Hillary J. Crain
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Operating Standards; Video Draw Poker; Check Cashing

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. The amendment of LAC 42:IX.2919 and addition of 2921 et seq. may result in some increased workload to the Landbased Division of State Police but the amount of increase and cost

cannot be estimated at this time due to the fact that the number and types of events involved is unknown and not constant. It is anticipated that any increase in workload can be performed at existing staffing levels. The amendment to 42:XI.2415 and the addition of 42:XIII.4001 et seq. should have no cost effect on state or local governments.

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

No significant effect on revenue collections can be estimated. It is unknown whether revenue collections will increase as a result of the amendment of LAC 42:IX.2919 and addition of 2921 et seq. To what extent violations of these proposed regulations will be committed by licensees cannot be projected.

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

No significant costs and/or economic benefits to directly affected persons or non-governmental groups can be estimated. The amendments to LAC 42:XI.2415 may result in increased costs to qualified truck stop establishments in the nature of additional construction materials and engineering certifications. However, the number of truck stops which may be affected by the rule change and the extent of increased costs cannot be reasonably projected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated

Hillary J. Crain
Chairman
9910#010

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Motor Vehicles**

**Compulsory Insurance
(LAC 55:III.1777 and 1781)**

The Department of Public Safety and Corrections, Office of Motor Vehicles, pursuant to the authority contained in R.S. 32:863.2, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., proposes to amend LAC 55, Part III, Chapter 17, Subchapter B, §§ 1777 and 1781.

Section 1777 is being amended to add a new transaction type in order to comply with Act No. 74 of the 1999 Regular Session which enacted R.S. 32:863(A)(6) to provide that there shall be no sanctions imposed when an insurance policy is canceled because of the rescission of the sale of the involved motor vehicle. Section 1781 is being amended to provide for an additional method by which security providers can report insurance coverage information.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 17. Compulsory Insurance

Subchapter B. Reporting of Initiation and Any Subsequent Change of Insurance Coverage

§1777. Transaction Types and How the Transaction Types are Used

A.1. - 5. ...

6. 7 = Termination of a motor vehicle liability policy that occurred as a result of the rescission or other cancellation of the sale of the motor vehicle on which the policy was issued. The insured shall not be required to pay any fees that otherwise may be required by R.S. 32:863 when the insurer uses this code to report a cancellation.

B.1. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1775 (September 1998), amended LR 26:

§1781. Reporting Methods

A. - C. ...

D. Section 1781.C shall also not apply to security providers who have:

1. received written approval from the Department to file reports via the Internet, and

2. entered into a written agreement with the Department to indemnify the Department against any loss which might arise out of transmitting the data over the Internet.

E. The reports submitted to the Department pursuant to Section 1781.D and E shall be formatted in the manner approved by the Department and shall include the following information:

1. the make, model, year and vehicle identification number to the subject vehicle;

2. the insurance company code;

3. the type of transaction;

4. the lessee, renter, or owner address, including city, state, and zip code;

5. the policy or binder number;

6. the termination, or change date, or the effective date and the issue date; and

7. the lessee, renter, or owner name, name indicator, and identification number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1776 (September 1998), amended LR 26:

Persons having comments or inquiries regarding these proposed rules may contact Stephen A. Quidd, attorney for the Office of Motor Vehicles by writing to P.O. Box 66614, Baton Rouge, Louisiana 70896, by calling (225) 925-4068, or by sending a facsimile to (225) 925-3974. These comments and inquiries should be received by Monday, November 22, 1999. A public hearing on these rules is tentatively scheduled for Monday, November 29, 1999, at 10:00 a.m. in the Executive Conference Room at the Office of Motor Vehicle Headquarters at 109 South Foster Drive, Baton Rouge, Louisiana 70806. Any person wishing to attend the public hearing should call to confirm the time and the location of the hearing.

Family Impact Statement

1. The Effect of These Rules on the Stability of the Family. These rules should not affect the stability of the family. These rules only amend existing rules regarding the reporting of insurance coverage information to the Office of Motor Vehicles by insurance providers.

2. The Effect of These Rules on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. These rules should not affect the authority and rights of parents regarding the education and supervision of their children. These rules only amend existing rules regarding the reporting of insurance coverage information to the Office of Motor Vehicles by insurance providers.

3. The Effect of These Rules on the Functioning of the Family. These rules should not affect the functioning of the family. These rules only amend existing rules regarding the reporting of insurance coverage information to the Office of Motor Vehicles by insurance providers.

4. The Effect of These Rules on Family Earnings and Family Budget. These rules should not affect family earnings and family budget. These rules only amend existing rules regarding the reporting of insurance coverage information to the Office of Motor Vehicles by insurance providers.

5. The Effect of These Rules on the Behavior and Personal Responsibility of Children. These rules should not affect the behavior and personal responsibility of children. These rules only amend existing rules regarding the reporting of insurance coverage information to the Office of Motor Vehicles by insurance providers.

6. The Effect of These Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These rules do not require the family or local government to perform any function.

Nancy Van Nortwick
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Compulsory Insurance**

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

There should be no implementation costs or savings to the Department. This is an existing program. The changes proposed in these sections are only minor changes. The first change only requires the addition of an additional reporting code which is a simple computer programming modification. The second change creates an additional method for insurance companies to report insurance coverage to the Department. The three current methods are: (1) sending the information to an electronic mail box, manual filings, and fleet filings. This new method will allow the reporting to be accomplished electronically over the Internet. As indicated in the previous sentence, the Department already is set up to receive the information electronically. This change simply permits the Department to download the information electronically from another source.

There should be no costs or savings to local governments as insurance companies only report this information to the Department.

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

There should be no effect on the revenue collections of the state as this program does not raise revenue except in the limited instance of a fine imposed on an insurance company by the Department for failing to properly report insurance coverage information. There should be no effect on the revenue collections of local governments as insurance companies only report this information to the Department.

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

There should be no effect on costs and there should be no economic benefit to directly affected persons or non-governmental groups as it relates to the additional cancellation code. Insurance providers were already having to report insurance cancellations to the Department. This code change simply provides them with an additional option of how to report a cancellation.

There should be some economic benefit to those insurance companies who choose to report insurance coverage information electronically via the Internet as opposed to electronic mail. The exact savings involved in reporting via the Internet cannot be determined as it depends on the individual company's cost to access the Internet, and the frequency and number of insurance reports submitted to the Department.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment. The new reporting code is available to all insurance companies to use in complying with R.S. 32:863.2. Likewise, the new reporting method will be available to all insurance companies.

Nancy Van Nortwick
Undersecretary
9910#063

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of Public Safety and Corrections
Office of Motor Vehicles**

License Plates
(LAC 55:III.325 and 327)

Under the authority of R.S. 47:511 and R.S. 47:508, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Office of Motor Vehicles (Department), hereby gives notice of intent to adopt new rules regarding the adoption of the International Registration Plan and the issuance of permanent metal plates to commercial motor vehicles registered under the International Registration Plan.

This proposed rule adopts the International Registration Plan by reference. The International Registration Plan authorizes the apportioned registration of fleets of vehicles among the various jurisdictions in which the vehicles are operated. This plan provides that for one license plate even though the motor vehicle is registered in more than one jurisdiction. Louisiana was approved to participate in the plan on December 1, 1975, and began participating in the plan on April 1, 1976.

The other proposed rule is pursuant to R.S. 47:508 and authorizes the Department to issue permanent metal plates to commercial motor vehicles registered pursuant to the plan. These plates are to be renewed without the issuance of renewal stickers, tabs, or emblems.

**Title 55
PUBLIC SAFETY
Part III. Motor Vehicles**

**Chapter 3. License Plates
Subchapter A. Types of License Plates
§325. International Registration Plan**

The Department of Public Safety and Corrections, Office of Motor Vehicles, hereby adopts by reference, the International Registration Plan, hereinafter referred to as the plan, adopted in August 1994 and as revised through February 15, 1999 by the member jurisdictions, and published by International Registration Plan, Inc. The Department only adopts the articles and sections contained in the agreement, as well as the exceptions to the plan as reflected in the February 15, 1999 revision and included in Appendix C of the plan. The commentary and governing board decisions included with the adopted plan shall not be part of this rule, but may be considered by the Department in interpreting and implementing the various sections of the plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:511.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§327. Apportioned Plates

A. All commercial motor vehicles registered pursuant to the "International Registration Plan" and issued an apportioned license plate shall be issued a permanent metal license plate at the time of first issuance, or at the time of first renewal of the apportioned registration after the effective date of this rule.

B. The permanent metal plate issued pursuant to §321.A shall be renewed annually, but without the issuance of a renewal emblem, sticker, or tab by the Department of Public Safety and Corrections, Office of Motor Vehicles. The Department shall issue a renewed certificate of registration or other credential to indicate that the metal plate attached to, and displayed by, the commercial motor vehicle is still valid. The original or a copy of the renewed certificate of registration or other credential shall be kept with the commercial motor vehicle described in the certificate or other credential.

C. The initial certificate of registration or other credential, as well as all renewed certificates of registration or other credentials, shall not be issued until all fees and taxes, together with any applicable penalties and interest, as are required by statute, are paid by the applicant.

D. A permanent metal plate issued pursuant to this section may be used for a period of five years if properly and timely renewed. After the expiration of the fifth year, the registrant shall replace the old plate with a new plate issued by the Department. The registrant shall cause the old plate to be destroyed. The failure to comply with this paragraph may result in the imposition of a fine of \$25 per plate. The Assistant Secretary for the Office of Motor Vehicles may, for good cause, extend the replacement period provided in this section. Such a request for extension shall be in writing and

shall state the reason for the extension of the replacement period. Only one extension pursuant to this section may be granted, and the granting of an extension shall be in writing. An extension granted pursuant to this section shall not exceed two years.

E. For purposes of §327, the Department interprets the Interstate Registration Plan described in R.S. 47:508(H), to mean the "International Registration Plan" described in R.S. 47:511, and adopted by the Department by reference in §325.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:508(H).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

Persons having comments or inquiries regarding these proposed rules may contact Stephen A. Quidd, attorney for the Office of Motor Vehicles by writing to P.O. Box 66614, Baton Rouge, Louisiana 70896, by calling (225) 925-4068, or by sending a facsimile to (225) 925-3974. These comments and inquiries should be received by Monday, November 22, 1999. A public hearing on these rules is tentatively scheduled for Monday, November 29, 1999, at 9:00 a.m. in the Executive Conference Room at the Office of Motor Vehicle Headquarters at 109 South Foster Drive, Baton Rouge, Louisiana 70806. Any person wishing to attend the public hearing should call to confirm the time and the location of the hearing.

Family Impact Statement

1. The Effect on the Stability of the Family. These rules should not affect the stability of the family. The rules are only applicable to businesses which operate commercial motor vehicles registered pursuant to the International Registration Plan and issued an apportioned license plate.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. These rules should not affect the authority and rights of parents regarding the education and supervision of their children. The rules are only applicable to businesses which operate commercial motor vehicles registered pursuant to the International Registration Plan and issued an apportioned license plate.

3. The Effect on the Functioning of the Family. These rules should not affect the functioning of the family. The rules are only applicable to businesses which operate commercial motor vehicles registered pursuant to the International Registration Plan and issued an apportioned license plate.

4. The Effect on Family Earnings and Family Budget. These rules should not affect family earnings and family budget. The rules are only applicable to businesses which operate commercial motor vehicles registered pursuant to the International Registration Plan and issued an apportioned license plate.

5. The Effect on the Behavior and Personal Responsibility of Children. These rules should not affect the behavior and personal responsibility of children. The rules are only applicable to businesses which operate commercial motor vehicles registered pursuant to the International Registration Plan and issued an apportioned license plate.

6. The Effect on the Ability of the Family or Local Government to Perform the Function as Contained in the

Proposed Rule. These rules do not require the family or local government to perform any function.

Nancy Van Nortwick
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: License Plates

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

There will be no savings or increased costs in connection with adoption of LAC 55, Part III, Chapter 3, Subchapter A, §325 as the International Registration Plan (IRP) is an existing program in which the Department has participated since 1976.

The Department will realize a cost savings in connection with the issuance of permanent metal plates to commercial motor vehicles registered pursuant to the International Registration Plan (IRP). Under the current scheme, a new metal plate is issued to each motor vehicle at the time of initial registration and at each subsequent renewal. Under the proposed rule, LAC 55, Part III, Chapter 3, Subchapter A, §327 the Department will no longer incur the cost of having to make new metal plates for renewed registrations until the original plate reaches the age of five years old. After five years, the material on the plate tends to lose its reflective qualities making it harder for law enforcement and others to read the plate. The total cost savings cannot be determined as the Department does not track the number of new plates versus renewals, but there will be savings in materials and mailing expenses. The current cost of a plate is \$1.54 and the current postage cost to mail one plate is \$1.21.

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

There should be no effect on revenue collections of state or local governments. Neither the proposed rules nor the enabling statutes change the manner in which state or local sales and use taxes are collected. The registration license tax due at the initial registration and at each subsequent renewal is also unchanged.

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

There should be no costs and/or economic benefit to directly affect persons or nongovernmental groups in connection with the proposal to adopt §325. This section simply recognizes an existing program as explained above. There will be no costs or benefits associated with this section.

The owners/operators of commercial motor vehicles will benefit from the proposed §327 as it will no longer be necessary to match a metal plate to a specific motor vehicle each year. In many cases, the specific motor vehicle may not be in Louisiana at the time the current metal plate expires. This proposal will allow the owner/operator to send a copy of the renewed certificate of registration to wherever the vehicle is located at the time of the renewal instead of having to forward a metal plate or wait for the vehicle to return to Louisiana for the plate to be attached.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment as a result of these proposals as there are no changes in any aspect of the IRP, except that a commercial vehicle may retain the same plate for five years.

Nancy Van Nortwick
Undersecretary
9910#048

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police**

Explosive Code (LAC 55:I.Chapter 15)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq. and R.S. 40:1472.1 et seq., gives notice of its intent to amend LAC 55:I.Chapter 15 to provide authority for the Department's granting variances from the rules in addition to redefining certain terms used therein and clarifying certain technical requirements concerning the use of explosives.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 15. Explosive Code

§1501. Scope of Rules and Regulations

A. - D. ...

E. The licensee, on specific approval in writing by the Deputy Secretary of Public Safety Services, as provided by this paragraph, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in these Rules and Regulations. The Deputy Secretary of Public Safety Services may approve an alternate method or procedure, subject to stated conditions, when he/she finds that:

- 1. good cause is shown for the use of the alternate method or procedure;
- 2. the alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure and that the alternate method or procedure is substantially equivalent to that specifically prescribed method or procedure; and
- 3. the alternate method or procedure will not be contrary to any provision of law and will not result in an increase in cost to the State of Louisiana or hinder the effective administration of these Rules and Regulations.

F. Where the licensee desires to employ an alternate method or procedure, he/she shall submit a written application to the Deputy Secretary of Public Safety Services. The application shall specifically describe the proposed alternate method or procedure and shall set forth the reasons for it. Alternate methods or procedures may not be employed until the application is approved by the Deputy Secretary of Public Safety Services. The licensee shall, during the period of authorization of an alternate method or procedure, comply with the terms of the approved application. Authorization of any alternate method or procedure may be withdrawn whenever, in the judgment of the Deputy Secretary of Public Safety Services, the effective administration of these Rules and Regulations is hindered by the continuation of the authorization. As used in this paragraph, alternate methods or procedures include alternate construction or equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety

Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 25:

§1503. Definitions

* * *

Inhabited Building—any building or structure regularly used in whole or part as a place of human habitation, also any church, school, store, railway passenger station, airport terminal for passengers, and any other building or structure where people are accustomed to congregate or assemble, but excluding buildings or structures occupied in connection with the manufacture, transportation, storage and use of explosives. A building, such as an office building or repair shop, which is part of the premises of an explosives licensee and is used in connection with the manufacture, transportation, storage, or use of explosives is not an inhabited building.

* * *

Oxidizer—any material that may, generally by yielding oxygen, cause or enhance the combustion of other materials.

* * *

Primary Licensee—is the responsible party holding a valid manufacturer-distributor, dealer or user license.

* * *

Secured Area—any location that is either locked or under the immediate control of a licensee.

* * *

Temporary—no more than forty-eight hours.

* * *

Vessel—any description of watercraft used or capable of being used as a means of transportation on water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 25:

§1507. Blasting Agents

A. - M. ...

N. Metal dusts (aluminum powder, etc.) peroxides, chlorates or perchlorates shall not be used unless such operations are conducted in a manner approved by the Deputy Secretary of Public Safety Services.

O. - T. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 25:

§1509. General Storage Requirements

A. - C. ...

D. The ground around outdoor magazines shall slope away for drainage. The land surrounding outdoor magazines shall be kept clear of brush, dried grass, leaves, and other combustible materials for a distance of 25 feet in each direction.

E. - G. ...

H. When two or more storage magazines are located on the same property, each magazine must comply with the minimum distances specified from inhabited buildings, railways and highways; and in addition, they shall be separated from each other by not less than the distances shown for Separation of Magazines, (Table 1) except that the quantity of explosives contained in detonator magazines shall govern in regard to the spacing of said detonator magazines from magazines containing other explosives. If any two or more magazines are separated from each other by less than the specified Separation of Magazines (Table 1) distances, then such two or more magazines, as a group, must be considered as one magazine, and the total quantity of explosives stored in such group must be treated as if stored in a single magazine located on the site of any magazine of the group, and must comply with the minimum of distances specified from other magazines, inhabited buildings, railways and highways.

1. All types of detonators in strengths up to and including No. 8 detonators shall be rated at 1.5 pounds of explosives per 1,000 caps. Detonating cord, 50 grains, shall be rated at 8 pounds of explosives per 1,000 feet. Detonating cords with larger or smaller grains per foot will be rated proportionately.

2. Explosive operations carried out on a vessel shall be required to comply with the distances shown for Separation of Magazines (Table 1) only as the physical limitations of the vessel will permit. Explosive magazines shall not be located under, over, or immediately adjacent to pressurized gas lines or high voltage power lines, or on levees constructed for major flood control.

I. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 25:

§1511. Magazine Construction Requirements

A. - K.2. ...

3. Explosive materials are not to be left unattended in Type 3 magazines and must be removed to Type 1 or Type 2 magazines. This requirement does not apply to offshore operations as previously defined.

L. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 24:105 (January 1998), LR 25:

§1513. Storage within Magazines

A. - E. ...

F. Smoking, matches, open flames, spark producing devices and firearms shall be prohibited inside of or within 50 feet of magazines. Flammable materials shall not be stored within 50 feet of magazines.

G. - H. ...

I. The keys to a primary licensee's magazine doors and covers must be available only to the primary licensee and one of his blasters. Variances to this requirement may be requested in writing to the Deputy Secretary of Public Safety Services. It is the primary licensee's responsibility to keep his magazine locked from all unauthorized persons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 25:

§1531. General Requirements

A. - F. ...

G. When blasting is done in congested areas or in close proximity to a structure, railway, or highway or any other installation that may be damaged, the blast shall be covered before firing with a mat so constructed that it is capable of preventing fragments from being thrown. When such blasting is being carried out near a highway, the operator may, in lieu of using a mat, and with the permission of local authorities, block the road adjacent to the firing area while such firing is in progress. The Deputy Secretary of Public Safety Services must be notified in advance, and approval received, prior to this type of blasting operation being conducted.

H. ...

I. Persons authorized to prepare explosive charges or conduct blasting operations shall use every reasonable precaution, which may include but is not limited to warning signals, flags, barricades, or blasting mats approved by the Deputy Secretary of Public Safety Services, to insure the safety of the general public and workmen.

J. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 24:106 (January 1998), LR 25:

Interested persons may submit written comments to: Paul Schexnayder, Post Office Box 66614, Baton Rouge, Louisiana 70896-6614. Written comments will be accepted through November 15, 1999.

Family Impact Statement

1. The Effect of These Rules on the Stability of the Family. These rules will have no effect on the stability of the family.

2. The Effect of These Rules on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. These rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of These Rules on the Functioning of the Family. These rules will have no effect on the functioning of the family.

4. The Effect of These Rules on Family Earnings and Family Budget. These rules will have no effect on family earnings and family budget.

5. The Effect of These Rules on the Behavior and Personal Responsibility of Children. These rules will have no effect on the behavior and personal responsibility of children.

6. The Effect of These Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These rules will have no effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Nancy Van Nortwick
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Explosive Code

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

The implementation of these rules will have no estimated costs associated therewith. However, the rules and regulations will be printed and distributed at a cost of \$5,000.

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

These rules will result in an insignificant loss of revenue.

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

There are no estimated costs and/or economic benefits to directly affected persons.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Nancy Van Nortwick
Undersecretary
9910#062

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of State Police

Underground Utilities (LAC 55:I.Chapter 21)

The Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, in accordance with R.S. 49:950 et seq., and R.S. 40:1749.23E, gives notice of its intent to adopt rules pertaining to the enforcement of the underground utilities statutes, R.S. 40:1749.11 et seq.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 21. Underground Utilities

§2101. Purpose

It is the purpose of these rules to promote the protection of property, workmen, and citizens in the immediate vicinity of an underground facility or utility from damage, death, or injury and to promote the health and well-being of the

community by preventing the interruption of essential services which may result from the destruction of, or damage to, underground facilities or utilities. The purpose of this rule is to further provide for the enforcement of the Louisiana Underground Utilities and Facilities Damage Prevention Law. An advisory committee composed of representatives from the relevant industries, state government, and the regional notification centers shall be formed to assist in implementation of these rules.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40:1749.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:

§2103. Definitions

A. For the purposes of these rules, the following terms shall have the meanings ascribed to them in this Section:

Damage—any defacing, scraping, gorging, breaking, cutting, or displacement of, impact upon or removal of an underground facility or utility or its means of primary support.

Demolisher—any person engaged in the act of demolishing as defined in R. S. 40:1749.12(2).

Demolition—the total or partial wrecking, razing, rendering, moving, or removing of any building or structure, movable or immovable.

Department—the Department of Public Safety and Corrections, Public Safety Services.

Emergency—any crisis situation which poses an imminent threat or danger to life, health, or property and requires immediate action.

Excavation or Excavate—any operation for the purpose of movement or removal of earth, rock, or other materials in or on the ground by the use of powered or mechanical or manual means, including pile driving, digging, blasting, auguring, boring, back filling, dredging, compressing, plowing-in, trenching, ditching, tunneling, land-leveling, grading, and mechanical probing.

Excavator—any person who engages in excavation operations.

Inclement Weather—weather that prohibits or impedes a worker's use of his locating equipment or causes undue risk to himself or his equipment such as lightning, heavy rain, tornadoes, hurricanes, floods, sleet, snow, or flooding conditions.

Mark by Time—the date and time provided by the regional notification center by which the utility operator is required to mark the location or provide information to enable an excavator, using reasonable and prudent means, to determine the specific location of the facility as provided for in R.S. 40:1749.14(D).

Operator—any person, individual, governmental agency or political subdivision or their agents, joint venture, firm, partnership, association, or corporation who owns or operates, a public or private underground facility or utility which furnishes a service or material or stores, transports, or transmits electric energy, steam, oil, natural gas, gas, mixture of gases, petroleum, petroleum products, hazardous or flammable fluids, toxic or corrosive fluids/gases, including telephone or telegraph system, fiber optic electronic communication systems, or water or water systems, or drainage, sewer systems, or traffic control systems or other items of like nature.

Person—an individual, firm, partnership, association, corporation, joint venture, municipality, governmental agency, political subdivision, or agent of the state or any legal representative, thereof.

Regional Notification Center—may be any one of the following:

a. an entity designated as nonprofit by the Internal Revenue Service under Section 501(c)(4) of the Internal Revenue Code and which is organized to protect its members from damage and is certified by the Department of Public Safety and Corrections in accordance with the Chapter; or

b. an organization of operators, consisting of two or more separate operators who jointly have underground facilities or utilities in three or more parishes in Louisiana, which is organized to protect its own installation from damage, and has been certified by the Department of Public Safety and Corrections in accordance with this Chapter; or

c. an operator who has underground facilities or utilities in a majority of parishes in Louisiana and is organized to protect its own installation from damage, and has been certified by the Department of Public Safety and Corrections in accordance with this Chapter.

Service Line or Lines—underground facilities or utilities which provide power, gas, natural gas, communication or water capabilities to a building or structure of buildings or group of structures.

Underground Facility or Utility—any pipe, conduit, duct, wire, cable, valve, line, fiber optic equipment, or other structure which is buried or placed below ground or submerged for the use in connection with storage, conveyance, transmission or protection of electronics communication system, telephone or telegraph system, or fiber optic, electric energy, oil, natural gas, gases, steam, mixture of gases, petroleum, petroleum products, hazardous or flammable fluids/gases, toxic or corrosive fluids/gases, hazardous fluids/gases or other substances of like nature or water or water systems, sewer systems, or traffic, drainage control systems, or other items of like nature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1749.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:

§2105. Regional Notification Certification Process

A. The regional notification program must have or be able to demonstrate the following:

1. toll free nationwide telephone number;
2. specifically defined geo-political service area with a goal of no overlap;
3. mechanism for law enforcement to verify locate request information;
4. establish a formal member contractual agreement and submit for approval;
5. locate request tracking process that includes a specific numbering system for each locate request;
6. provide timely transmission of notifications to facility owner/operator;
7. provide locate request information upon inquiry by law enforcement;
8. establish a process to handle emergency locate requests;
9. validation process for owner/operator member's map data base;

10. agree to participate in the Underground Utilities/Facilities Damage Prevention Advisory Committee;

11. develop standard operating procedures and training manuals for routine and emergency operations;

12. voice recording of all incoming locate request calls and voice out calls;

13. ability to produce records of all outgoing notification calls;

14. record retention procedures in compliance with R.S. 40:1749.13;

15. establish a pro-active public awareness and damage prevention education.

B. Upon establishing its ability to meet the above requirements, the regional notification center shall be certified by the Department.

C. The Department may charge a fee for the certification process of two thousand five hundred dollars.

D. An entity operating in this state as an authorized regional notification center prior to and upon the effective date of this Subsection shall have six months from the date of final adoption of these rules and regulations to seek and obtain compliance certification from the Department of Public Safety and Corrections. Failure to obtain such certification shall result in the cessation of activities by the regional notification center.

E. Any entity not operating in this state as an authorized regional notification center prior to and upon the effective date of this Subsection shall obtain compliance certification from the Department of Public Safety and Corrections prior to performing the operations of a regional notification center in or for this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1749.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:

§2107. Citation

The citation issued to a party alleged to be in violation of R. S. 40:1479 et seq. or these rules shall be uniform as developed by the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1749.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:

§2109. Collection of Data by the Department

The Department shall collect such data that will allow law enforcement agencies to determine the number of existing violations and the results of the adjudication process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1749.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:

§2111. Establishment of Local Governmental Enforcement

Pursuant to R. S. 40:1749.11 et seq. and these rules, local government shall have the authority to enforce any and all provisions therein, except the certification process for the regional notification center and the establishment of the uniform citation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1749.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:

§2113. Civil Penalties

A. A person who is required by this Part to become a member of, participate in, or share the cost of, a regional notification center and who fails to do so shall be subject to a civil penalty of not more than two hundred fifty dollars for the first violation and not more than one thousand dollars for each subsequent violation. A subsequent violation shall be deemed to have occurred if the person fails to become a member of, participate in, or share the cost of, a regional notification center as required within ninety days after issuance of a citation for the previous violation.

B. A Person who participates in a regional notification center and who fails to mark or provide information regarding the location of underground utilities and facilities shall be subject to a civil penalty of not more than one thousand dollars. A subsequent violation shall be deemed to have occurred if a person fails to provide information or markings within two years of the issuance of a prior citation for the same or similar conduct.

C. A person who is required by law to participate in a regional notification center and who fails to provide information or markings to indicate hazardous material as defined in Title 30 of the Louisiana Revised Statutes of 1950 shall be subject to the following:

1. for the first violation, a civil penalty of not more than two hundred fifty dollars;
2. for a second violation, a civil penalty of not more than five hundred dollars;
3. for a third violation, a civil penalty of not more than one thousand dollars;
4. for a fourth and each subsequent violation, a civil penalty of not less than two thousand dollars nor more than twenty-five thousand dollars.

D. An excavator or demolisher who is unable to provide to law enforcement the locate request number assigned by the regional notification center for the specific excavation shall be considered to be in violation of R.S. 40:1749.13, shall stop all excavations immediately and shall be subject to the following:

1. for the first violation, a civil penalty of not more than two hundred fifty dollars;
2. for a second violation of a similar nature within a two-year period from the previous violation, a civil penalty of not more than five hundred dollars;
3. for a third violation of a similar nature within a two-year period from a previous violation, a civil penalty of not more than one thousand dollars;
4. for a fourth and each subsequent violation of a similar nature within a two-year period from the previous violation, a civil penalty of not less than two thousand dollars nor more than twenty-five thousand dollars;
5. for any violation involving hazardous materials as defined in Title 30 of the Louisiana Revised Statutes of 1950, a civil penalty of not less than two thousand dollars nor more than twenty-five thousand dollars;
6. an excavator or demolisher who is issued a citation for a violation shall immediately stop all excavation or demolition activity until the requirements of this Part are met. Failure to do so shall subject the excavator or demolisher to an additional citation and civil penalty of not more than twenty-five thousand dollars for each such subsequent citation issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1749.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:

§2115. Report of Adjudication

A. Proceedings and adjudication for the levying of civil penalties under this law shall be conducted by the division of administrative law in accordance with regulations adopted pursuant to the Administrative Procedure Act.

B. A local governmental subdivision, except justice of the peace courts, enforcing the provisions of this part may establish a procedure for adjudication of violations and levying of civil penalties in accordance with the provisions of this Part. Such procedure shall include:

1. the fixing of a schedule of civil penalties and costs for the various offenses within the limits of such penalties as are set by law;
2. providing that any person cited for a violation of the provisions of this Part may plead guilty or no contest before an officer designated by the local governmental subdivision;
3. that the adjudication shall conform to the requirements of the Administrative Procedure Act;
4. the final report of adjudication issued pursuant to R.S. 40:1749.23(D) shall be sent within 30 days to the Department by certified mail return receipt requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1749.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:

§2117. Collection and Distribution of Fines or Civil Penalties: Underground Damages Prevention Fund

A. All civil penalties shall be paid to the state treasury for credit to the Underground Damage Prevention Fund, and shall be disbursed as follows:

1. thirty-four percent shall be retained by the Underground Damages Prevention Fund;
2. upon request for disbursement by the agency, within one year of the civil penalty being deposited into the Underground Damages Prevention Fund, funds shall be disbursed as follows:
 - a. fifty percent shall be disbursed to the local law enforcement agency that issued the citation if the citation was adjudicated by the local governmental subdivision, or
 - b. fifty percent shall be disbursed to the state law enforcement agency that issued the citation if the citation was adjudicated by the state; or
 - c. twenty-five percent shall be disbursed to the local law enforcement agency that issued the citation and twenty-five percent retained in the fund if such citation was adjudicated by the state.
3. Upon request for disbursement by the local governing authority within one year of the civil penalty deposited into the Underground Damages Prevention Fund, sixteen percent shall be disbursed to the local governing authority of the area in which the violation occurred to be used solely for purposes of compliance with Louisiana Underground Utilities/Facilities Damage Prevention Law, if the local governing authority is a member of or participates in a regional notification center; otherwise, the amount shall be retained in the Underground Damages Prevention Fund.

4. If the local governing authority is not a member of nor participates in a regional notification center, but establishes and operates a violations bureau pursuant to R.S. 1749.23(D), then upon request for disbursement by the local governing authority within one year of the civil penalty deposited into the Underground Damage Prevention Fund, sixteen percent shall be disbursed to the local governing authority for each violation adjudicated by the violations bureau of that local governing authority.

B. All funds received by the Department of Public Safety and Corrections under the provisions of this Part shall be retained in the Underground Damages Prevention Fund.

C. After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and prior to monies being placed in the state general fund, an amount equal to that deposited as required by Subsection B of this Section shall be credited to a special fund hereby created in the state treasury to be known as Underground Damages Prevention Fund. After disbursements as authorized in this Section, the monies in this fund shall be used solely as provided by Subsection D of this Section and only in the amounts appropriated by the legislature. All unexpended and unencumbered monies in this fund at the end of the fiscal year shall remain in such fund. The monies in this fund shall be invested by the state treasurer in the same manner as monies in the state general fund and interest earned on the investment of these monies shall be credited to this fund, following compliance with the requirement of Article VII, Section 9(B) relative to the Bond Security and Redemption Fund.

D. The monies in the Underground Damages Prevention Fund shall be used by the Department of Public Safety and Corrections solely for enforcement of the provisions of the Louisiana Underground Utilities/Facilities Damage Prevention Law, and may include expenditure for information and programs designed to enhance awareness of duties and responsibilities of persons under the provisions of this statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1749.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:

Interested persons may submit written comments to: Paul Schexnayder, Post Office Box 66614, Baton Rouge, Louisiana 70896-6614. Written comments will be accepted through November 15, 1999.

Family Impact Statement

1. The Effect of These Rules on the Stability of the Family. These rules will have no effect on the stability of the family.

2. The Effect of These Rules on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. These rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of These Rules on the Functioning of the Family. These rules will have no effect on the functioning of the family.

4. The Effect of These Rules on Family Earnings and Family Budget. These rules will have no effect on family earnings and family budget.

5. The Effect of These Rules on the Behavior and Personal Responsibility of Children. These rules will have no effect on the behavior and personal responsibility of children.

6. The Effect of These Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These rules will have no effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Nancy Van Nortwick
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Underground Utilities

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

This new and expanded program will require the addition of two personnel in the first two years of operation. Complete administrative support will be required to start up and initiate administrative enforcement procedures. Costs to State Government would be approximately \$15,000 for equipment and \$65,000 for personnel salaries. Cost to local government units would depend on the level of enforcement and whether adjudication is handled on a state or local level. State adjudication would increase both program costs and projected revenues.

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

The legislation authorizing these rules provides for a graduated system of fines as follows:

- 1) \$250 for the first violation
- 2) \$500 for the second violation
- 3) \$1000 for the third violation
- 4) \$2000 to \$25,000 for a fourth violation

The amount of revenue collections is thus indeterminable due to the uncertainty of the number of violations.

The revenue collected by state or local government will depend on whether the unit adjudicates its own fines.

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

Costs to directly affected entities with underground utilities would include the cost of membership in a regional notification center and the cost of possible penalties for violations of these rules which cost would be off set by the anticipated reduction in damage to their respective underground utilities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These rules will have no effect on competition. Employment may be affected by local government adjudication of proposed fines. These adjudications would require the hiring of additional personnel to schedule and hold hearings.

Nancy Van Nortwick
Undersecretary
9910#060

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT
Department of Public Safety
Office of State Police

User Fees for Louisiana State Police Facility
(LAC 55:I.301)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq. and R.S. 40:1375 (F) gives notice of its intent to amend LAC 55:I.301, the rule setting user fees for the State Police Training Facilities.

Title 55
PUBLIC SAFETY
Part I. State Police

Chapter 3. Training and Education Section

§301. User Fees for Louisiana State Police Facility

The Louisiana State Police announces user fees effective January 20, 1999 for the Training Academy Facilities pursuant to R.S. 40:1375(F) according to the following schedules:

Large Flat Room	50 person capacity	\$75.00 per day
Large Tiered Room	50 person capacity	\$75.00 per day
Small Flat Room	40 person capacity	\$50.00 per day
Conference Room	15 person capacity	\$50.00 per day
Exercise Room	75 person capacity	\$150.00 per day
Auditorium	250 person capacity	\$250.00 per day
Gymnasium	250 person capacity	\$250.00 per day
Training Tank	50 person capacity	\$250.00 per day
Walker Firearms Range		\$250.00 per day
Firearms Range Classroom	50 person capacity	\$50.00 per day
Holden Small Classroom	25 person capacity	\$50.00 per day
Holden Large Classroom	45 person capacity	\$75.00 per day
Holden Facility Grounds		\$250.00 per day
Holden Site Usage		\$1,500.00 per day
Classroom Audio Visual Package*		\$40.00 per day
Computer Equipment		\$50.00 per day

*Audio Visual Package consists of: Overhead Projector, Slide Projector, Projection Screen, VHS Video Cassette Player, Television Monitor, Carts and Necessary Cabling

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1375(F).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:116 (February, 1986), amended by the Department of Public Safety and Corrections, Office of State Police, LR 25:

Interested persons may submit written comments to: Paul Schexnayder, Post Office Box 66614, Baton Rouge, LA 70806. Written comments will be accepted through November 15, 1999.

Family Impact Statement

1. The Effect of These Rules on the Stability of the Family. These rules will have no effect on the stability of the family.

2. The Effect of These Rules on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. These rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of These Rules on the Functioning of the Family. These rules will have no effect on the functioning of the family.

4. The Effect of These Rules on Family Earnings and Family Budget. These rules will have no effect on family earnings and family budget.

5. The Effect of These Rules on the Behavior and Personal Responsibility of Children. These rules will have no effect on the behavior and personal responsibility of children.

6. The Effect of These Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These rules will have no effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Nancy Van Nortwick
Undersecretary

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

**RULE TITLE: User Fees for Louisiana State Police
Facility**

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

This rule is being amended to reflect additional space that has become available for rent and to introduce an updated fee schedule that establishes a maximum fee for various services provided by the Academy. Therefore, implementation of this rule will be accomplished utilizing personnel already performing this duty with the current inventory of equipment and supplies on hand. There should be no additional costs with this action.

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

There will not be an immediate effect on revenue collections. The current fee schedule will remain intact until a time when it has been determined that the Academy's fees must be raised to keep up with other organizations providing like services. Any increase in fees will be proportional to the fees charged by other organizations.

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

There should not be any cost to individuals or non-governmental groups. The Training Academy presently provides services only to Governmental organizations. Should the Academy be open to the private sector, the cost incurred shall be determined based on the fee schedule in place for the specific services rendered.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should not be any effect on competition and employment. The Academy provides classrooms, dormrooms, and audio visual equipment to governmental agencies at a fair and reasonable cost. The Academy is not in active competition with other organizations providing the same service.

Nancy Van Nortwick
Undersecretary
9910#061

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Office of the Secretary

Refund Claims (LAC 61:I.4909)

Under the authority of R.S. 47:1621, 1623, and 1625 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of the Secretary, proposes to adopt LAC 61:I.4909 to provide for the manner of filing claims for refunds or credits of overpayments of tax, penalty or interest.

Revised Statute 47:1621 authorizes refunds of overpayments, R.S. 47:1623 pertains to prescription for filing claims for refunds or credits and authorizes the secretary of the Department of Revenue to prescribe the manner for filing refund claims, and R.S. 47:1625 pertains to appeals for disallowance of refund claims. This regulation is being proposed to establish the procedures to be followed to properly submit claims for refunds or credits.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 49. Tax Collection

§4909. Refund Claims

A. Taxpayers filing claims for refunds or credits of overpayments of tax, penalty or interest as authorized by R.S. 47:1621 and in accordance with R.S. 47:1623 must comply with the following procedures.

1. A claim for refund or credit shall be written in the English language, and be:
 - a. submitted on claims for refund/credit forms provided by the secretary; or
 - b. written in a format substantially the same as that provided by the secretary; or
 - c. submitted by timely filing an amended return.
2. A claim for refund shall be signed and dated by the taxpayer or his authorized representative, and shall:
 - a. contain a clear statement detailing the reason for the claim;
 - b. indicate the appropriate tax and tax amount by tax period; and
 - c. be submitted to an appropriate office, division, or representative of the Department of Revenue. An "appropriate office, division, or representative of the Department of Revenue" means:
 - i. a Regional Service Center or Regional Audit Office;
 - ii. the appropriate division located at the department's headquarters in Baton Rouge;
 - iii. the Office of Alcohol and Tobacco Control for taxes or fees collected by that office;
 - iv. the tax collection officer assigned responsibility for the taxpayer's account for the period and tax related to the refund claim;
 - v. the field or office auditor that is examining the taxpayer's account for the period and tax related to the refund claim;

vi. the audit reviewer responsible for reviewing the audit file relating to the tax and tax period of the refund claim.

B. Claims for refund shall be approved or denied by the Secretary or his designee in accordance with written Departmental policy and procedures.

C. Claims for refunds that have not been approved within one year of the date received or that have been denied may be appealed by taxpayer to the board of tax appeals in accordance with R.S. 47:1625.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1621, 1623, and 1625.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of the Secretary, LR 25:

Interested persons may submit data, views, or arguments, in writing to Ellen Rhorer, Director of the Research and Technical Services Division, Department of Revenue, P.O. Box 15409, Baton Rouge, LA 70895 or by fax to (225) 925-3855. All comments must be submitted by 4:30 p.m., Monday, November 29, 1999. A public hearing will be held on Tuesday, November 30, 1999, at 10:00 a.m. in the Department of Revenue Secretary's conference room, 330 North Ardenwood Drive, Baton Rouge, LA.

Family Impact Statement

1. The Effect on the Stability of the Family. Implementation of this proposed rule will have no effect on the stability of the family.
2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of this proposed rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.
3. The Effect on the Functioning of the Family. Implementation of this proposed rule will have no effect on the functioning of the family.
4. The Effect on Family Earnings and Family Budget. Implementation of this proposed rule will have no effect on family earnings and family budget.
5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed rule will have no effect on the behavior and personal responsibility of children.
6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Refund Claims

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

Implementation of this proposed regulation, which establishes the procedures to be followed to properly submit claims for refunds or credits, will have no impact on the department's costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections of state or local governmental units as a result of this proposed regulation.

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

Implementation of this proposed regulation will have no effect on the costs of taxpayers submitting claims for refunds or credits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Brett Crawford
Secretary
9910#015

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Community Services**

**Maintenance of Information on Reports and Investigations
(LAC 67:V.1105)**

The Department of Social Services, Office of Community Services, proposes a rule regarding the maintenance of information regarding reports of child abuse and/or neglect with investigation final findings of inconclusive. This proposed rule is based on Act 593 of the 1999 Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part V. Office of Community Services

Subpart 3. Child Protective Services

Chapter 11. Administration and Authority

§1105. Maintenance of Information on Reports and Investigations

A. The Office of Community Services will maintain information on reports of child abuse and/or neglect with final findings of inconclusive on the computer tracking and management system (TIPS) for three years after the determination of the finding. The information will be maintained for the exclusive use of child protection investigators in the course of investigations for the purpose of evaluating the existence of patterns of incidents in pending child abuse or neglect investigations. The information regarding the report and the inconclusive finding shall be confidential and will not be released to other persons or agencies outside of the Office of Community Services.

1. At the end of three years the information will be expunged unless there have been subsequent reports with final findings of inconclusive or valid. When there are subsequent investigations with findings of inconclusive, the information regarding all inconclusive findings will be maintained until there have been no subsequent inconclusive findings for three years. When there are subsequent reports with findings of valid for which a previous inconclusive report was used as part of the basis for the valid finding, the information on inconclusive findings will be maintained until the information on the valid findings is expunged.

B. The case record file of information on the reports and investigations with inconclusive findings will be maintained in the local office for the parish in which the investigation was conducted. The file will be maintained for three years from the date of the determination of the inconclusive finding. At the end of three years the case record will be destroyed in accordance with the completion of state and federal audits.

1. When there are subsequent investigations with findings of inconclusive, the case records for all inconclusive findings will be maintained until there have been no subsequent inconclusive findings for three years. When there are subsequent reports with findings of valid for which the information from the inconclusive report is used as part of the basis for the related valid report, the information on the report and investigation with the inconclusive findings will be included in the file on the valid findings.

AUTHORITY NOTE: Promulgated in accordance with Act 593 of 1999.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 25:

Interested persons may submit written comments for forty days from the date of this publication to the following address: Shirley Goodwin, Assistant Secretary, P. O. Box 3318, Baton Rouge, LA 70821.

Gwendolyn P. Hamilton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Maintenance of Information on Reports
and Investigations**

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

The only cost in FY 99/2000 will be \$500 to print manual material. There will be no saving as a result of the revision to agency policy.

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 will not be any costs nor economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on revenue competition and employment.

Robert J. Hand
Director
9910#046

H. Gordon Monk
Staff Director
Legislative Fiscal Office