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Executive Orders

EXECUTIVE ORDER MJF 03-20

Bond Allocation? Industrial Development Board of the City of Sulphur, Louisiana, Inc.

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2003 (hereafter "the 2003 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2003 Ceiling; and

(3) a system of central record keeping for such allocations; and

WHEREAS, the Industrial Development Board of the City of Sulphur, Louisiana, Inc., has requested an allocation from the 2003 Ceiling to be used to finance the acquisition, construction, and equipping of a facility to manufacture, fabricate, and repair shell and tube heat exchangers, vessels, and tanks, located at 2300 Louis Alleman Parkway, city of Sulphur, parish of Calcasieu, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE, I, M.J. "MIKE" FOSTER, R., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the private activity bond volume limits for the calendar year of 2003 as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$2,500,000	Industrial Development of the City of Sulphur, Louisiana, Inc.	Board Brask, Inc.

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2003, provided that such bonds are delivered to the initial purchasers thereof on or before Dec. 19, 2003.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The

undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 29th day of October, 2003.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0311#011

EXECUTIVE ORDER MJF 03-21

Bond Allocation? Industrial Development Board of the City of New Orleans, Louisiana, Inc.

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2003 (hereafter "the 2003 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2003 Ceiling; and

(3) a system of central record keeping for such allocations; and

WHEREAS, the Industrial Development Board of the City of New Orleans, Louisiana, Inc., has requested an allocation from the 2003 Ceiling to be used to finance the acquisition, construction, and installation of a mixed-income housing/commercial development facility project located at 909 Felicity Street, New Orleans, parish of Orleans, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE, I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the private activity bond volume limits for the calendar year of 2003 as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$24,000,000	Industrial Development Board of the City of New Orleans, Louisiana, Inc	LGD Rental I, L.L.C..

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the ?Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling? submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2003, provided that such bonds are delivered to the initial purchasers thereof on or before Dec. 19, 2003.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 29th day of October, 2003.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0311#012

EXECUTIVE ORDER MJF 03-22

Bond Allocation? Parish of Desoto, State of Louisiana

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

- (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2003 (hereafter "the 2003 Ceiling");
- (2) the procedure for obtaining an allocation of bonds under the 2003 Ceiling; and
- (3) a system of central record keeping for such allocations; and

WHEREAS, the parish of DeSoto, state of Louisiana, has requested an allocation from the 2003 Ceiling to be used in connection with a project to finance the acquisition, construction, and installation of certain sewage and solid waste disposal facilities at the Mansfield Mill of International Paper Company located in Mansfield, parish of DeSoto, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2003 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$5,000,000	parish of DeSoto, state of Louisiana	International Paper Company

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the ?Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling? submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2003, provided that such bonds are delivered to the initial purchasers thereof on or before December 19, 2003.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 3rd day of November, 2003.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0311#013

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Chloramphenicol in Crabs? Testing and Sale
(LAC 7:XXXV.143 and 145)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rule governing the testing and sale of crab or crabmeat in Louisiana. This Rule is being adopted in accordance with R.S. 3:2A, 3:3B, R.S. 3:4608 and the Emergency Rule provisions of R.S. 49:953(B) of the Administrative Procedure Act.

The commissioner has promulgated these rules and regulations to implement standards relating to chloramphenicol in crab or crabmeat that are consistent with standards adopted by the FDA regarding chloramphenicol in foods. All crab or crabmeat sold in Louisiana must meet the standards adopted by the commissioner, herein, prior to distribution and sale.

Chloramphenicol is a broad-spectrum antibiotic that has been restricted by the FDA for use in humans only in those cases where other antibiotics have not been successful. The FDA has set a zero tolerance level for chloramphenicol in food and has prohibited the extra label use of chloramphenicol in the United States in food producing animals, (21 CFR 530.41).

Chloramphenicol is known to cause aplastic anemia, which adversely affects the ability of a person's bone marrow to produce red blood cells. Aplastic anemia can be fatal. In addition, according to the National Institute on Environmental and Health Sciences, chloramphenicol can reasonably be anticipated to be a human carcinogen. In widely accepted references such as "drugs in pregnancy and lactation," the use of chloramphenicol is strongly dissuaded during pregnancy, especially late pregnancy. Chloramphenicol can be transmitted to an unborn child through the placenta and to an infant through the mother's milk. The dosage transmitted to an unborn child is essentially the same dosage as is taken in by the mother. However, the unborn child is unable to metabolize chloramphenicol as efficiently, thereby causing the risk of an increasing toxicity level in the unborn child. Although the effect on an infant as a result of nursing from a mother who has taken chloramphenicol is unknown, it is known that such an infant will run the risk of bone marrow depression.

Recently, FDA, the states of Alabama and Louisiana have found chloramphenicol in crab or crabmeat imported from other countries. The department has found chloramphenicol in crab or crabmeat imported from Vietnam, Thailand and China. The possibility exists that other countries may export chloramphenicol-contaminated crab or crabmeat to the U.S.A.

The sale of such imported crab or crabmeat in Louisiana will expose Louisiana's citizens, including unborn children and nursing infants, to chloramphenicol, a known health

hazard. The sale, in Louisiana, of crab or crabmeat containing chloramphenicol presents an imminent peril to the public's health, safety and welfare. This peril can cause consumers to quit buying crab or crabmeat from any source, including Louisiana. If consumers cease to buy, or substantially reduce, their purchases of Louisiana crab or crabmeat then Louisiana's crab industry will be faced with substantial economic losses. Any economic losses suffered by Louisiana's crab industry will be especially severe in light of the current economic situation, thereby causing an imminent threat to the public welfare.

The Commissioner of Agriculture and Forestry has, therefore, determined that these emergency rules are necessary to immediately implement testing of crab or crabmeat for chloramphenicol, to provide for the sale of crab or crabmeat and any products containing crab or crabmeat that are not contaminated with chloramphenicol. This Rule become effective upon signature, November 7, 2003, and will remain in effect 120 days, unless renewed by the commissioner or until a permanent Rule is promulgated.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§143. Chloramphenicol in Shrimp and Crawfish Prohibited; Testing and Sale of

A. Definitions

Crab? any such animals, whether whole, portioned, processed, shelled, and any product containing any crab or crabmeat.

Food Producing Animals? both animals that are produced or used for food and animals, such as seafood, that produce material used as food.

Geographic Area? a country, province, state, or territory or definable geographic region.

Packaged Crab? any crab or crabmeat, as defined herein, that is in a package, can, or other container, and which is intended to eventually be sold to the ultimate retail purchaser in the package, can or container.

B. No crab or crabmeat may be held, offered or exposed for sale, or sold in Louisiana if such crab or crabmeat contains chloramphenicol.

C. No crab or crabmeat that is harvested from or produced, processed or packed in a geographic area, that the commissioner declares to be a location where chloramphenicol is being used on or found in food producing animals or in products from such animals, may be held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E. No crab or crabmeat from any such geographic area may be used, as an ingredient in any food held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E.

D. The commissioner may declare a geographic area to be a location where chloramphenicol is being used on or found in food producing animals or in products from such animals, based upon information that would lead a

reasonable person to believe that chloramphenicol is being used on or found in food producing animals, or in products from such animals, in that geographic area.

1. Any such declaration shall be subject to promulgation in accordance with the provisions of the Administrative Procedure Act.

2. The commissioner may release any such geographic area from a previous declaration that chloramphenicol is being used on food producing animals in that location. Any such release shall be subject to promulgation in accordance with the Administrative Procedure Act.

E. Crab or crabmeat that comes from a geographic area declared by the commissioner to be a location where chloramphenicol is being used on, or is found in food producing animals or in products from such animals, must meet the following requirements for sampling, identification, sample preparation, testing and analysis before being held, offered or exposed for sale, or sold in Louisiana.

1. Sampling

a. The numbers of samples that shall be taken are as follows:

i. two samples are to be taken of crab or crabmeat that are in lots of fifty pounds or less;

ii. four samples are to be taken of crab or crabmeat that are in lots of fifty-one to one hundred pounds;

iii. twelve samples are to be taken of crab or crabmeat that are in lots of one hundred and one pounds up to fifty tons;

iv. twelve samples for each fifty tons are to be taken of crab or crabmeat that are in lots of over fifty tons.

b. For packaged crab or crabmeat, each sample shall be at least six ounces, (170.1 grams), in size and shall be taken at random throughout each lot of crab or crabmeat. For all other crab or crabmeat, obtain approximately one pound, (454 grams), of crab or crabmeat per sample from randomly selected areas.

c. If the crab or crabmeat to be sampled consists of packages of crab or crabmeat grouped together, but labeled under two or more trade or brand names, then the crab or crabmeat packaged under each trade or brand name shall be sampled separately. If the crab or crabmeat to be sampled are not packaged, but are segregated in such a way as to constitute separate groupings, then each separate grouping shall be sampled separately.

d. A composite of the samples shall not be made. Each sample shall be tested individually. Each sample shall be clearly identifiable as belonging to a specific group of crab or crabmeat. All samples shall be kept frozen and delivered to the lab.

2. Each sample shall be identified as follows:

a. any package label;

b. any lot or batch numbers;

c. the country, province and city of origin;

d. the name and address of the importing company;

e. unique sample number identifying the group or batch sample and subsample extension number for each subsample.

3. Sample Preparation. For small packages of crab or crabmeat up to and including one pound, use the entire sample. Shell the crabs, exercising care to exclude all shells from sample. Grind sample with food processor type blender

while semi-frozen or with dry ice. Divide the sample in half. Use half of the sample for the original analysis portion and retain the other half of the sample in a freezer as a reserve.

4. Sample Analysis

a. Immunoassay test kits may be used if the manufacturer's published detection limit is one part per billion, (1 ppb) or less. Acceptable test kits include r-iopharm Ridascreen Chloramphenicol enzyme immunoassay kit and the Charm II Chloramphenicol kit. The Commissioner may authorize other immunoassay kits with appropriate detection limits of 1 ppb or below to be used. Each sample must be run using the manufacturer's test method. The Manufacturer's specified calibration curve must be run with each set. All results 1 ppb or above must be assumed to be Chloramphenicol unless further testing by approved GC/LC method indicates the result to be an artifact.

b. HPLC-MS, GC-ECD, GC-MS methods currently approved by FDA, the United States Department of Agriculture or the Canadian Food Inspection Agency with detection limits of 1 ppb or below may also be used.

c. Other methods for sampling, identification, sample preparation, testing and analysis may be used if expressly approved in writing by the Commissioner.

5. Any qualified laboratory may perform the testing and analysis of the samples unless the laboratory is located in any geographic area that the Commissioner has declared to be a location where Chloramphenicol is being used on or found in food producing animals, or in products from such animals. The Commissioner shall resolve any questions about whether a laboratory is qualified to perform the testing and analysis.

6. The laboratory that tests and analyzes a sample or samples for Chloramphenicol shall certify the test results in writing.

7. A copy of the certified test results along with the written documentation necessary to show the methodology used for the sampling, identification, sample preparation, testing and analysis of each sample shall be sent to and actually received by the Department prior to the crab or crabmeat being held for sale, offered or exposed for sale, or sold in Louisiana.

a. The test results and accompanying documentation must contain a test reference number.

b. The certified test results and the accompanying documentation must be in English and contain the name and address of the laboratory and the name and address of a person who may be contacted at the laboratory regarding the testing of the crab or crabmeat.

8. Upon actual receipt by the Department of a copy of the certified test results and written documentation required to accompany the certified test results then the crab or crabmeat may be held, offered or exposed for sale, or sold in Louisiana, unless a written stop-sale, hold or removal order is issued by the Commissioner.

9. A copy of the test results, including the test reference number, shall either accompany every shipment and be attached to the documentation submitted with every shipment of such crab or crabmeat sent to each location in Louisiana or shall be immediately accessible to the Department, upon request, from any such location.

H. Any person who is seeking to bring crab or crabmeat that is required to be sampled and tested under this Section, into Louisiana, or who holds, offers or exposes for sale, or sells such crab or crabmeat in Louisiana shall be responsible for having such crab or crabmeat sampled and tested in accordance with Subsection E. Any such person must, at all times, be in full and complete compliance with all the provisions of this Section.

I. The commissioner may reject the test results for any crab or crabmeat if the commissioner determines that the methodology used in sampling, identifying, sample preparation, testing or analyzing any sample is scientifically deficient so as to render the certified test results unreliable, or if such methodology was not utilized in accordance with, or does not otherwise meet the requirements of this Section.

J. In the event that any certified test results are rejected by the commissioner then any person shipping or holding the crab or crabmeat will be notified immediately of such rejection and issued a stop-sale, hold or removal order by the commissioner. Thereafter, it will be the duty of any such person to abide by such order until the commissioner lifts the order in writing. Any such person may have the crab or crabmeat retested in accordance with this Section and apply for a lifting of the commissioner's order upon a showing that the provisions of this Section have been complied with and that the crab or crabmeat are certified as being free of chloramphenicol.

K. The Department may inspect, and take samples for testing, any crab or crabmeat, of whatever origin, being held, offered or exposed for sale, or sold in Louisiana.

L. A stop-sale, hold or removal order, including a prohibition on disposal, may be placed on any crab or crabmeat that does not meet the requirements of this Section. Any such order shall remain in place until lifted in writing by the commissioner.

M. The department may take physical possession and control of any crab or crabmeat that violate the requirements of this Section if the commissioner finds that the crab or crabmeat presents an imminent peril to the public health, safety and welfare and that issuance of a stop-sale, hold or removal order will not adequately protect the public health, safety and welfare.

N. The commissioner declares that he has information that would lead a reasonable person to believe that chloramphenicol is being used on or found in food producing animals, or in products from such animals, in the following geographic area(s):

1. The geographic area or areas are:
 - a. the countries of Vietnam, Thailand, Mexico, Malaysia and China;
 2. all crab and crabmeat harvested from or produced, processed or packed in any of the above listed geographic areas are hereby declared to be subject to all the provisions of this Section, including sampling and testing provisions.

O. All records and information regarding the distribution, purchase and sale of crabs or crabmeat or any food containing crab or crabmeat shall be maintained for two years and shall be open to inspection by the Department.

P. Penalties for any violation of this Section shall be the same as and assessed in accordance with R. S. 3:4624.

Q. The effective date of this Section is March 14, 2003.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 30:

§145. Labeling of Foreign Shrimp and Crawfish by Country of Origin

A. Definitions

Crab or Crabmeat? any crab or crabmeat, whether whole, portioned, processed or shelled and any product containing any crab or crabmeat.

Foreign Crab or Crabmeat? any crab or crabmeat, as defined herein that is harvested from or produced, processed or packed in a country other than the United States.

B. All foreign crab or crabmeat, imported, shipped or brought into Louisiana shall indicate the country of origin, except as otherwise provided in this Section.

C. Every package or container that contains foreign crab or crabmeat, shall be marked or labeled in a conspicuous place as legibly, indelibly, and permanently as the nature of the package or container will permit so as to indicate to the ultimate retail purchaser of the crab or crabmeat with the English name of the country of origin.

1. Legibility must be such that the ultimate retail purchaser in the United States is able to find the marking or label easily and read it without strain.

2. Indelibility must be such that the wording will not fade, wash off or otherwise be obliterated by moisture, cold or other adverse factors that such crab or crabmeat are normally subjected to in storage and transportation.

3. Permanency must be such that, in any reasonably foreseeable circumstance, the marking or label shall remain on the container until it reaches the ultimate retail purchaser unless it is deliberately removed. The marking or label must be capable of surviving normal distribution and storing.

D. When foreign crab or crabmeat are combined with domestic crab or crabmeat, or products made from or containing domestic crab or crabmeat, the marking or label on the container or package or the sign included with any display shall clearly show the country of origin of the foreign crab or crabmeat.

E. In any case in which the words "United States," or "American" the letters "U.S.A.," any variation of such words or letters, or the name of any state, city or location in the United States, appear on any container or package containing foreign crab or crabmeat, or any sign advertising such foreign crab or crabmeat for sale, and those words, letters or names may mislead or deceive the ultimate retail purchaser as to the actual country of origin of the crab or crabmeat, then the name of the country of origin preceded by "made in," "product of," or other words of similar meaning shall appear on the marking, label or sign. The wording indicating that the crab or crabmeat is from a country other than the United States shall be placed in close proximity to the words, letters or name that indicates the crab or crabmeat is a product of the United States in a legible, indelible and permanent manner. No provision of this Section is intended to or is to be construed as authorizing the use of the words "United States," "American," or the letters "U.S.A.," or any variation of such words or letters, or the name of any state, city or location in the United States, if such use is deceptive, misleading or prohibited by other federal or state law.

F. Foreign crab or crabmeat shall not have to be marked or labeled with the country of origin if such crab or crabmeat is included as components in a product manufactured in the

United States and the crab or crabmeat is substantially transformed in the manufacturing of the final product. But in no event shall thawing, freezing, packing, packaging, re-packing, re-packaging, adding water, portioning, shelling, processing, peeling, partially cooking or combining with domestic crab or crabmeat shall not be considered to be a substantial transformation.

G The commissioner shall have all the powers granted to him by law, or in accordance with any cooperative endeavor with any other public agency, to enforce this Section, including the issuance of stop-sale, hold or removal orders and the seizing of crab or crabmeat mislabeled or misbranded as to the country of origin.

H Penalties for any violation of this Section shall be the same as and assessed in accordance with R. S. 3:4624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 30:

Bob Odom
Commissioner

0311#061

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

Pesticide Registration, Certifications and Testing Fees (LAC 7:XXIII.131)

In accordance with the Administrative Procedure Act R.S. 49:953 and R.S. 3:3202(A), the Commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in implementing the following rules and regulations governing fees for pesticide registration, certifications and testing.

The Department of Agriculture and Forestry deems the implementation of these rules and regulations necessary to conform to state statute and fund the operations of the Division of Pesticides and Environmental Programs. The fiscal year begins on the first of July. The department must use the emergency adoption provisions to insure that programs that begin in July will have adequate funding for the entire fiscal year and beyond. Adoption of the Rule changes will take place according to the Administrative Procedure Act. However, this process takes several months to complete and would cause deficits and the possibility of work reductions that could cause an imminent peril to the health and safety of Louisiana citizens.

This Rule become effective upon signature, October 29, 2003, and will remain in effect until the Rule becomes effective through the normal Administrative Procedure Act process. The Louisiana Department of Agriculture and Forestry (LDAF) will begin collecting the fees on July 1, 2003.

Title 7 AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 1. Advisory Commission on Pesticides

Subchapter G. Fees

§131. Fees

A. Fees required under the pesticide statutes and these regulations are as follows.

1. Special Local Need Registration Application Fee\$100
2. Examination Fees (for each exams' Private Applicator exempt)
In Baton Rouge.....\$ 25
At Meeting Outside Baton Rouge\$ 25
At District Offices\$ 50
3. Duplicate Licenses and/or Certification Cardssame as original
4. Requested Lists and Copies
postage + minimum of \$1 or postage + 25 cents/page

A.5. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3221, R.S. 3:3222 and R.S. 3:3251.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:194 (March 1984), amended, LR 15:76 (February 1989), LR 24:281 (February 1998), Department of Agriculture, Office of Agriculture and Environmental Sciences, LR 30:

Bob Odom
Commissioner

0311#008

DECLARATION OF EMERGENCY

Department of Economic Development Office of Business Development

Small and Emerging Business Development Program (LAC 19:II.Chapters 1-13)

The Department of Economic Development, Office of Business Development, pursuant to the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), adopts the following changes to the Rules of the Small and Emerging Business Development Program, in order to amend LAC 19:II, Chapters 1, 3, 5, 7, 9, 11, and 13. The Department of Economic Development has found an immediate need to open the program to "legal residents," as well as "citizens;" to provide additional definitions; to allow the Director's "designee" to act in the absence of the Director; to achieve flexibility regarding the Louisiana Contractors Accreditation Institute (LCAI) bonding program when no state funding is available for such training; to permit the limitation of the number of bond guarantees outstanding at a given time; and to correctly reflect the name of the office adopting the Rule.

This Emergency Rule is effective on November 10, 2003, and shall remain in effect for a maximum of 120 days or until a final Rule is promulgated, whichever occurs first. For more information you may call the Small and Emerging Business Development Program at (225) 342-4320.

Title 19

CORPORATIONS AND BUSINESS

Part II. Small and Emerging Business

Development Program

Chapter 1. General Provisions

§101. Statement of Policy

A. In accordance with the provisions of R.S. 51:941-945 and the provisions of the Administrative Procedure Act, R.S. 49:950-970 as amended, the Department of Economic Development's Small and Emerging Business Development Program administers these regulations which are intended to prescribe the procedures for qualifying and certifying small and emerging businesses; to provide for bonding and other financial assistance; to provide for technical and managerial assistance; to provide for a business mentor-protégé program; to recognize achievements for small and emerging businesses; and to facilitate access to state agency procurement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:49 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:542 (April 2003), LR 30:

§103. Purpose

A. The purpose and intent of this Chapter is to provide the maximum opportunity for small and emerging businesses to become competitive in a non-preferential modern economy. This purpose shall be accomplished by providing a program of assistance and promotion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:50 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:542 (April 2003), LR 30:

§105. Definitions

A. When used in these regulations, the following terms shall have meanings as set forth below.

Assistant Secretary? the Assistant Secretary of the Department of Economic Development.

Certification? the determination that a business qualifies for designation as a *small and emerging business*.

Designee? the person designated by the *director* to act in his absence.

Director? the Director of the Small and Emerging Business Development Program designated by the Secretary of the Department of Economic Development.

Firm? a business that has been certified as small and emerging.

Full-Time? working in the firm at least 35 hours per week.

Program? the Small and Emerging Business Development Program in the Department of Economic Development.

RFP? request for proposal.

Secretary? the Secretary of the Department of Economic Development.

Small and Emerging Business (SEB)? a small business organized for profit and performing a commercially useful function which is at least 60 percent owned and controlled by one or more *small and emerging business persons* and which has its principal place of business in Louisiana. A nonprofit organization is not a *small and emerging business* for purposes of this Chapter.

Small and Emerging Business Person? a citizen or legal resident of the United States who has resided in Louisiana for at least one year and whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business, and whose diminished opportunities have precluded, or are likely to preclude, such individual from successfully competing in the open market.

Undersecretary? the Undersecretary of the Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:50 (January 1997), amended LR 24:430 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:542 (April 2003), LR 30:

§107. Eligibility Requirements for Certification

A. An SEB is a firm owned and controlled by one or more small and emerging business person(s). Eligibility requirements fall into two categories, one applies to the individual owners and the other to the applicant's firm. In order to continue participation in the program, a firm and its individual owners must continue to meet all eligibility requirements.

B. Small and Emerging Business Person. For purposes of the program, a person who meets all of the criteria in this Section shall be defined as a small and emerging business person.

1. Citizenship. The person is a citizen or legal resident of the United States.

2. Louisiana Residency. The person has resided in Louisiana for at least one year.

3. Net Worth. The person's net worth may not exceed \$200,000. The market value of the individual owner's personal residence, 401K, IRA, and other legal retirement funds will be excluded from the net worth calculation.

C. Small and Emerging Business

1. Ownership and Control. At least 60 percent of the company must be owned and controlled by one or more small and emerging business persons.

2. Principal Place of Business. The firm's principal place of business must be Louisiana.

3. Lawful Function. The company has been organized for profit to perform a lawful, commercially useful function.

4. Business Net Worth. The business' net worth at the time of application may not exceed \$750,000.

5. Full Time. Managing owners who claim small and emerging business person status must be full-time employees of the applicant firm.

6. Job Creation. An applicant firm anticipates creating new full-time jobs.

D. Requirement for Certification. An application containing an affidavit signed, dated, and notarized attesting to all of the aforesaid eligibility requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:50 (January 1997), amended LR 24:430 (March 1998), LR 25:1084 (June 1999), LR 26:1572 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:542 (April 2003), LR 30:

§109. Control and Management

A. Description. An applicant firm's management and daily business operations must be controlled by an owner(s) of the applicant firm who has/have been determined to be a small and emerging business person. In order for a small and emerging business person to be found to control the firm, that individual must have managerial or technical experience and competency directly related to the primary industry in which the applicant firm is seeking program certification.

1. The small and emerging business person(s) upon whom eligibility is based shall control the board of directors of the firm, either in actual numbers of voting directors or through weighted voting. In the case of a two-person board of directors where one individual on the board is a small and emerging business person and one is not, the formers vote must be weighted by share ownership, worth more than one vote to achieve a minimum of 60 percent control, in order for the firm to be eligible for the program. This does not preclude the appointment of nonvoting or honorary directors. All arrangements regarding the structure and voting rights of the board must comply with state law and with the firm's articles of incorporation and/or bylaws.

2. Individuals who are not a small and emerging business person may be involved in the management of an applicant's firm and may be stockholders, partners, officers, and/or directors of such firm. Such individual(s), their spouse(s) or immediate family members who reside in the individual's household may not, however:

a. exercise actual control or have the power to control the applicant or certified firm;

b. be an officer or director, stockholder, or partner of another firm in the same or similar line of business as the applicant or certified firm;

c. receive excessive compensation as directors, officers, or employees from either the applicant or certified firm. Individual compensation from the firm in any form, including dividends, consulting fees, or bonuses, which is paid to a non-disadvantaged owner, his/her spouse or immediate family member residing in the same household will be deemed excessive if it exceeds the compensation received by the small and emerging business person chief executive officer, president, partner, or owner, unless the compensation is for a clearly identifiable skill for which market rates must be paid for the firm to utilize the person's expertise;

d. be former employers of the small and emerging business owner(s) of the applicant or certified firm, unless the program determines that the contemplated relationship between the former employer and the small and emerging business person or applicant firm does not give the former actual control or the potential to control the applicant or

certified firm and if such relationship is in the best interest of the certified firm.

B. Non-small and emerging business person control. non-small and emerging business person(s) or entities may not control, or have the power to control, the applicant firm. Examples of activities or arrangements which may disqualify an applicant firm from certification are:

1. a non-small and emerging business person such as an officer or member of the board of directors of the firm, or through stock ownership, has the power to control daily direction of the business affairs of the firm;

2. the non-small and emerging business person or entity provides critical financial or bonding support or licenses to the firm, which directly or indirectly allows the non-small and emerging business person to gain control or direction of the firm;

3. a non-small and emerging business person or entity controls the firm or the individual small and emerging business person(s) through loan arrangements;

4. other contractual relationships exist with non-small and emerging business person or entities, the terms of which would create control over the firm.

AUTHORITY NOTE: Promulgated in accordance with R.S.51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:51 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:543 (April 2003), LR 30:

§111. Responsibility for Applying

A. It is the responsibility of any business wishing to participate in the program to complete the required certification process. Failure to provide complete, true, or accurate data may result in rejection of the application.

B. Certification materials will be distributed by SEBD Program, or its designee, upon written or verbal request. Written requests for certification materials should be directed to the SEBD Program office in Baton Rouge.

C. Certification as a SEB also does not constitute compliance with any other laws or regulations and does not relieve any firm of its obligations under other laws or regulations. Certification as a small and emerging business also does not constitute any determination by SEBD Program that the firm is responsible or capable of performing any work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:52 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:543 (April 2003), LR 30:

§113. Certification Application Procedure

A. Applicant submits an application containing a signed, dated, and notarized affidavit to the SEBD office.

B. The SEBD Program staff reviews the application and if it is found to be incomplete or further information is needed, the SEBD Program staff will contact applicant. If the applicant does not respond within 15 days, the application will be denied.

C. The director, or designee, notifies the applicant in writing of the decision whether or not to grant certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICALNOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:52 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:544 (April 2003), LR 30:

§115. Duration of Certification

A. The maximum amount of time that a firm may be granted certification by the SEBD Program is seven years or when the firm graduates.

B. Retention of the firm in the program depends upon time, the firm's progress toward attainment of its business goals, willingness or ability to cooperate, and follow through on recommendations of the SEBD Program staff or its designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICALNOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:52 (January 1997), LR 26:1572 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:544 (April 2003), LR 30:

§117. Reports by Certified Small and Emerging Businesses

A. Report Form. On forms identified or prescribed by the SEBD Program, certified businesses shall report at times specified by the SEBD Program their financial position and attainment of the business' performance goals. Failure to do so may result in termination from the program.

B. Verification of Eligibility. The SEBD Program, or its designee, may take any reasonable means at any time to confirm a certified firm's eligibility, such as by letter, telephone, contact with other governmental agencies, persons, companies, suppliers, or by either announced or unannounced site inspection.

C. Notification of Changes. To continue participation, a certified firm shall provide the SEBD Program, or its designee, with a written statement of any changes in an address, telephone number, ownership, control, financial status, or major changes in the nature of the operation. Failure to do so may be grounds for termination of eligibility.

D. Evaluation. The SEBD Program or its designee, as necessary, shall evaluate the information to determine progress, areas for further improvement, resources needed by the firm, and eligibility for continued participation in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICALNOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:52 (January 1997), LR 26:1572 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:544 (April 2003), LR 30:

§119. Deception Relating to Certification of a Small and Emerging Business

A. Any person found guilty of the crime of deception relating to certification of an SEB as provided in R.S. 51:944 will be discharged from the program and will not be eligible to reapply under the business name involved in the deception

or any business with which such individual(s) may be associated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:944.

HISTORICALNOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:52 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:544 (April 2003), LR 30:

Chapter 3. Developmental Assistance Program

§301. Developmental Assistance

A. Purpose. The SEBD Program will coordinate technical, managerial, and indirect financial assistance through internal and external resources to assist certified small and emerging businesses in becoming competitive in the market place.

B. Developmental Steps

1. The certified SEB owner will be required to participate in, and complete a SEBD Program approved entrepreneurial training program. The small and emerging business owner that demonstrates adequate entrepreneurial skills or compelling reasons for not participating may be granted a waiver by the Director or designee.

2. Determination of Additional Assistance. In consultation with the business owner, the SEBD Program's staff or its designee will determine areas in which the business owner needs additional assistance.

3. Referral to Additional Resources. The SEBD Program or its designee will assist the firm obtain technical and/or managerial assistance from other resources, such as Small Business Development Centers, Procurement Centers, consultants, business networks, professional business associations, educational institutions, and other public agencies.

4. Ongoing Evaluation. In conjunction with the small and emerging business firm and appropriate external resources, the SEBD Program or its designee will periodically assess the SEB firm's progress toward attainment of its business goals. The SEBD Program, in conjunction with the SEB firm, will determine the effectiveness of assistance being administered. If assistance is ineffective, the SEBD Program will investigate and take appropriate action.

5. Graduation from the Program. Upon completion of the program's seven year term or attainment of the SEB's programmatic goals, the SEB firm will graduate from the program. Firms that do not make satisfactory progress and/or exceed the net worth prerequisites for certification will be terminated from the SEBD Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICALNOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:53 (January 1997), LR 26:1573 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:544 (April 2003), LR 30:

Chapter 5. Mentor-Protégé Program

§501. General Policy

A. The policy of the state is to implement a Mentor/Protégé program that breaks down barriers and builds capacity of small and emerging businesses, through internal and external practices which include:

1. tone setting? intense and deliberate reinforcement by the governor's office of the state's provision for substantial inclusion of small and emerging businesses in all aspects of purchasing, procurement and contracting;

2. accountability? responsibility of each cabinet member and policy administrator to produce self-imposed and specific outcomes within a specified period of time;

3. partnering? teaming of small and emerging businesses with businesses who have the capability of providing managerial and technical skills, transfer of competence, competitive position and shared opportunity toward the creation of a mutually beneficial relationship with advantages which accrue to all parties;

4. capacity building? enhancing the capability of small and emerging businesses to compete for public and private sector contracting and purchasing opportunities;

5. flexibility? promoting relationships based on need, relative strengths, capability and agreement of the parties within the boundaries of the program objectives of inclusion, impartiality and mutual understanding;

6. education? sharing instruction on intent, purpose, scope and procedures of the mentor/protégé program with both government personnel at all levels of administration as well as the business community and the general citizenry;

7. monitoring? requiring the routine measurement and reporting of important indicators of (or related to) outcome oriented results which stems from the continuing quest for accountability of Louisiana state government;

8. reporting? informing the governor's office of self-imposed outcomes via written and quarterly reports as to the progress of intra-departmental efforts by having the secretary of the department and her/his subordinates assist in the accomplishment of the initiative keep records, and coordinate and link with representatives of the Department of Economic Development; and

9. continuous improvement? approach to improving the performance of the mentor/protégé operation which promotes frequent, regular and possible small incremental improvement steps on an ongoing basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 23:50 (January 1997), amended LR 26:1573 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:

§503. Incentives for Mentor Participation

A. Businesses participating as mentors in the Mentor/Protégé Program will be motivated for program participation via program features incorporated in the bid process as well as contracts and or purchase agreements negotiated with the firm. The following features may be instituted by the state of Louisiana to motivate mentor participation.

1. Preferential Contract Award. The state of Louisiana may institute a system for awarding points to mentor participants which will confer advantages in the bid or selection process for contracting. The evaluation points granted a Mentor/Protégé Program participant will be proportionate to the amount of protégé participation in the project. Evaluation points will be weighted with the same

standards as points awarded for quality for product or service; or

2. Performance Incentives. Contracts for goods or services may include a factor for evaluation of performance for the purpose of providing incentives for work performed or deliveries completed ahead of schedule. The incentive for contractors and suppliers who are Mentor/Protégé Program participants shall be not less than five percent greater than incentives awarded to firms who are not program participants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1573 (August 2000), amended by Office of Business Development, LR 29:545 (April 2003), LR 30:

§505. Incentives for Protégé Participation

A. Businesses participating as protégés will be eligible for the following program benefits.

1. Subcontracting Opportunities. Protégé firms may be eligible for non-competitive subcontracting opportunities with the state and private sector industries.

2. Technical and Developmental Assistance. Protégé firms will be provided technical and developmental assistance provided by mentors which is expected to build the capacity of the protégé firm to compete successfully for public and private sector opportunities.

3. Networking. The Department of Economic Development will institute a system of networking protégé firms with potential mentors for the purposes of facilitating successful mentor/protégé partnerships. SEB firms participating in the program will be included in the Department of Economic Development's protégé source guide, which lists the firm and its capabilities as a sources of information for mentors in the program. Additionally, networking seminars for the purposes of introducing potential mentors and protégés will be held annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:

§507. Guidelines for Participation

A. The Mentor/Protégé Program will be open to participation by any business entity which meets the criteria for participation as outlined below.

1. Mentor firms:

a. must be capable of contracting with the state;

b. must demonstrate their capability to provide managerial or technical skills transfer or capacity building; and

c. must remain in the program for the period of the developmental assistance as defined in the Mentor/Protégé plan.

2. Protégé firms:

a. must be a certified small and emerging business with the state of Louisiana Department of Economic Development;

b. must be eligible for receipt of government and private contracts;

c. must graduate from the program within a period not to exceed seven years or until the firm reaches the threshold of \$750,000 net worth as defined by the SEB certification guidelines.

3. Mentor/Protégé Plan

a. A mentor/protégé plan signed by the respective firms shall be submitted to the Department of Economic Development, Program of Small and Emerging Business Development for approval. The plan shall contain a description of the developmental assistance that is mutually agreed upon and in the best developmental interest of the protégé firm.

b. The mentor/protégé plan shall also include information on the mentor's ability to provide developmental assistance, schedule for providing such assistance, and criteria for evaluating the protégé's developmental success. The plan shall include termination provisions complying with notice and due process rights of both parties and a statement agreeing to submit periodic report reviews and cooperate in any studies or surveys as may be required by the department in order to determine the extent of compliance with the terms of the agreement.

c. The submitted mentor/protégé agreement shall be reviewed by an Economic Development Small Business Advisor. The small business advisor may recommend to the director of the Program of Small and Emerging Business Development acceptance of the submitted agreement if the agreement is in compliance with the program's mentor/protégé guidelines.

4. Protégé Selection. Selection of the protégé is the responsibility and at the discretion of the mentor. Protégés may be selected from the listing of SEB firms provided by the Department of Economic Development, Program of Small and Emerging businesses. A protégé selected from another source or reference must be referred to the Department of Economic Development for certification as an SEB firm. The protégé must meet the department's guidelines for SEB certification as a condition of the mentor/protégé plan acceptance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:546 (April 2003), LR 30:

§509. Measurement of Program Success

A. The overall success of the mentor/protégé program will be measured by the extent to which it results in:

1. an increase in the protégé firm's technical and business capability, industrial competitiveness, client base expansion and improved financial stability;

2. an increase in the number and value of contracts, subcontracts and supplier agreements by small and emerging businesses; and

3. the overall enhancement and development of protégé firms as a competitive contractor, subcontractor, or supplier to local, state, federal agencies or commercial markets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:546 (April 2003), LR 30:

§511. Internal Controls

A. The Program of Small and Emerging Business Development will manage the program and establish internal controls to achieve the stated program objectives. Controls will include:

1. reviewing and evaluating mentor/protégé agreements for goals and objective;

2. reviewing semi-annual progress reports submitted by mentors and protégés on protégé development to measure protégé progress against the approved agreement;

3. requesting and reviewing periodic reports and any studies or surveys as may be required by the program to determine program effectiveness and impact on the growth, stability and competitive position of small and emerging businesses in the state of Louisiana; and

4. continuous improvement of the program via ongoing and systematic research and development of program features, guidelines and operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:546 (April 2003), LR 30:

§513. Non-Performance

A. The mentor/protégé agreement is considered a binding agreement between the parties and the state. Mentors who compete for contract award or purchasing activity and receive evaluation points as program participants are bound, in accordance with the terms of the state contract or purchase order, to fulfill the responsibilities outlined in the approved mentor/protégé agreement as a condition of successful contracting or purchase activity. Protégé who are selected for program participation are bound, in accordance with the terms of their agreement with the Department of Economic Development for continued participation in the program. Failure of the parties to meet the terms of the agreement is considered a violation of contract with liabilities as outlined below.

B. Failure of the mentor to meet the terms of the mentor/protégé agreement will be considered a default of state contract or purchasing agreement.

C. Failure of the protégé to meet the terms of the mentor/protégé agreement will result in exclusion from future participation in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:546 (April 2003), LR 30:

§515. Conflict Resolution

A. The state will institute a system for independent arbitration for the resolution of conflicts between mentors and protégé as program participants and/or between program participants and the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1575 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:547 (April 2003), LR 30:

Chapter 9. Small Business Bonding Program

§901. Small Business Bonding Assistance

A. Program Activities? Louisiana Contractors Accreditation Institute (LCAI)

1. Eligibility. All SEB construction contractors who are certified by the Small and Emerging Business Development Program, Department of Economic Development, are eligible to attend the institute. However, other contracting businesses will be invited to attend the institute but they will not be able to receive bond guarantee assistance until they have been certified by the SEBD Program.

2. Standards and Procedures for Determining Course Content. The staff of Bonding Assistance Program (BAP) will once a year, or as budget permits, consult with the heads of the construction schools in Louisiana approved by the Board of Regents and Department of Education to ensure that current course content adequately prepares the students to run their construction firms in a businesslike manner.

3. Attendance. Attendance is open to only certified or potentially certified small and emerging business construction contractors. However, contractors must register for the institute he or she wishes to attend. Each contractor who successfully completes the LCAI will be issued a certificate of accreditation.

4. Accreditation without Institute Attendance. An SEB firm may request to be accredited without attendance. The staff of the BAP will conduct a review of the firm. If the contractor can present evidence he conducts business within standards set by best practices, an accreditation may be issued to the firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:53 (January 1997), amended LR 24:430 (March 1998), LR 26:1575 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:547 (April 2003), LR 30:

§903. Direct Bonding Assistance

A. Direct Bonding Assistance. All certified small and emerging construction businesses that have been accredited by the LCAI and all other certified SEBs (non-construction) may be eligible for surety bond guarantee assistance not to exceed the lesser of 25 percent of contract or \$200,000 on any single project. LCAI accreditation is required when funding is available to support accreditation. LCAI accreditation will only be waived for contracts that occur during the specific time periods when funding is not available to support accreditation. All obligations, whether contractual or financial, will require the approval of the undersecretary.

B. Application Process

1. A Small Business Bonding Program applicant requesting a bond guaranty is first required to contact a surety company interested in insuring such a bond

contingent on SEBD approval. The aforesaid surety will contact SEBD to discern eligibility requirements and submit a formal application on behalf of the business concern.

2. Application for surety bond guarantee assistance including contractor or business underwriting data as prescribed by surety companies shall be submitted by the contractor or its agent to the surety company.

3. Manager of BAP or designee will:

a. determine and document that business is eligible to participate in program;

b. secure proof that project has been awarded to contractor or business, in the case of performance and payment bonds;

c. determine worthiness of the project based on advice and input from surety company.

d. make recommendations to the BRAS Director as required.

C. Surety Companies

1. Criteria for Eligibility and Continuation in the Program. A surety company must have a certificate of authority from, and its rates approved by, the Department of Insurance, and appear in the most current edition of the *U.S. Treasury Circular 570*.

a. BAP, at its sole discretion, may refuse to recommend the issuance of further guarantees/Letters of Credit (LC) to a participating surety where the administration finds any of the following:

i. fraud or misrepresentation in any of the sureties business dealings, BAP-related or not;

ii. imprudent underwriting standards;

iii. excessive losses (as compared to other participating sureties);

iv. failure of a surety to consent to BAP audit;

v. evidence of discriminatory practices; and

vi. consideration of other relevant factors.

b. BAP, at its sole discretion, may refuse to recommend the issuance of further guarantees/LC to a participating surety where the Department of Economic Development finds that the surety has failed to adhere to prudent underwriting standards or other practices relative to those of other sureties participating in the BAP. Any surety that has been denied participation in the program may file an appeal, in writing, delivered by certified mail to the Secretary of the Department of Economic Development, or a designee, who will review the adverse action and will render the final decision for the department. Appeals must be received no later than 30 days from the issuance of the Secretary's, or designee's, decision.

2. Subsureship. A lead or primary surety must be designated by those sureties who desire to bond a contract together. BAP will recommend a guarantee only to one surety. This does not mean that surety agreements cannot be entered. In a default situation, BAP will recommend to indemnify only the lead or primary surety, which will have an indemnification agreement with its re-insurers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:430 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:547 (April 2003), LR 30:

§907. Management Construction/Risk Management Company

A. Surety may require contractor to engage a management construction/risk management company to do, at a minimum, an independent take off and review of all low bid projects and advise BAP of their findings, this determination shall be made based on the surety's standard underwriting procedures. Surety may also require contractor to engage a management construction/risk management company to provide the following services:

1. review of the initial bond request for compatibility of the contractor with the scope of work as outlined in the solicitation;
2. job cost breakdown and bid preparation assistance;
3. monitor all projects once awarded. This will include a full (critical path) reporting throughout the life of the contract;
4. funds receipt and disbursement through a job-specific account on each project. This will include compliance with all lien waivers, releases and vendor payment verification;
5. make itself immediately available for project completion on any defaults at no additional fee to the project cost.

B. Management construction/risk management company engaged by contractor shall be pre-approved by BAP and surety. BAP shall not receive any portion of any fees paid to management construction/risk management company by contractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:431 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:548 (April 2003), LR 30:

§909. Underwriting a BAP Guaranteed Bond

A. In underwriting a BAP guaranteed bond, the surety is required to adhere to the surety industry's general principles and practices used in evaluating the credit and capacity; and is also required to adhere to those rules, principles, and practices as may be published from time to time by the BAP.

B. Once an application for a bond guarantee/LC is received from a contractor, a review will be conducted in order to determine whether the small and emerging business is eligible for BAP's surety bond guarantee assistance. This review will focus on the presence of a requirement for surety bonds and other statutory requirements.

1. Bonds

a. There must be a specific contract amount in dollars or obligee estimate of the contract amount, in writing, on other than firm fixed price contracts.

b. There must be nothing in the contract or the proposed bond that would prevent the surety, at its election, from performing the contract rather than paying the penalty.

c. BAP, having guaranteed the bid bond, may refuse to recommend guarantee of the required payment and performance bonds when the actual contract price exceeds the original bid and the next higher bid amount. In such an instance, the surety would either issue the payment and performance bond without BAP's guarantee, or suffer default

in fulfilling the bid bond, which should result in claims against the surety and surety's claim against BAP.

2. Types of Bond Guarantees. BAP guarantees will be limited to certain bid, performance, and payment bonds issued in connection with a contract. Bid, performance, and payment bonds listed in the contract bonds section, *Rate Manual of Fidelity, Forgery and Surety Bonds*, published by the Surety Association of America, will be eligible for a BAP guarantee. In addition, the BAP guarantee may be expressly extended, in writing, to an ancillary bond incidental to the contract and essential to its performance.

3. Ineligible Bond Situations and Exceptions

a. If the contracted work is already underway, no guarantee will be issued unless the director or a designee consents, in writing, to an exception.

b. While it should not be a common occurrence, and is in fact to be discouraged, applications for surety bonds may occasionally be submitted for consideration after a job is in process. In such cases, the surety must submit, as part of the application, the following additional information:

- i. evidence from the contractor that the surety bond requirement was contained in the original job contract;
- ii. adequate documentation as to why a surety bond was not previously secured and is now being required;
- iii. certification by contractor: list of all suppliers indicating that they are paid up to date, attaching a waiver of lien from each; that all labor costs are current; that all subcontractors are paid to their current position of work and a waiver of lien from each;

iv. certification by obligee that the job has been satisfactorily completed to present status; and

v. certification from the architect or engineer that the job is in compliance with plans and specifications; and is satisfactory to the present.

c. There are prepared forms published by the American Institute of Architects (AIA), which may be used for the purposes listed above.

C. The surety must satisfy to BAP that there is reasonable expectation that the small and emerging business will perform the covenants and conditions of the contract with respect to which a bond is required. BAP's evaluation will consider the small and emerging business' experience, reputation, and its present and projected financial condition. Finally, BAP must be satisfied as to the reasonableness of cost and the feasibility of successful completion of the contract. The BAP's determination will take into account the standards and principles of the surety industry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:431 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:548 (April 2003), LR 30:

§911. Guarantee

A. Amount of Guarantee. Providing collateral in the form of an irrevocable letter of credit to the surety may be posted on an individual project basis, for one or more projects at any one time, at the discretion of the Department of Economic Development.

B. Surety Bond Guarantee Agreement

1. Terms and Conditions

a. The *guarantee agreement* is made exclusively for the benefit of BAP and the surety; it does not confer any rights or benefits on any other party including any right of action against BAP by any person claiming under the bond. When problems occur on a contract substantive enough to involve the surety, the surety is authorized to take actions it deems necessary. Regardless of the extent or outcome of surety's involvement, the surety's services, including legal fees and other expenses, will be chargeable to the contractor unless otherwise settled.

b. Any agreement by BAP to guarantee a surety bond issued by a surety company shall contain the following terms and conditions:

i. the surety represents that the bond or bonds being issued are appropriate to the contract requiring them;

ii. the surety represents that the terms and conditions of the bond or bonds executed are in accordance with those generally used by the surety for the type of bond or bonds involved;

iii. the surety affirms that without the BAP guarantee to surety, it will not issue the bond or bonds to the principal;

iv. the surety shall take all steps necessary to mitigate any loss resulting from principal's default;

v. the surety shall inform BAP of any suit or claim filed against it on any guaranteed bond within 30 days of surety's receipt of notice thereof. Unless BAP decides otherwise, and so notifies surety within 30 days of BAP's receipt of surety's notice, surety shall take charge of the suit for claim and compromise, settle or defend such suit or claim until so notified. BAP shall be bound by the surety's actions in such matters;

vi. the surety shall not join BAP as a third party in any lawsuit to which surety is a party unless BAP has denied liability in writing or BAP has consented to such joinder.

c. When contractor successfully completes bonded job a status inquiry report is signed by appropriate parties and is forwarded to surety's collateral department. Surety shall release standby letter of credit within 90 days of recordation of acceptance date shown on status inquiry report.

d. Variances. The terms and conditions of BAP's guarantee commitment or actual bond guarantee may vary from surety to surety and contract to contract depending on BAP's experiences with a particular surety and other relevant factors. In determining whether BAP's experience with a surety warrants terms and conditions which may be at variance with terms and conditions applicable to another surety, BAP will consider, among other things, the adequacy of the surety's underwriting; the adequacy of the surety's substantiation and documentation of its claims practice; the surety's loss ratio and its efforts to minimize loss on BAP guaranteed bonds; and other factors. Any surety which deems itself adversely affected by the director's exercise of the foregoing authority may file an appeal with the Secretary of the Department of Economic Development. The secretary will render the final decision.

2. Reinsurance Agreement. In all guarantee situations, BAP agrees to reimburse the participating surety up to the agreed-upon percentage of any and all losses incurred by

virtue of default on a particular contract. The participating surety agrees to handle all claims, with recoveries being shared on a pro rata basis with BAP. This includes reinsurance agreements between the surety and any other licensed surety or reinsurance company. In other words, no indemnity agreement can be made to inure solely to the benefit of the surety to recover its exposure on any bond guarantee by BAP without BAP participating in its pro rata share.

3. Default

a. Notice of Default. Surety shall notify BAP if it becomes aware of any circumstances which may cause the contractor to fail to timely complete the project in accordance with the provisions of the contract. Where BAP receives information from other sources indicating a contractor is in potential violation of his contract, the information is to be relayed to the surety for its information and appropriate action.

b. Default Claims, Indemnity Pursuit, and Settlement

i. The sole authority and responsibility in BAP for handling claims arising from a contractor's default on a surety bond guaranteed by the BAP shall remain with the director and undersecretary relative to BAP's guarantee. The director and undersecretary will process and negotiate all claim matters with surety company representatives.

ii. In those situations where BAP's share is \$500 or less, the surety shall notify the contractor, by letter, of its outstanding debt with no further active pursuit undertaken by the surety for which BAP would be requested to reimburse.

iii. In those situations where BAP's share is over \$500 through \$2,500, the surety shall promptly develop financial background information on the debtor contractor. These findings will determine whether it is economically justified to further pursue indemnity recovery or to close the file.

iv. In those situations where BAP's share is over \$2,500, the surety shall pursue recovery through its normal method, assessing and comparing the estimated cost of recovery efforts with the probable monetary gain from the effort prior to exercising its rights under LC.

v. The surety shall advise BAP of attempts made to contact indemnitor or to attach other assets, and the outcome of these attempts. The surety shall insure that BAP is credited with its respective apportionment of all recovery within 90 days of the recovery.

vi. At the culmination of subrogation and indemnity recovery efforts, the surety shall notify the obligor of the total amount outstanding. A copy of the notice sent to the contractor shall be promptly forwarded to the BAP. After recovery efforts have been exhausted, the surety and BAP will make final reconciliation on the defaulted case, and close the file on that particular contractor's project. Prior to closing the file, surety shall conduct a recapitulation of the account to assure that BAP has been correctly credited with all funds recovered from any and all sources.

vii. Under the terms and conditions of the surety bond guarantee agreement, the authority to act upon proposed settlement offers in connection with defaulted

surety bonds lies with the surety, not with the BAP. A settlement occurs when a defaulted contractor and its surety agree upon a total amount and/or conditions which will satisfy the contractor's indebtedness to the surety, and which will result in closing the loss file. The surety must pay BAP its pro rata share of such settlement. BAP, immediately upon receipt of same, closes the file.

4. Reinstatement. A contractor's contractual relationship is with the surety company. Therefore, all matters pertaining to reinstatement must be arranged with and through the surety. BAP's contractual relationship is with the surety company only. Because of these relationships, BAP will neither negotiate nor discuss with a contractor amounts owed the surety by the contractor, or settlement thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:432 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:549 (April 2003), LR 30:

§913. Audits

A. At all reasonable times, BAP or designee may audit the office of either a participating agency, its attorneys, or the contractor or subcontractor completing the contract, all documents, files, books, records and other material relevant to the surety bond guarantee commitments. Failure of a surety to consent to such an audit will be grounds for BAP to refuse to issue further surety guarantees until such time as the surety consents to such audit. However, when BAP has so refused to issue further guarantees the surety may appeal such action to the Secretary of the Department of Economic Development. All appeals must be in writing and delivered by certified mail within 30 days of receiving the director's, or designee's written issuance of notice that no further guarantees will be issued. Otherwise the director's, or designee's, decision becomes final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:433 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:550 (April 2003), LR 30:

§915. Ancillary Authority

A. The director, with the approval of the undersecretary and assistant secretary, will have the authority to commit funds and enter into agreements which are consistent with and further the goals of this program. This authority would include, but not be limited to, designating a pool of funds upon which only a particular surety has recourse to, in the event of a contractor default.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:433 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:550 (April 2003), LR 30:

Chapter 11. Promotion of Small and Emerging Businesses

§1101. Promotion

A. Directory

1. Compilation. The SEBD Program shall compile a directory of all certified SEBs and make it available to the businesses and governmental agencies.

2. Frequency of Publication. The directory shall be updated at least annually, based upon information provided by certified businesses. The SEBD Program may issue updated directories more frequently.

3. Volume and Distribution. At least one copy of the directory will be made available to each state agency and educational institution, and copies will be provided to the state library. Additional copies may be made available to the public and governmental agencies as SEBD Program's resources permit.

4. Available Information. Public information concerning a small and emerging business may be obtained by contacting the Small and Emerging Business Development Program staff during normal working hours.

B. Other Promotional Means. The SEBD Program will utilize other feasible means of promoting small and emerging businesses, such as, but not limited to, the internet, world wide web, electronic bulletin boards, trade shows, or private sector contacts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:54 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:550 (April 2003), LR 30:

Chapter 13. Complaints and Investigations

§1301. Complaints and Investigation of Ineligibility

A. Right to File Complaint. Any individual, firm, or governmental agency which believes that a certified business does not qualify for certification may file a written, signed complaint with the SEBD Program. The complaint must contain sufficient information for SEBD Program staff to conduct an investigation, including specific identification of the affected business, basis for the charge of ineligibility, and identification, mailing address, and telephone number of the complainant.

B. Right to Due Process. No small and emerging business shall be decertified based upon a complaint, without first having had an opportunity to respond to the allegations; however, failure of the small and emerging business to respond to the SEBD Program's notification within 30 calendar days of mailing from the Program may result in revocation of certification.

C. Investigative Procedure

1. Notification of Allegation. The SEBD Program shall notify the certified business which is subject of the complaint by certified mail, return receipt requested, of the allegation within 15 calendar days of the complaint's receipt.

2. Investigation Conducted. Within available resources, the SEBD Program shall investigate each complaint as promptly as possible. In no event shall the investigation extend beyond 60 calendar days from the date that the complaint was received.

3. Cooperation. The small and emerging business shall cooperate fully with the investigation and make its staff and records available to the SEBD Program, if requested. Insufficient cooperation may be grounds for concluding that the firm has not borne the burden of proving to the satisfaction of the SEBD Program that it is eligible for certification, resulting in revocation of certification.

4. Upon completion of the investigation, the SEBD Program's staff shall make a determination and issue a written decision which either rejects the complaint or revokes the certification within 10 working days. A copy of the written decision shall be sent to the firm that was subject of the complaint, the complainant, and the director of the SEBD Program of State Purchasing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:944.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:54 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:551 (April 2003), LR 30:

§1303. Grounds and Procedure for Reconsideration of Denial

A. Right to Petition. A decision by the SEBD Program to deny issuing certification, deny renewal of certification, or to revoke certification will be reconsidered after an applicant business has submitted a written petition for reconsideration to the staff of the SEBD Program.

B. Grounds. Grounds for petitioning the SEBD Program to reconsider a denial or revocation of certification are that the Small and Emerging Business Development Program:

1. did not have all relevant information;
2. misapplied its rules;
3. otherwise made an error in reaching its original decision.

C. Right to Petition for Reconsideration. A petitioning business may appeal SEBD Program's decision to deny issuance of certification, to deny recertification, or to revoke certification. Only a firm which is subject of the denial or revocation has a right to petition for reconsideration.

1. Petition Submitted. The appellant business submits a written petition for reconsideration to the SEBD Program's staff. If the petition has not been received by the SEBD Program within 30 days of the date of the letter announcing the denial or revocation, the SEBD Program's decision becomes administratively final.

2. The petition shall specify grounds upon which a reconsideration is justified and the type of remedy requested. The petition for reconsideration must also clearly identify a contact person, mailing address, telephone number. The petitioning firm may provide any additional information which would be pertinent to the issue.

3. Acknowledgment. Upon receiving a petition for reconsideration, SEBD Program shall acknowledge its receipt by sending certified mail, return receipt requested, to the petitioner within five working days.

4. Reconsideration. The SEBD Program shall consider the petition and review all pertinent information, including additional information provided by the appellant business. The SEBD Program may conduct further investigation as necessary.

5. Notification of Decision. No later than 60 calendar days from receipt of the petition for reconsideration, the SEBD Program shall notify the petitioner by certified mail, return receipt requested, of its decision either to affirm the denial or revocation, with specific reason(s) of the grounds for the decision.

D. Final Decision. A decision to deny, revoke, or suspend certification following consideration of a petition for reconsideration is final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:944.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:55 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:551 (April 2003), LR 30:

Don J. Hutchinson,
Secretary

0311#053

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs? On-Line Application
(LAC 28:IV.301, 501, 503, 504, 505, 506, 507,
703, 705, 803, 805, 903, 907, and 1103)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend the Rules of the Scholarship/Grant programs (R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1, R.S. 17:3048.1).

This Emergency Rule is necessary to implement changes to the Scholarship/Grant programs to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. LASFAC has determined that this Emergency Rule is necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective October 21, 2003, and shall remain in effect for the maximum period allowed under the Administrative Procedure

Title 28

EDUCATION

Part IV. Student Financial Assistance? Higher Education Scholarship and Grant Programs

Chapter 3. Definitions

§301. Definitions

A. Where the masculine is used, in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

* * *

On-Line Application? submission of a request for a TOPS eligibility determination via the LOSFA TOPS website. If the applicant does not submit a FAFSA, the *on-line application* will require the student to declare that he can demonstrate that he is not eligible for federal grant aid.

* * *

Returning Student? a student who graduated from high school beginning with *academic year* (high school) 2001-2002, and met all the academic requirements for a TOPS Award, but who enrolled for the first time as a *full-time student* no later than the deadline established in §703.A.4 in an out-of-state postsecondary institution accredited by a regional accrediting organization recognized by the United States Department of Education and, thereafter, returns to Louisiana and enrolls as a *full-time student* in an Eligible College or University.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (July 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26: 2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1842, 1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003). LR 29:1419 (August 2003), LR 30:

Chapter 5. Applications, Federal Grant Aid and ACT Test

§501. Initial Application

A. Initial Application for high school graduates of 2002-2003 or earlier:

1. Except as provided in Subparagraph A.2.b below, all new applicants for Louisiana scholarship and grant programs must apply for federal aid by completing the Free Application for Federal Student Aid (FAFSA) for the academic year following the year the student graduated from high school. For example, if the student will graduate from high school in school year 2002-2003, submit the 2003-2004 version of the FAFSA.

2. All new applicants for TOPS Opportunity, Performance, Honors and TOPS Tech Awards who graduate from high school during the 2001-2002 or 2002-2003 academic years (high school) must apply for federal aid by completing the Free Application for Federal Student Aid (FAFSA) for the academic year (college) the applicant will be a first-time, full-time student. For example, if the applicant will graduate from high school in the 2002-2003 academic year (high school) and does not intend to enroll as a first-time, full-time student until the fall semester of 2004, he must submit the 2004-2005 version of the FAFSA.

a. All applicants for TOPS Opportunity, Performance and Honors awards and TOPS Tech awards (except those students who can demonstrate that they do not qualify for federal grant aid because of their family's financial condition) must complete all applicable sections of the initial FAFSA.

b. Applicants for TOPS Opportunity, Performance and Honors awards and TOPS Tech awards who can demonstrate that they do not qualify for federal grant aid because of their family's financial condition must complete all applicable sections of the initial FAFSA except those sections related to the income and assets of the applicant and the applicant's parents.

c. In the event of a budgetary shortfall, applicants for TOPS Opportunity, Performance and Honors awards and TOPS Tech awards who do not complete all sections of the FAFSA will be the first denied a TOPS award.

B. Initial Application for a TOPS Award for High School Graduates of 2003-2004 and Thereafter

1. Students who graduate from a Louisiana public high school as defined in §1703.A.1, an approved Louisiana non-public school as defined in §1701.A.2, or an eligible non-Louisiana public school as defined in §1701.A.3 must:

a. submit a Free Application for Federal Student Aid (FAFSA); or

b. if the student can demonstrate that he does not qualify for federal grant aid because of his family's financial condition, submit the initial FAFSA after completing all applicable sections except those sections related to the income and assets of the student and the student's parents; or

c. complete an on-line application.

2. Students who graduate from an eligible out-of-state or out-of-country high school or complete a home study program approved by the Louisiana Board of Elementary and Secondary Education or enroll for the first time as a full-time student in an out-of-state college or university following graduation from an eligible high school (Louisiana public high school as defined in §1703.A.1, an Approved Louisiana non-public school as defined in §1701.A.2, an eligible non-Louisiana public school as defined in §1701.A.3, out-of-state high school as defined by §1701.A.4 or an out-of-country high school as defined by §1701.A.5) must:

a. submit a Free Application for Federal Student Aid; or

b. if the student can demonstrate that he does not qualify for federal grant aid because of his family's financial condition, submit the initial FAFSA after completing all applicable sections except those sections related to the income and assets of the student and the student's parents; or

c. complete an on-line application; and

d. submit an official transcript from the out-of-state or out-of-country high school from which the student graduated; and

e. submit the official transcripts from each out-of-state college or university attended; and

f. submit an affidavit attesting to Louisiana residency, except those students who completed their last two years in and graduated from a Louisiana Public or approved non-public high school.

3. Applicants for TOPS Opportunity, Performance and Honors awards and TOPS Tech awards who submit the On-Line Application in lieu of the FAFSA or who do not complete all sections of the FAFSA will be ineligible for federal grant aid and federally guaranteed student loans.

4. In the event of a budgetary shortfall, applicants for TOPS Opportunity, Performance and Honors awards and TOPS Tech awards who submit the on-line application in lieu of the FAFSA or who do not complete all sections of the FAFSA will be the first denied a TOPS award.

C. Initial application for Louisiana scholarship and grant programs other than TOPS for high school graduates of 2004 and thereafter all new applicants for Louisiana scholarship and grant programs other than TOPS must apply for federal grant aid by completing the Free Application for Federal

Student Aid (FAFSA) for the academic year following the year the student graduated from high school. For example, if the student will graduate from high school in school year 2003-2004, submit the 2004-2005 version of the FAFSA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated LR 24:635 (April 1998), amended LR 24:1900 (October 1998), LR 26: (September 2000), repromulgated LR 27:1846 (November 2001), amended LR 28:554 (April 2003), LR 30:

§503. Application Deadlines for High School Graduates of 2003 and Earlier

A. Deadline for Priority Consideration

1. For priority consideration for the 1998-99 award year, applicants must submit the FAFSA to be received by the federal processor by June 1, 1998.

2. Priority consideration means that an applicant who submits a FAFSA by this date shall, under normal circumstances, receive notification of his eligibility for a noncompetitive award (TOPS Opportunity, Performance and Honors Awards) prior to enrolling in the fall term.

3. An applicant for a competitively awarded scholarship (TOPS Teacher Award and Rockefeller State Wildlife Scholarship) who submits a FAFSA by this date shall be considered for selection of award in the first round of applicants awarded.

4. For priority consideration for award years after 1998-99, applicants must submit the FAFSA to be received by the federal processor by May 1, preceding the award year.

B. Final Deadline For Full Award

1.a. Except as provided in Subparagraph B.1.b below, in order to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA application is July 1st of the academic year (high school) in which a student graduates. For example, for a student graduating in the 2000-2001 academic year (high school), the student must submit the initial FAFSA in time for it to be received by the federal processor by July 1, 2001.

b. For applicants graduating from high school during or after the 2001-2002 academic year (high school), in order to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA application is the July 1st immediately preceding the academic year (college) in which the applicant will be a first-time, full-time student.

c. Examples:

i. If an applicant graduates in the 2002-2003 academic year (high school) and will be a first-time, full-time student in the fall semester of 2003, the applicant must submit the initial FAFSA in time for it to be received by the federal processor by July 1, (2003).

ii. If an applicant graduates in the 2002-2003 academic year (high school) and will be a first-time, full-time student in the fall semester of 2004, the applicant must submit the initial FAFSA in time for it to be received by the federal processor by July 1, (2004).

d. Students must also apply in time to meet the first-time freshman enrollment deadlines specified in §703.A.4 (TOPS Opportunity, Performance and Honors) and §803.A.4 (TOPS Tech).

2. Notwithstanding the deadline established by §503.B.1 above, applicants who enter on active duty in the

U.S. Armed Forces have a final deadline for receipt of their initial FAFSA application of one year from the date of separation from active duty. In order to be eligible under this subsection, the applicant must meet the requirements of §703.A.4.b or d or §803.A.4.b or d of these rules and must not have been discharged with an undesirable, bad conduct or dishonorable discharge.

C. If a prescribed deadline date falls on a weekend or holiday, it will automatically be extended to the next business day.

D. Final Deadlines for Reduced Awards

1. If an application for an initial award under this Chapter is received after the deadline provided in §503.B above, but not later than sixty days after that deadline, the time period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

2. If an application for an initial award under this Chapter is received more than sixty days after the deadline provided in §503.B above, but not later than 120 days after that deadline, the time period of eligibility for the award shall be reduced by two semesters or three quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

3. Applications received more than 120 days after the published deadline shall not be considered.

E. The reduction of the applicant's period of eligibility for this award under §503.D above shall not be cumulative with any reduction under §509.C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated LR 24:635 (April 1998), amended LR 24:1900 (October 1998), LR 25:655 (April 1999), LR 25:2396 (December 1999), LR 25: (September 2000). Repromulgated LR 27,1847 (November 2001), amended LR 28:447 (March 2002), LR 28:1760 (August 2002), LR 29:554 (April 2003), LR 30:

§504. Out-of-State and Out-of Country High School Graduates

A. A student who graduates from a high school outside the state of Louisiana will not be considered for a TOPS award unless LASFAC receives the student's FAFSA information from the federal processor or on-line application and the student's ACT and/or SAT score(s). In order for a student who will graduate from a high school outside the state of Louisiana to assure that his FAFSA information and his ACT/SAT score(s) are received by LASFAC, he should:

1. enter a Louisiana postsecondary institution in the section of the FAFSA that asks the applicant to name the colleges he plans to attend; and

2. enter a Louisiana postsecondary institution and/or 1595 (code for the La. Tuition Opportunity Program/Students, Baton Rouge, La.) in the "score report choices" section of the ACT and/or 9019 (code for Tuition Opportunity Program for Students) in the "send scores" section of the SAT registration form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 30:

§505. Application Deadlines for High School Graduates of 2004 and Later

A. 1. To be considered for a TOPS award, students who graduate from high school or complete an approved home study program in 2004 or later must:

- a. apply for federal grant aid by submitting a Free Application for Federal Student Aid (FAFSA); or
- b. if the student can demonstrate that he does not qualify for federal grant aid because of his family's financial condition, submit the initial FAFSA after completing all applicable sections except those sections related to the income and assets of the student and the student's parents; or
- c. complete the on-line application.

2. TOPS will not pay tuition for any student who has not met the requirements of §505.A.1 above.

3. In the event of a budgetary shortfall, applicants for TOPS Opportunity, Performance and Honors awards and TOPS Tech awards who submit the on-line application or who do not complete all sections of the FAFSA will be the first denied a TOPS award.

B. Deadline for Priority Consideration

1. In order for students who enroll for the first time as Full-Time Students at an eligible college or university to ensure funding for the initial semester of enrollment, the FAFSA or the on-line application must be submitted so that it is received no later than May 1 of the year prior to the academic year (college) the student first enrolls in an eligible college or university.

2. In order for returning students to ensure funding for the initial semester of enrollment at an eligible college or university, the FAFSA or the on-line application must be received no later than May 1 prior to the academic year (college) the student first enrolls in an eligible college or university.

3. Examples

a. If a student graduates in the 2003-2004 academic year (high school) and will be a first-time freshman at an eligible college or university in the fall semester of 2004, for priority consideration, the initial FAFSA or the on-line application must be received no later than May 1, 2004.

b. If a student graduates in the 2003-2004 Academic Year (High School) and will be a first-time freshman in the fall semester of 2005, for priority consideration, the initial FAFSA or the on-line application must be received no later than May 1, 2005.

c. If a returning student graduated in the 2003-2004 academic year (high school) and will enroll as a full-time student in an eligible college or University in the fall semester of 2005, for priority consideration, the initial FAFSA or the on-line application must be received no later than May 1, 2005.

C. Final Deadline for Full TOPS Award

1. In order to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA or the on-line application is July 1 immediately prior to the academic year (college) he first enrolls as a first-time freshman in an eligible college or university.

2. In order for a returning student to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA or the on-line application is May 1 of the academic year (college)

he first enrolls as a full-time student in an eligible college or university.

3. Examples

a. If a student graduates in the 2003-2004 Academic Year (High School) and will be a first-time freshman at an eligible college or university in the fall semester of 2004, the student must submit the initial FAFSA or the on-line application no later than July 1, 2004.

b. If a student graduates in the 2003-2004 academic year (high school) and will be a first-time freshman in the spring semester of 2005, the student must submit the initial FAFSA or the on-line application no later than July 1, 2004.

c. If a student graduates in the 2003-2004 academic year (high school) and will be a first-time freshman in the fall semester of 2005, the student must submit the initial FAFSA or the on-line application no later than July 1, 2005.

d. If a returning student graduates in the 2003-2004 academic year (high school) and will be a first-time student in the fall semester of 2006, the student must submit the initial FAFSA or the on-line application no later than May 1, 2007.

4. Students must also meet the first-time freshman enrollment deadlines specified in §703.A.4 (TOPS Opportunity, Performance and Honors) and §803.A.4 (TOPS Tech).

5. Notwithstanding the deadline established by §505.C above, students who enter on active duty in the U.S. Armed Forces have a final deadline for receipt of their initial FAFSA application or their on-line application of one year from the date of separation from active duty. In order to be eligible under this subsection, the student must meet the requirements of §703.A.4.b or d or §803.A.4.b or d of these rules and must not have been discharged with an undesirable, bad conduct or dishonorable discharge.

D. Final Deadlines for Reduced Awards

1. If a FAFSA or on-line application is received after the deadline provided in §505.C above, but not later than sixty days after that deadline, the time period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

2. If a FAFSA or on-line application is received more than sixty days after the deadline provided in §505.C above, but not later than one hundred twenty days after that deadline, the time period of eligibility for the award shall be reduced by two semesters or three quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

3. A FAFSA or on-line application received more than 120 days after the published deadline shall not be considered.

E. The reduction of the student's period of eligibility for this award under §505.D above shall not be cumulative with any reduction under §509.C.

F. Renewal FAFSA

1. In order to remain eligible for TOPS awards, a student who is eligible for federal grant aid must file a renewal FAFSA by May 1 of each succeeding academic year (college) after initial eligibility is established.

2. Students who can demonstrate that they do not qualify for federal grant aid because of their family's

financial condition are not required to submit a renewal FAFSA.

3. In the event of a budgetary shortfall, applicants who do not file a renewal FAFSA or who do not complete all sections of the FAFSA will be the first denied a TOPS award.

4. All recipients of Louisiana scholarship and grant programs other than TOPS must submit a renewal FAFSA for each academic year (college) the student enrolls.

G If a prescribed deadline date falls on a weekend or holiday, it will automatically be extended to the next business day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998). Repromulgated LR 27:1847 (November 2001), amended LR 30:

§506. Proof of Compliance

A. As proof of compliance with the state's final deadline for submitting the FAFSA, or the On-Line Application, LASFAC will accept the documentation listed in §505.1-5. No other form of verification, including notarized or certified statements, will be accepted as proof of compliance with the deadline requirement.

1. A certificate of mailing, registered, certified, certified/return receipt requested, priority or overnight mail receipt from the United States Postal Service, or other authorized mail carriers such as United Parcel Service and Federal Express, which is dated prior to the state's final deadline.

2. The Student Aid Report (SAR) or the Institutional Student Information Report (ISIR), produced by the federal processor, shows that the original application was received by the state's final deadline.

3. The federal processor provides verbal or written verification to LASFAC that the original application was received by the state's final deadline.

4. A printed copy of the electronic receipt for a FAFSA filed on the Web shows that the original application was received by the final deadline.

5. A printed copy of the electronic receipt for an on-line application shows that the original application was received by the final deadline.

6. The LOSFA's on-line application submission confirmation code corresponds to a LOSFA database transaction by the final deadline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 30:

§507. Final Deadline for Submitting Documentation of Eligibility

A. ...

B. All documentation and certifications necessary to establish student eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of student aid reports, applicant confirmation forms, promissory notes, ACT and/or SAT scores, residency affidavits, proof of citizenship or permanent residency status and other documents which may be utilized in determining eligibility, must be received by LASFAC no later than May 1 of the award year. For example, to receive an award for the

2004-2005 award year, LASFAC must have in its possession all documents relevant to establishing eligibility by May 1, 2005.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998). Repromulgated LR 27:1847 (November 2001) amended LR 28:447 (March 2002), LR 29:1419 (August 2003), LR 30:

Chapter 7. Tuition Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

§703. Establishing Eligibility

A. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, the student applicant must meet all of the following criteria:

1. - 2. ...

3. submit the completed Free Application for Federal Student Aid (FAFSA) or on-line application in accordance with §501 by the applicable state aid deadline defined in §503 or §505; and

A.4.- H.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602, 1998 (August 2000), LR 26:1996, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), LR 27:1850 (November 2001), LR 28:772 (April 2002), LR 28:1760 (August 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:1419 (August 2003), LR 30:

§705. Maintaining Eligibility

A. - A.2. ...

2. submit the Renewal FAFSA in accordance with §505.F; and

A.3. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999); LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26, 1996, 2001 (September 2000), LR 27:1853 (November 2001), LR 28:447 (March 2002), LR 28:772 (April 2002), LR 28:2332 (November 2002), LR 29:1419 (August 2003), LR 30:

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A. - A.2. ...

3. submit the completed initial Free Application for Federal Student Aid (FAFSA) or on-line application in accordance with §501 by the applicable state aid deadline in accordance with the applicable requirements of §501 or §505; and

A.4. - 10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:1898 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65, 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR

26:2269 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:1220 (August 2001), LR 27:1854 (November 2001), LR 28:447 (March 2002), LR 28:773 (April 2002), LR 28:2330 (November 2002), LR 29:554 (April 2003), LR 29:1419 (August 2003), LR 30:

§805. Maintaining Eligibility

A. - A.1. ...
2. submit the renewal FAFSA in accordance with §505.F; and

A.3. - C. ...
AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998) LR 25:1091 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), LR 26:1997, 2002 (September 2000), LR 27:1856 (November 2001), LR 28:774 (April 2002), LR 28:2332 (November 2002), LR 29, LR 29:1419 (August 2003), LR 30:

Chapter 9. TOPS Teacher Award

§903. Establishing Eligibility

A. - A.2. ...
3. annually submit the completed Free Application for Federal Student Aid (FAFSA) or renewal FAFSA, whichever is applicable to the student, by the state aid deadline defined in §501.C and §505.F; and

A.4. - 8. ...
AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated LR 24:637 (April 1998), amended LR 24:1906 (October 1998), LR 26:68 (January 2000), LR 26:2269 (October 2000), LR 27:284 (March 2001), LR 27:1220 (August 2001). Repromulgated LR 27:1135 (November 2001), LR 28:448 (March 2002), LR 28:774 (April 2002), LR 28:2332 (November 2002), LR 29:1419 (August 2003), LR 30:

§907. Maintaining Eligibility

A. - A.6. ...
7. submit the renewal FAFSA in accordance with §505.F;

A.8. - B. ...
AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated LR 24:638 (April 1998), amended LR 24:1907 (October 1998), LR 25:1092 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000). Repromulgated LR 27:1857 (November 2001), LR 28:448 (March 2002), LR 28:774 (April 2002), LR 30:

Chapter 11. Rockefeller State Wildlife Scholarship

§1103. Establishing Eligibility

A. To establish eligibility, the student applicant must meet all of the following criteria:

1. - 2. ...
3. submit the completed Free Application for Federal Student Aid (FAFSA) or the renewal FAFSA, whichever is applicable to the student, by final deadline set forth in §501.C or §505.F.; and

4. - 8.c. ...
AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated LR 24:639 (April 1998), amended LR 24:1908 (October 1998), LR 27:1220 (August 2001), repromulgated LR 27:1859 (November 2001), LR 28:774 (April 2002), LR 29:125 (February 2003), LR 30:

George Badge Eldredge
General Counsel

0311#005

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Youth ChalleNGe Skills Training Program (GO-Youth)
(LAC 28:IV.Chapter 15, 1701, 1901, 1903, and 2103)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend the Rules of the Scholarship/Grant programs (R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1, R.S. 17:3048.1).

This Emergency Rule is necessary to implement changes to the Scholarship/Grant programs to allow the Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. LASFAC has determined that this Emergency Rule are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective October 21, 2003, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

Part IV. Student Financial Assistance? Higher Education Scholarship and Grant Programs

Chapter 15. Grant Opportunity for Youth ChalleNGe Skills Training Program

§1501. General Provisions

A. Legislative Authority. The Louisiana Grant Opportunity for Youth ChalleNGe Skills Training Program (the GO-Youth ChalleNGe Program) was created by Act 826 of the 2003 Regular Session of the Louisiana Legislature.

B. Purpose. It is the purpose of the Program to encourage and assist those students who graduate from the Louisiana National Guard's Youth ChalleNGe Program to continue their education and enhance their employment opportunities by providing tuition at an eligible Louisiana postsecondary institution.

C. Effective Dates. The program shall be available to any student who completes the Louisiana National Guard's Youth ChalleNGe Program after June 30, 2003.

D. Eligible Courses of Study. The program grant may be used to pursue postsecondary skill or occupational training, including a vocational technical education certificate or diploma or a nonacademic undergraduate degree.

E. Eligible Institutions. Eligible students may use the program grant at the following institutions:

1. Louisiana public community colleges that offer skill or occupational training and the Louisiana Technical college; and

2. a regionally accredited independent college or university in the state that is a member of the Louisiana

Association of Independent Colleges and Universities and offers skill or occupational training.

F. Grant Amounts. The program grant shall be paid for a period not to exceed the equivalent of two program years (non-academic) in an amount:

1. equal to the actual cost of tuition for a student enrolled in a Louisiana public postsecondary institution;
2. equal to the average tuition amount paid for students attending public postsecondary institutions for a student enrolled at a regionally accredited independent college or university in the state that is a member of the Louisiana Association of Independent Colleges and Universities. See §1903.B.8.b and c for method of computation.

G. Definitions. For the purposes of this Chapter, the following definitions are applicable:

Certification? the time at which LOSFA has received both the certification from the State Military Department and the results of the FAFSA data from the federal processor.

FAFSA? the Free Application for Federal Student Aid used to apply for federal grant aid and eligibility for other federal assistance.

Graduate? a student who has completed the Louisiana GO-Youth ChalleNGe Program and, no later than 18 months after entry into the Program, received a Louisiana high school equivalency diploma.

Program? the GO-Youth ChalleNGe Program

Resident of Louisiana? a student who actually resides in Louisiana during the 24 months prior to the month the student enrolls for the first time as a *full-time student* in an eligible institution as a recipient of a grant under the *program*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1 –3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:

§1503. Establishing Initial Eligibility

A. To establish initial eligibility for participation in the program, the student must meet all of the following criteria:

1. be a citizen of the United States or designated by the U.S. Bureau of Citizenship and Immigration Services as a permanent resident; and
2. be a resident of Louisiana, as defined in §1501; and
3. graduate from the residential phase of the Louisiana National Guard's Youth ChalleNGe Program; and
4. have earned a Louisiana high school equivalency diploma, and
5. not have a criminal conviction, except for misdemeanor traffic violations; and
6. if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and
7. submit a FAFSA for every year of enrollment in a postsecondary institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1 –3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:

§1505. Deadline to Enroll as a Full-Time Student

A. In order to receive a grant under the Program, a student must have met the criteria defined in §1503 and, unless granted an exception for cause by LASFAC, enrolled as a full time student:

1. not later than the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date that the student graduated from the Louisiana National Guard's Youth ChalleNGe Program; or

2. if the student Joins the United States Armed Forces upon graduation from the Louisiana National Guard's Youth ChalleNGe Program, not later than the semester, excluding summer semesters or sessions, immediately following the fifth anniversary of the date that the student graduated Louisiana National Guard's Youth ChalleNGe Program or within one year from the date of discharge or one year from separation from active duty, whichever is earlier.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1 –3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:

§1507. Maintaining Eligibility

A. To continue receiving the program grant, the student must meet all of the following criteria:

1. have received the program grant for not more than two years, unless granted an exception for cause; and
2. continue to enroll each subsequent semester or quarter (excluding summer sessions and intersessions unless required by the institution for a particular course of study) as a full time student, unless granted an exception for cause; and
3. maintain Steady Academic Progress as defined in §301; and
4. earn at least 24 hours each program year (non-academic program) as defined in §301, unless granted an exception for cause; and
5. maintain a cumulative grade point average of at least 2.50 on a 4.00 scale at the end of each Program Year (non-academic program); and
6. not have a criminal conviction, except for misdemeanor traffic violations; and
7. if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and
8. submit a FAFSA or renewal FAFSA for each academic year during which the student is enrolled in a postsecondary institution.

B. Students failing to meet the requirements listed in §1507.A.3 and 5 may have their tuition grants reinstated upon regaining steady academic progress (See §301.) and/or attainment of the required GPA, if the student has maintained other continuation requirements and the period of ineligibility did not persist for more than one year from the date of loss of eligibility. If the one year period is interrupted due to a student's active duty in the United States Armed Forces, the one year period will be extended for the length of time equal to the student's active duty service, not to exceed four years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:

§1509. Responsibilities of the State Military Department (SMD)

A. The State Military Department is responsible for determining whether participants in the Louisiana Youth ChalleNGe Program meet the eligibility requirements to participate in the Program set forth in §1503.A.1-6 above. The submission of a student's data for the GO-Youth ChalleNGe Program shall constitute a certification by the State Military Department that the student meets the requirements of §1503.A.1-6, specified above, except that the certification shall not include the certification of residency required by §1503.A.2, if a participant does not meet the residency requirement at the time the participant is awarded a Louisiana High School Equivalency Certificate.

B. For each student determined to be eligible to participate in the program, the State Military Department shall provide the following student data in an electronic file format acceptable to LOSFA:

1. name;
2. Social Security number;
3. permanent mailing address;
4. telephone number;
5. date enrolled in the Louisiana Youth ChalleNGe Program;
6. date the student completed the residential phase of the Louisiana National Guard's Youth ChalleNGe Program,
7. date received a Louisiana High School Equivalency Diploma;
8. students' order of merit ranking within their class; and
9. if the student does not have 24 months of Louisiana residency at the time the Louisiana High School Equivalency Certificate is awarded, the date of initial Louisiana residency.

C. To the extent funds are appropriated to the State Military Department to fund the program, the State Military Department shall take such actions as are necessary to promptly transfer such funds to LOSFA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:

§1511. Responsibilities of LOSFA

A. Upon Certification by the SMD that students have met Program criteria, LOSFA shall make the students eligible for the Program grant as long as funds appropriated for that purpose are available.

B. LOSFA shall determine whether participants meet the residency requirement in §1503.A.2 above, if the residency requirement has not been met at the time the participant earns a Louisiana High School Equivalency Certificate.

C. Upon receipt of bills from institutions submitted in accordance with §1903.B, LOSFA will reimburse the institution for each eligible student in accordance with §1903.

D. LOSFA shall conduct audits of the Louisiana Youth ChalleNGe Program campuses and postsecondary

institutions to ensure compliance with Program requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:

§1513. Funding Shortfall

A. LOSFA shall not make students eligible if funds appropriated for the program are not available or if funds have not been appropriated for the program.

B. In the event appropriated funds are insufficient to fully reimburse institutions for the grants for all students determined eligible for the program for a given academic year, then the number of eligible students shall be reduced in accordance with the following procedures until such funds are sufficient:

1. Awarded students who meet the requirements for continuation will be funded first; however, if there are insufficient funds for all such students, the students who have completed the most hours will be funded first and, if there are ties, the students with the highest cumulative grade point average will be funded first.

2. Any remaining students will be awarded according to their order of merit as determined by the SMD, based on the student's performance in the Louisiana Youth ChalleNGe Program.

C. Should additional funds become available after a budget shortfall, LOSFA shall restore students' grants in accordance with the priorities established in subparagraph B, above, until such funds are exhausted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1 - 3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:

Chapter 17. Responsibilities of High Schools, School Boards, Special School Governing Boards, the Louisiana Department of Education and LASFAC on Behalf of Eligible Non-Louisiana High Schools

§1701. Eligibility of Graduates Based Upon the High School Attended

A. - A.4.b. ...

B. Non-high school graduates who have earned a Louisiana High School Equivalency Diploma (GED) in lieu of a high school diploma are eligible to participate in the Leveraging Educational Assistance Partnership (LEAP) Grant Program and the Louisiana GO-Youth ChalleNGe Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated LR 24:642 (April 1998), amended LR 24:1911 (October 1998), LR 25:849 (May 1999), LR 26:68 (January 2000), LR 27:1862 (November 2001), LR 30:

Chapter 19. Eligibility and Responsibilities of Postsecondary Institutions

§1901. Eligibility of Postsecondary Institutions to Participate

A. Undergraduate degree granting schools which are components of Louisiana public university medical centers and two- and four-year public colleges and universities are authorized to participate in the Tuition Opportunity Program

for Students (TOPS), TOPS-TECH, Rockefeller State Wildlife Scholarship, Leveraging Educational Assistance Partnership (LEAP) Program and the GO-Youth ChalleNGe Program.

B. Regionally accredited private colleges and universities which are members of the Louisiana Association of Independent Colleges and Universities, Inc. (LAICU) are authorized to participate in TOPS (for both academic programs and programs for a vocational or technical education certificate or diploma or a non-academic undergraduate degree), TOPS-TECH, LEAP and the GO-Youth ChalleNGe Program. As of April 2000, LAICU membership included Centenary College, Dillard University, Louisiana College, Loyola University, New Orleans Theological Seminary, Our Lady of the Lake College, Our Lady of Holy Cross College, St. Joseph Seminary College, Tulane Medical Center, Tulane University and Xavier University.

C. Campuses of Louisiana Technical College are authorized to participate in TOPS, TOPS-TECH LEAP and the GO-Youth ChalleNGe Program.

D. Approved Louisiana proprietary and beauty schools are authorized to participate in LEAP only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1 and R.S. 17:3050.1 –3050.4.

HISTORICAL NOTE: Promulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26: 1998 (September 2000), LR 28:1864 (November 2001), LR 28:448 (March 2002), LR 30:

§1903. Responsibilities of Postsecondary Institutions

A. - A.2.h. ...

B. Program Billing. Each term, institutions shall bill LASFAC for students who are recipients of a TOPS Award or a GO-Youth ChalleNGe Program Grant and who have enrolled at the institution in accordance with the following terms and conditions:

1. institutions may only bill for students who have been certified by LASFAC as eligible for a TOPS award or a GO-Youth ChalleNGe Program Grant; and

2. institutions will bill LASFAC based on their certification that the recipient of a TOPS Award or a GO-Youth ChalleNGe Program Grant is enrolled full-time, as defined in §301, at the end of the fourteenth class day for semester schools and the ninth class day for quarter and term schools, and for any qualifying summer sessions at the end of the last day to drop and receive a full refund for the full summer session. Institutions shall not bill for students who are enrolled less than full-time at the end of the fourteenth class day for semester schools or the ninth class day for quarter and term schools, and for any qualifying summer sessions at the end of the last day to drop and receive a full refund for the summer session, unless the student qualifies for payment for less than full-time enrollment as defined in §2103.C. Students failing to meet the full-time enrollment requirement are responsible for reimbursing the institution for any awards received. Refunds of awards to students who are not receiving federal Title IV aid, for less than full-time enrollment after the fourteenth or ninth class day, as applicable, shall be returned to the state. Refunds to students who are receiving federal Title IV aid shall be refunded to

the state in accordance with the institution's federal Title IV aid refund procedures; and

3. - 7. ...

8. upon the school's certification that a recipient of a GO-Youth ChalleNGe Program Grant is enrolled full-time, institutions shall bill for and LASFAC will reimburse the institution for each such recipient as follows:

a. eligible public community colleges and Louisiana Technical College may bill for an amount up to the tuition for that institution, as defined in §301; and

b. regionally accredited independent colleges or universities in the state that are members of LAICU may bill up to an amount equal to the award amount authorized for TOPS-Tech students attending LAICU institutions during the Program Year (Non-academic Program).

9. Before applying a TOPS award to pay a student's tuition, institutions shall first apply the student's "out-of-pocket" payments, including student loans, toward tuition charges. In those cases when a student's tuition as defined in 26 U.S.C. 25A is paid from a source other than the TOPS award, the institution shall apply the TOPS award toward payment of expenses other than tuition which are described in the term "cost of attendance" as that term is defined in 20 U.S.C. 1087ll, as amended, for the purpose of qualifying the student or his parent or custodian for the federal income tax credits provided for under 26 U.S.C. 25A.

C. - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1 and R.S. 17:3050.1 –3050.4.

HISTORICAL NOTE: Promulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25: 1459 (August 1999), LR 26:1998, 2002 (September 2000), LR 27:1864 (November 2001), LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:

Chapter 21. Miscellaneous Provisions and Exceptions

§2103. Circumstances Warranting Exception to the

Initial and Continuous Enrollment

Requirements

A. Initial Enrollment Requirement. Initially apply and enroll as a First-Time Freshman as defined in §301, unless granted an exception for cause by LASFAC, in an eligible college or university defined in §301. Initial enrollment requirements specific to TOPS are defined at §703A.4, for TOPS-TECH at §803.A and for Louisiana GO-Youth ChalleNGe Program at §1505.

B. ...

C. Less Than Full-Time Attendance. LASFAC will authorize awards under the TOPS Opportunity, Performance, Honors and Teachers Awards, the TOPS-TECH Award, the Rockefeller State Wildlife Scholarship and the Louisiana GO-Youth ChalleNGe Program, for less than full-time enrollment provided that the student meets all other eligibility criteria and at least one of the following:

1. requires less than full-time enrollment to complete the undergraduate degree; or

2. is enrolled in a degree program that defines *full-time* as less than 12 hours per semester or eight hours per quarter; or

3. requires less than full-time enrollment to complete requirements for a specified course of study or clinical program.

D. - D.3. ...

E. Qualifying Exceptions to the Initial and Continuous Enrollment Requirement. A student who has been declared ineligible for TOPS, TOPS-Tech, TOPS Teacher, the Rockefeller State Wildlife Scholarship or the Louisiana GO-Youth Challenge Program because of failure to meet the initial or continuous enrollment requirements may request reinstatement in that program based on one or more of the following exceptions:

E.1. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1 and R.S. 17:3050.1 -3050.4.

HISTORICAL NOTE: Promulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1017 (May 2000), LR 26:2004 (September 2000), LR 27:37 (January 2001), LR 27:1875 (October 2001), LR 27:1866 (November 2001), LR 289:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330, 2333 (November 2002), LR 29:126 (February 2003), LR 30:

George Badge Eldredge
General Counsel

0311#007

DECLARATION OF EMERGENCY

**Tuition Trust Authority
Office of Student Financial Assistance**

Student Tuition and Revenue Trust
(START Saving) Program? Trade Date
(LAC 28:VI.107, 305, and 309)

The Louisiana Tuition Trust Authority (LATTA) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091 et seq.).

This Emergency Rule is necessary to allow the Louisiana Office of Student Financial Assistance and educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. LATTA has determined that this Emergency Rule is necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective October 21, 2003, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

**Title 28
EDUCATION**

**Part VI. Student Financial Assistance? Higher
Education Savings**

Chapter 1. General Provisions

§107. Applicable Definitions

Trade Date? the date that a deposit to an investment option that includes *variable earnings* is assigned a value in units, the date a disbursement or refund from an investment

option that includes *variable earnings* is assigned a value or the date of a change in investment options that includes *variable earnings* is assigned a value, whichever is applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 30:

Chapter 3. Education Savings Account

§305. Deposits to Education Savings Accounts

A. - D.5. ...

6. Requests for the transfer of funds from the equity investment option in which they are currently deposited to a different equity option will be assigned a trade date of one business day after the business day of receipt of the transfer request.

E. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1270 (July 1998), LR 26:2263 (October 2000), LR 27:1880 (November 2001), LR 30:

**§309. Disbursement of Account Funds for Payment of
Qualified Higher Education Expenses of a
Beneficiary**

A. - A.5. ...

6. Disbursements may be made to the eligible education institution, account owner and/or beneficiary. If all of the disbursement is made to the account owner and/or the beneficiary and LOSFA determines that the beneficiary is not enrolled in an eligible educational institution the semester or term for which the disbursement was intended, LOSFA shall notify the account owner that the disbursement will constitute a refund for state and federal income tax purposes, unless returned to the START account. If after such notice the disbursement is not returned to the account within 60 days of the original notice, LOSFA shall recover the amount of the earnings enhancements and interest thereon included in the disbursement from any principal and interest remaining in the account, refund any balance remaining thereafter and close the account.

A.7. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:716 (June 1997), amended LR 24:1272 (July 1998), LR 24:2238 (December 1998), LR 26:2265 (October 2000), LR 27:1881 (November 2001), LR 30:

George Badge Eldredge
General Counsel

0311#006

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Community Supports and Services**

Home and Community Based Services Waivers
New Opportunities Waiver
(LAC 50:XXI.Chapters 137-141)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services amends LAC 50:XXI.Subpart 11 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 1147 of the 2001 Regular Session of the Louisiana Legislature created the Disability Services and Supports System Planning Group composed of representatives from groups including, but not limited to, individuals with disabilities, developmental disabilities and mental illness. The mission of the planning group is to consider and propose provisions for comprehensive efforts to enhance Louisiana's long term care system which include informed choice and quality supports for individuals of all ages with disabilities. Based on recommendations made by the planning group and a stakeholder task force, the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services promulgated an Emergency Rule to implement a new home and community based services waiver designed to enhance the support services available to individuals with developmental disabilities. This new home and community based services waiver is titled the New Opportunities Waiver (*Louisiana Register, Volume 29, Number 6*). The bureau amended the July 1, 2003 Emergency Rule in order to add discharge criteria and clarify other provisions contained in the Rule (*Louisiana Register, volume 29, Number 8*). This Emergency Rule is being promulgated to continue the provisions contained in the August 20, 2003 Rule.

This action is being taken to promote the health and welfare of those individuals with developmental disabilities or mental retardation who are in need of such services and are on a request for services registry.

Effective for dates of service on and after December 19, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services amends provisions of the July 1, 2003 Emergency Rule governing the establishment of the New Opportunities Waiver in accordance with Section 1915(c) of the Social Security Act and the approved waiver application document and attachments.

Title 50

**PUBLIC HEALTH? MEDICAL ASSISTANCE
Part XXI. Home and Community Based
Services Waivers**

Subpart 11. New Opportunities Waiver

Chapter 137. General Provisions

§13701. Introduction

A. The New Opportunities Waiver (NOW), hereafter referred to as NOW, is designed to enhance the long term services and supports available to individuals with developmental disabilities or mental retardation, who would otherwise require an intermediate care facility for the mentally retarded (ICF-MR) level of care. The mission of NOW is to utilize the principle of self determination and supplement the family and/or community supports that are available to maintain the individual in the community. In keeping with the principles of self-determination, NOW includes a self-direction option. This allows for greater flexibility in hiring, training, and general service delivery issues. NOW replaces the current Mentally Retarded/Developmentally Disabled (MR/DD) waiver after recipients of that waiver have been transitioned into NOW.

B. All NOW services are accessed through the case management agency of the recipient's choice. All services must be prior authorized and delivered in accordance with the Bureau of Community Supports and Services (BCSS) approved comprehensive plan of care (CPOC). The CPOC shall be developed using a person-centered process coordinated by the individual's case manager.

C. Providers must maintain adequate documentation to support service delivery and compliance with the approved plan of care and will provide said documentation at the request of BCSS.

D. In order for the NOW provider to bill for services, the individual and the direct service provider, professional or other practitioner rendering service must be present at the time the service is rendered. The service must be documented in service notes describing the service rendered and progress towards the recipient's personal outcomes and CPOC.

E. Only the following NOW services shall be provided for or billed for the same hours on the same day as any other NOW service:

1. substitute family care;
2. residential habilitation; and
3. skilled nursing services;
 - a. skilled nursing services may be provided with:
 - i. substitute family care;
 - ii. residential habilitation;
 - iii. day habilitation;
 - iv. supported employment (all three modules);
 - v. employment related training.

and/or

F. The average recipient expenditures for all waiver services shall not exceed the average Medicaid expenditures for ICF-MR services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:

§13703. Recipient Qualifications for NOW Eligibility

A. In order to qualify for NOW, an individual must be three years of age or older, offered a waiver opportunity (slot) and meet all of the following criteria:

1. meet the definitions for mental retardation or developmentally disability as specified in R.S. 28:380;
2. be on the Mentally Retarded/Developmentally Disabled (MR/DD) Request for Services Registry (RFSR);
3. meet the financial eligibility requirements for the Medicaid Program;
4. meet the medical requirements;
5. meet the requirements for an ICF-MR level of care;
6. meet the health and welfare assurance requirements;
7. be a resident of Louisiana; and
8. be a citizen of the United States or a qualified alien.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:

§13705. NOW Discharge Criteria

A. Recipients shall be discharged from the NOW Program if one of the following criteria is met:

1. loss of Medicaid eligibility as determined by the parish Medicaid Office;
2. loss of eligibility for an ICF-MR level of care as determined by the Regional BCSS office;
3. incarceration or placement under the jurisdiction of penal authorities, courts or state juvenile authorities;
4. change of residence to another state with the intent to become a resident of that state;
5. admission to an ICF-MR facility or nursing facility with the intent not to return to waiver services;
6. the health and welfare of the waiver recipient cannot be assured in the community through the provision of reasonable amounts of waiver services as determined by the Regional BCSS Office, i.e., the waiver recipient presents a danger to himself or others;
7. failure to cooperate in either the eligibility determination process, or the initial or annual implementation of the approved Comprehensive Plan of Care (CPOC) or the responsibilities of the NOW recipient; or
8. continuity of services is interrupted as a result of the recipient not receiving NOW services during a period of 30 or more consecutive days. This does not include interruptions in NOW services because of hospitalization, institutionalization (such as ICFs-MR or nursing facilities), or non-routine lapses in services where the family agrees to provide all needed or paid natural supports. This interruption can not exceed 90 days and there is a documented expectation that the individual will return to the NOW services. During this 90-day period, BCSS will not authorize payment for NOW services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:

Chapter 139. Covered Services

§13901. Individualized and Family Support Services

A. Individualized and Family Support (IFS) are direct support and assistance services provided in the home or the community that allow the recipient to achieve and/or maintain increased independence, productivity, enhanced family functioning and inclusion in the community or for the relief of the primary caregiver. Transportation is included in the reimbursement for these services. Reimbursement for these services includes the development of a service plan for the provision of these services, based on the BCSS-approved CPOC.

1. IFS-Day (IFS-D) services will be authorized during waking hours for up to 16 hours when natural supports are unavailable in order to provide continuity of services to the recipient. Waking hours are the period of time when the recipient is awake and not limited to traditional daytime hours.

2. IFS-Night (IFS-N) services are direct support and assistance provided to individuals during sleeping hours for a minimum of eight hours. The IFS-N worker must be immediately available in the same residence and able to respond. Night hours is the period of time when the recipient is asleep and there is a reduced frequency and intensity of required assistance and is not limited to traditional nighttime hours. Documentation must support this level of assistance.

B. IFS services may be shared by related waiver recipients who live together or up to three unrelated waiver recipients who live together. Waiver recipients may share IFS services staff when agreed to by the recipients and health and welfare can be assured for each individual. Shared IFS services, hereafter referred to as shared support services, may be either day or night services.

C. IFS (day or night) services include:

1. assisting and prompting with the following activities of daily living (ADL):
 - a. personal hygiene;
 - b. dressing;
 - c. bathing;
 - d. grooming;
 - e. eating;
 - f. toileting;
 - g. ambulation or transfers;
 - h. other personal care and behavioral support needs;
- and
- i. any medical task which can be delegated;
2. assisting and/or training in the performance of tasks related to maintaining a safe, healthy and stable home, such as:
 - a. housekeeping;
 - b. laundry;
 - c. cooking;
 - d. evacuating the home in emergency situations;
 - e. shopping; and
 - f. money management;
3. personal support and assistance in participating in community, health, and leisure activities;
4. support and assistance in developing relationships with neighbors and others in the community and in

strengthening existing informal social networks and natural supports;

5. enabling and promoting individualized community supports targeted toward inclusion into meaningful integrated experiences; and

6. providing orientation and information to acute hospital nursing staff concerning the recipient's specific Activities of Daily Living (ADL's), communication, positioning and behavioral needs. All medical decisions will be made by appropriate medical staff.

D. Exclusions. The following exclusions apply to IFS services.

1. Reimbursement shall not be paid for services furnished by a legally responsible relative. A legally responsible relative is defined as the parent of a minor child, foster parent, curator, tutor, legal guardian, or the recipient's spouse.

2. In compliance with licensing regulations, IFS-D and IFS-N services shall not include services provided in the IFS-D or IFS-N worker's residence, regardless of the relationship, unless the worker's residence is a certified foster care home.

E. Staffing Criteria and Limitations

1. IFS-D or IFS-N services may be provided by a member of the recipient's family, provided that the recipient does not live in the family member's residence and the family member is not the legally responsible relative as defined in §13901.D.1.

2. Family members who provide IFS services must meet the same standards as providers or direct care staff who are unrelated to the individual.

3. An IFS-D or N worker shall not work more than 16 hours in a 24-hour period unless there is a documented emergency or a time-limited non-routine need that is documented in the BCSS-approved CPOC. An IFS-D or N shared supports worker shall not work more than 16 hours in a 24-hour period unless there is a documented emergency or a time-limited non-routine need that is documented in the BCSS-approved CPOC.

F. Place of Service

1. IFS services shall be provided in the State of Louisiana. Consideration shall be given to requests for the provision of IFS services outside the state on a case-by-case basis for time-limited periods or emergencies. Exceptions to this requirement may be granted for a documented emergency or a time-limited non-routine need documented in the BCSS-approved CPOC.

2. Provision of IFS services shall not be authorized outside of the United States or the Territories of the United States.

G Provider Requirements. Providers must possess a current, valid license as a Personal Care Attendant agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:

§13903. Center-Based Respite Care

A. Center-Based Respite (CBR) Care is temporary, short-term care provided to a recipient with mentally retarded or developmental disabilities who requires support and/or supervision in his/her day-to-day life due to the absence or relief of the primary caregiver. While receiving center-based

respite care, the recipient's routine is maintained in order to attend school, work or other community activities/outings. The respite center is responsible for providing transportation for community outings, as that is included as part of their reimbursement.

B. Exclusions. The cost of room and board is not included in the reimbursement paid to the respite center.

C. Service Limits. CBR services shall not to exceed 720 hours per recipient, per CPOC year.

D. Provider Requirements. The provider shall possess a current, valid license as a Respite Care Center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:

§13905. Community Integration Development

A. Community Integration Development (CID) facilitates the development of opportunities to assist recipients who are 18 years and older in becoming involved in their community through the creation of natural supports. The purpose of CID is to encourage and foster the development of meaningful relationships in the community reflecting the recipient's choices and values. Objectives outlined in the Comprehensive Plan of Care will afford opportunities to increase community inclusion, participation in leisure/recreational activities, and encourage participation in volunteer and civic activities. Reimbursement for this service includes the development of a service plan. The recipient must be present in order to receive this service. The recipient may share CID services with one other NOW recipient.

B. Transportation costs are included in the reimbursement for CID services.

C. Service Limitations. Services shall not exceed 60 hours per recipient per CPOC year.

D. Provider Qualifications. The provider must possess a current, valid license as a Supervised Independent Living agency or Personal Care Attendant agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:

§13907. Residential Habilitation-Supported Independent Living

A. Residential Habilitation-Supported Independent Living (SIL) assists the recipient to acquire, improve or maintain those social and adaptive skills necessary to enable an individual to reside in the community and to participate as independently as possible. SIL services include assistance and/or training in the performance of tasks such as personal grooming, housekeeping and money management. Payment for this service includes oversight and administration and the development of service plans for the enhancement of socialization with age-appropriate activities that provide enrichment and may promote wellness. These services also assist the individual in obtaining financial aid, housing, advocacy and self-advocacy training as appropriate, emergency support, trained staff and assisting the recipient in accessing other programs for which he/she qualifies. SIL recipients must be 18 years or older.

B. Place of Service. Services are provided in the recipient's residence and/or in the community. The recipient's residence includes his/her apartment or house, provided that he/she does not live in the residence of any legally responsible relative. An exception will be considered when the recipient lives in the residence of a spouse or disabled parent, or a parent age 70 or older. Family members who are not legally responsible relatives as defined in §13901.D.1, can be SIL workers provided they meet the same qualifications as any other SIL worker.

C. Exclusions

1. Legally responsible relatives may not be SIL providers.

2. SIL shall not include the cost of:

- a. meals or the supplies needed for preparation;
- b. room and board;
- c. home maintenance, or upkeep and improvement;
- d. direct or indirect payment to members of the recipient's legally responsible relative;
- e. routine care and supervision which could be expected to be provided by a family; or
- f. activities or supervision for which a payment is made by a source other than Medicaid e.g., Office for Citizens with Developmental Disabilities (OCDD), etc.

D. Service Limit. SIL services are limited to one service per day, per CPOC year.

E. Provider Qualifications. The provider must possess a current, valid license for the Supervised Independent Living module issued by the Department of Social Services, Bureau of Licensing.

F. Provider Responsibilities

1. Minimum direct services by the SIL agency include three documented contacts per week, by the SIL provider agency, with at least one contact being face-to-face in addition to the approved direct support hours.

2. The provider must furnish back up staff that is available on a 24-hour basis.

3. Residential habilitation services shall be coordinated with any services listed in the BCSS-approved CPOC, and may serve to reinforce skills or lessons taught in school, therapy or other settings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:

§13909. Substitute Family Care

A. Substitute Family Care (SFC) provides for day programming, transportation, independent living training, community integration, homemaker, chore, attendant care and companion services, and medication oversight (to the extent permitted under state law) to recipients residing in a licensed substitute family care home. The service is a stand-alone family living arrangement for individuals age 18 and older. The SFC house parents assume the direct responsibility for the individual's physical, social, and emotional well-being and growth, including family ties. Immediate family members (mother, father, brother and/or sister) cannot be substitute family care parents. Reimbursement for this service includes the development of a service plan based on the approved CPOC.

B. Service Limits. SFC services are limited to one service per day.

C. Provider Qualifications. The provider must possess a current, valid license as a Substitute Family Care agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:

§13911. Day Habilitation

A.1. Day habilitation is assistance with social and adaptive skills necessary to enable the recipient to reside in a community setting and to participate as independently as possible in the community. These services focus on socialization with meaningful age-appropriate activities which provide enrichment and promote wellness, as indicated in the person-centered plan. Day habilitation services must be directed by a service plan and provide assistance and/or training in the performance of tasks related to acquiring, maintaining or improving skills including, but not limited to:

- a. personal grooming;
- b. housekeeping;
- c. laundry;
- d. cooking;
- e. shopping; and
- f. money management.

2. Day Habilitation services shall be coordinated with any therapy, employment-related training, or supported employment models that the recipient may be receiving. The recipient does not receive payment for the activities in which they are engaged. The recipient must be 18 years of age or older in order to receive day habilitation services.

B. Service Limits. Services can be provided one or more hours per day but not to exceed six hours per day or 6,240 1/4 hour units of service per Comprehensive Plan of Care (CPOC) year.

C. Licensing Requirements. The provider must possess a current, valid license as an Adult Day Care Center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:

§13913. Supported Employment

A. Supported employment is competitive work in an integrated work setting, or employment in an integrated work setting in which the individuals are working toward competitive work that is consistent with the strengths, resources, priorities, interests, and informed choice of individuals for whom competitive employment has not traditionally occurred. The recipient must be 18 years of age or older in order to receive supported employment services.

B. These are services provided to individuals who are not served by Louisiana Rehabilitation Services, need more intense, long-term follow along and usually cannot be competitively employed because supports cannot be successfully phased out.

C. Supported employment is conducted in a variety of settings, particularly work sites in which persons without disabilities are employed. Supported employment includes activities needed by waiver recipients to sustain paid work, including supervision and training and is based on an individualized service plan. Supported employment includes assistance and prompting with:

1. personal hygiene;
 2. dressing;
 3. grooming;
 4. eating;
 5. toileting;
 6. ambulation or transfers;
 7. other personal care and behavioral support needs;
- and
8. any medical task which can be delegated.

D. Supported Employment Models. Reimbursement for supported employment includes an individualized service plan for each model.

1. A one-to-one model of supported employment is a placement strategy in which an employment specialist (job coach) places a person into competitive employment, provides training and support and then gradually reduces time and assistance at the work site. This service is time limited to six to eight weeks in duration.

2. Follow along services are designed for individuals who are in supported employment and have been placed in a work site and only require the oversight of a minimum of two visits per month for follow along at the job site.

3. Mobile Work Crew/Enclave is an employment setting in which a group of eight or fewer workers with disabilities who perform work in a variety of locations under the supervision of a permanent employment specialist (job coach/supervisor). Typically this service is up to six hours per day, five days per week.

E. Service Exclusions

1. Services shall not be used in conjunction or simultaneously with any other waiver service, except substitute family care, residential habilitation supported independent living, and skilled nursing services.

2. When supported employment services are provided at a work site in which persons without disabilities are employees, payment will be made only for the adaptations, supervision and training required by individuals receiving waiver services as a result of their disabilities, and will not include payment for the supervisory activities rendered as a normal part of the business setting.

3. Services are not available to individuals who are eligible to participate in programs funded under Section 110 of the Rehabilitation Act of 1973 or Section 602(16) and (17) of the Individuals with Disabilities Education Act, 20 U.S.C. 1401(16) and (71).

F. Service Limits

1. One-to-One intensive services shall not exceed 1,280 1/4 hour units per CPOC year. Services shall be limited to eight hours a day, five days a week, for six to eight weeks.

2. Follow along services shall not exceed 24 days per CPOC year.

3. Mobile Crew/Enclave services shall not exceed 8,320 1/4 hour units of service per CPOC year, without additional documentation. This is eight hours per day, five days per week.

G Licensing Requirements. The provider must possess a current valid license as an Adult Day Care Center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:

§13915. Transportation for Day Habilitation and Supported Employment Models

A. Transportation provided between the recipient's residence and the site of the day habilitation or supported employment model, or between the day habilitation and supported employment model site (if the recipient receives services in more than one place) is reimbursable when day habilitation or supported employment model has been provided. Reimbursement will be a daily rate for a round trip fare. A round trip is defined as transportation from the recipient's place of residence and return to the recipient's place of residence. The round trip shall be documented in the provider's transportation log.

B. Licensing Requirements. Transportation providers must possess a current valid license as an Adult Day Care Center. The licensed provider must carry \$1,000,000 liability insurance on the vehicles used in transporting the recipients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:

§13917. Employment-Related Training

A. Employment-related training consists of paid employment for recipients for whom competitive employment at or above the minimum wage is unlikely, and who need intensive ongoing support to perform in a work setting because of their disabilities. Services are aimed at providing recipients with opportunities for employment and related training in work environments one to eight hours a day, one to five days a week at a commensurate wage in accordance with United States Department of Labor regulations and guidelines. The recipient must be 18 years or older in order to receive employment-related training services. Reimbursement for these services includes transportation and requires an individualized service plan.

B. Employment-related training services include, but are not limited to:

1. assistance and prompting in the development of employment related skills. This may include:

- a. assistance with personal hygiene;
- b. dressing;
- c. grooming;
- d. eating;
- e. toileting;
- f. ambulation or transfers;
- g. behavioral support needs; and
- h. any medical task which can be delegated;

2. employment at a commensurate wage at a provider facility for a set or variable number of hours;

3. observation of an employee of an area business in order to obtain information to make an informed choice regarding vocational interest;

4. instruction on how to use equipment;

5. instruction on how to observe basic personal safety skills;

6. assistance in planning appropriate meals for lunch while at work;

7. instruction on basic personal finance skills;

8. information and counseling to a recipient and, as appropriate, his/her family on benefits planning and assistance in the process.

C. Exclusions. The following service exclusions apply to employment-related training.

1. Services are not available to recipients who are eligible to participate in programs funded under Section 110 of the Rehabilitation Act of 1973 or Section 602(16) and (17) of the Individuals with Disabilities Education Act, 20 U.S.C. 1401(16) and (71).

D. Service Limits. Services shall not exceed eight hours a day, five days a week, and cannot exceed 6,240 1/4 hour units of service per CPOC year.

E. Licensing Requirements. The provider must possess a current, valid license as an Adult Day Care Center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:

§13919. Environmental Accessibility Adaptations

A. Environmental accessibility adaptations are physical adaptations to the home or a vehicle that are necessary to ensure the health, welfare, and safety of the recipient or that enable him/her to function with greater independence in the home and/or community. Without these services, the recipient would require additional supports or institutionalization.

B. Such adaptations may include:

1. installation of non-portable ramps and grab-bars;
2. widening of doorways;
3. modification of bathroom facilities; or
4. installation of specialized electric and plumbing systems which are necessary to accommodate the medical equipment and supplies for the welfare of the individual.

C. Requirements for Authorization. Items reimbursed through NOW funds shall be supplemental to any adaptations furnished under the Medicaid State Plan.

1. Any service covered under the Medicaid State Plan shall not be authorized by NOW. The environmental accessibility adaptation(s) must be delivered, installed, operational, and reimbursed in the CPOC year in which it was approved. Three written itemized detailed bids, including drawings with the dimensions of the existing and proposed floor plans relating to the modification, must be obtained and submitted for prior authorization. Modifications may be applied to rental or leased property with the written approval of the landlord. Reimbursement shall not be paid until receipt of written documentation that the job has been completed to the satisfaction of the recipient.

2. Three bids may not be required if the environmental accessibility adaptations are available from a single source supplier due to the distance of the recipient's home from other environmental accessibility adaptations providers. The justification and agreement by the service planning/support team for not providing three bids must be included with any request for prior approval.

3. Excluded are those adaptations or improvements to the residence that are of general utility or maintenance and are not of direct medical or remedial benefit to the individual, including, but not limited to:

- a. air conditioning or heating;
- b. flooring;

- c. roofing, installation or repairs;
- d. smoke and carbon monoxide detectors, sprinklers, fire extinguishers, or hose; or
- e. furniture or appliances.

4. Adaptations which add to the total square footage or add to the total living area under the roof of the residence are excluded from this benefit.

5. Home modification is not intended to cover basic construction cost.

6. Excluded are those vehicle adaptations which are of general utility or for maintenance of the vehicle or repairs to adaptations.

D. Service Limits. There is a cap of \$4,000 per recipient for environmental accessibility adaptations. Once a recipient reaches 90 percent or greater of the cap and the account has been dormant for three years, the recipient may access another \$4,000. Any additional environmental accessibility expenditures during the dormant period reset the three-year time frame.

E. Provider Qualifications. The provider must be an enrolled Medicaid provider and comply with applicable state and local laws governing licensure and/or certification. All persons performing the services (building contractors, plumbers, electricians, engineers, etc.) must meet all state or local requirements for licensure or certification. When state and local building or housing code standards are applicable, modifications to the home shall meet such standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:

§13921. Specialized Medical Equipment and Supplies

A. Specialized Medical Equipment and Supplies (SMES) are devices, controls, or appliances which enable the recipient to:

1. increase his/her ability to perform the activities of daily living;
2. ensure safety; or
3. perceive and control the environment in which he/she lives.

B. The service includes medically necessary durable and nondurable medical equipment not covered under the Medicaid State Plan. NOW will not cover non-medically necessary items. All items shall meet applicable standards of manufacture, design and installation.

C. All alternate funding sources that are available to the recipient shall be pursued before a request for the purchase or lease of specialized equipment and supplies will be considered.

D. Exclusion. Excluded are specialized equipment and supplies that are of general utility or maintenance, but are not of direct medical or remedial benefit to the individual. Refer to the New Opportunities Waiver Provider Manual for a list of examples.

E. Service Limitations. There is a cap of \$4,000 per individual for specialized equipment and supplies. Once a recipient reaches 90 percent or greater of the cap and the account has been dormant for three years, the recipient may access another \$4,000. Any additional specialized equipment and supplies expenditures during the dormant period reset the three-year time frame.

F. **Provider Qualifications.** Providers must be enrolled in the Medicaid Program as a durable medical equipment provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:

§13923. Personal Emergency Response Systems

A. Personal Emergency Response Systems (PERS) is a rented electronic device connected to the person's phone and programmed to signal a response center which enables an individual to secure help in an emergency.

B. **Recipient Qualifications.** Personal emergency response systems (PERS) services are available to those persons who:

1. live alone without the benefit of a natural emergency back-up system;
2. live alone and would otherwise require extensive IFS services or other NOW services;
3. need support due to cognitive limitations until they are educated on the use of PERS;
4. have a demonstrated need for quick emergency back-up;
5. live with older or disabled care; or
6. are unable to use other communications systems as they are not adequate to summon emergency assistance.

C. Coverage of the PERS is limited to the rental of the electronic device. PERS services shall include the cost of maintenance and training the recipient to use the equipment.

D. **Provider Qualifications.** The provider must be an enrolled Medicaid provider of the Personal Emergency Response System.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:

§13925. Professional Consultation

A. Professional consultation are services designed to evaluate, develop programs, and train natural and formal care givers to implement training or therapy programs, which will increase the individual's independence, participation, and productivity in his/her home, work, and community. These services are not meant to be long-term on-going services. They are normally meant to be short-term or intermittent services to develop critical skills which may be self-managed by the individual or maintained by natural and formal care givers. The recipient must be present in all aspects of the consultation in order for the professional to receive payment for these services. Service intensity, frequency and duration will be determined by individual need. These services may include assessments or periodic reassessments, and may be direct or indirect. Documentation of services provided must be available on-site. The professional consultation services are to be used only when the services are not covered under the Medicaid State Plan. The recipients must be 21 years or older in order to receive professional consultation services.

B. Professional consultation shall include the following services:

1. consultation provided by a licensed registered nurse regarding those medically necessary nursing services

ordered by a physician that exceed the service limits for home health services that do not meet the skilled nursing criteria under the Medicaid State Plan. Services must comply with the Louisiana Nurse Practice Act. Consultations may address health care needs related to prevention and primary care activities;

2. evaluation and education performed by a licensed psychologist as specified by state law and licensure. These services are for the treatment of behavioral or mental conditions that address personal outcomes and goals desired by the recipient and his/her team. Services must be reasonable and necessary to preserve and improve or maintain adaptive behaviors or decrease maladaptive behaviors of a person with mental retardation or developmental disabilities. Consultation provides the recipient, family, care givers, or team with information necessary to plan and implement plans for the recipient;

3. highly specialized consultation services furnished by a licensed clinical social worker and designed to meet the unique counseling needs of individuals with mental retardation and development disabilities. Counseling may address areas such as human sexuality, depression, anxiety disorders, and social skills. Services must only address those personal outcomes and goals listed in the BCSS approved CPOC.

C. **Service Limits.** Professional consultation services are limited to a \$750 cap per individual per CPOC year for the combined range of professional consultations.

D. **Provider Qualifications.** The provider of professional consultation services must possess a current valid license as a personal care attendant (PCA), supervised independent living (SIL) or home health (HH) agency. Each professional rendering service must:

1. possess a current valid Louisiana license to practice in his/her field;
2. have at least one year experience in his/her field of expertise, post licensure; and
3. be contracted or employed with an enrolled PCA, SIL or HH agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:

§13927. Professional Services

A. Professional services are services designed to increase the individual's independence, participation and productivity in the home, work, and community. The recipient must be 21 years of age or older in order to receive these services. Professional services are to be used only when the services are not covered under the Medicaid State Plan. Professional services must be delivered with the recipient present and be provided based on the approved CPOC and an individualized service plan. Professional services are limited to the following services.

1. Psychological services are direct services performed by a licensed psychologist, as specified by state law and licensure. These services are for the treatment of a behavioral or mental condition that addresses personal outcomes and goals desired by the recipient and his or her team. Services must be reasonable and necessary to preserve and improve or maintain adaptive behaviors or decrease

maladaptive behaviors of a person with mental retardation or developmental disabilities. Service intensity, frequency, and duration will be determined by individual need.

2. Social work services are highly specialized direct counseling services furnished by a licensed clinical social worker and designed to meet the unique counseling needs of individuals with mental retardation and developmental disabilities. Counseling may address areas such as human sexuality, depression, anxiety disorders, and social skills. Services must only address those personnel outcomes and goals listed in the BCSS approved CPOC.

3. Nursing services are medically necessary direct services provided by a licensed registered nurse or licensed practical nurse. Services must be ordered by a physician and comply with the Louisiana Nurse Practice Act. Direct services may address health care needs related to prevention and primary care activities, treatment and diet. Reimbursement is only available for the direct service performed by a nurse, and not for the supervision of a nurse performing the hands-on direct service.

B. Service Limits. There shall be a \$1,500 cap per recipient per CPOC year for the combined range of professional services.

C. Provider Qualifications. The provider of professional services must possess a current valid license as a personal care attendant, supervised independent living or home health agency. Each professional rendering service must possess a current valid Louisiana license to practice in his/her field and have at least one year of experience post licensure in their area of expertise and be contracted or employed with an enrolled PCA, SIL, or HH agency.

D. Nonreimbursable Activities. The following activities are not reimbursable:

1. friendly visiting, attending meetings;
2. time spent on paperwork or travel;
3. time spent writing reports and progress notes;
4. time spent on staff training;
5. time spent on the billing of services; and
6. other nonMedicaid reimbursable activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:

§13929. Skilled Nursing Services

A. Skilled Nursing services are medically necessary nursing services ordered by a physician and provided to a medically fragile recipient in or outside of his/her home. Skilled nursing services shall be provided by a licensed, enrolled home health agency using licensed nurses. All Medicaid State Plan services must be utilized before accessing this service.

B. Recipient Criteria. The recipient must be 21 years of age or older and have a diagnosis of a chronic disease which requires the vigilance of a licensed nurse to provide evaluation and management of a disease, thereby limiting the need for frequent acute or emergency services. Skilled nursing services require a physician's order documenting medical necessity and individual nursing service plan. These services must be included in the individual's BCSS-approved CPOC. Skilled nursing services shall be available to individuals who are medically fragile with chronic conditions who meet one of the following criteria:

1. have unstable or uncontrolled diabetes and are insulin dependent;
2. have insufficient respiratory capacity requiring use of oxygen therapy, a ventilator, and/or tracheotomy;
3. require hydration, nutrition, and/or medication via a gastro-tube;
4. have severe musculo-skeletal conditions/non-ambulatory status that requires increased monitoring and/or the treatment of decubitus;
5. have kidney failure requiring dialysis;
6. have cancer requiring radiation/chemotherapy;
7. require end-of-life care not covered by hospice services;
8. require the use of life-sustaining equipment to ensure sufficient body function (a ventilator, a suction machine, pulse oximeters, apnea monitors, or nebulizers); or
9. require the administration of medications which by law must be administered by a licensed nurse via mediports, central lines, or intravenous therapy.

C. When there is more than one recipient in the home receiving skilled nursing services, services may be shared and payment must be coordinated with the service authorization system and each recipient's BCSS approved CPOC.

D. Provider Qualifications. The provider must possess a current valid license as a home health agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:

§13931. One Time Transitional Expenses

A. One time transitional expenses are those allowable expenses incurred by recipients who are being transitioned from an ICF-MR to their own home or apartment in the community of their choice. Own home shall mean the recipient's own place of residence and does not include any family members home or substitute family care homes. The recipient must be 18 years or older in order to receive this service.

B. Allowable transitional expenses include:

1. the purchase of essential furnishings such as:
 - a. bedroom and living room furniture;
 - b. table and chairs;
 - c. window blinds;
 - d. eating utensils; and
 - e. food preparation items;
2. moving expenses required to occupy and use a community domicile;
3. health and safety assurances, such as pest eradication, allergen control, or one-time cleaning prior to occupancy;
4. non-refundable security deposits.

C. Service Limits. Set-up expenses are capped at \$3,000 over a recipient's lifetime.

D. Service Exclusion. Transitional expenses shall not constitute payment for housing, rent, or refundable security deposits.

E. Provider Qualifications. This service shall only be provided by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities (OCDD) with coordination of appropriate entities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:

§13933. Transitional Professional Support Services

A. Transitional Professional Support Services is a system using specialized staff and resources to intervene and stabilize in a situation caused by any severe behavioral or medical circumstance that could result in loss of a current community-based living arrangement. These services are limited to recipients who have transitioned out of a public developmental center and have reached the cap for professional services and professional consultation for the recipient's CPOC year. The recipient must be present for all services provided.

B. Recipient Criteria

1. These services are available for recipients who meet all of the following criteria:

- a. have a developmental disability and one or more concurrent mental health diagnoses of autism or other pervasive developmental disorders;
- b. have a history of recurrent challenging behaviors that risks injury to the individual or others, or results in significant property damage; and
- c. have a need for professional services and/or professional consultation that exceeds the service limits for these services available under the Medicaid State Plan and NOW, as documented by a statement of necessity from the treating psychiatrist or psychologist; or

2. the recipient has an acute illness or injury which requires the added vigilance of a licensed nurse to provide treatment of disease symptoms that may avert and/or delay the consequence of advanced complications, thereby reducing the likelihood of further deterioration. Supporting documentation from the recipient's physician must be provided to demonstrate need.

C. Exclusion. All Medicaid State Plan services must be utilized before accessing this service.

D. Provider Qualifications. Providers of transitional professional support services must possess a current, valid license as a PCA, SIL, or HH agency. Each professional rendering service must possess a valid Louisiana license to practice in his/her field and one year of experience in their field of expertise post licensure.

E. Provider Responsibility. An agency that fulfills this role must possess specialized staff and resources to intervene in and stabilize a situation caused by any severe behavioral or medical circumstance that could result in loss of a current community-based living arrangement. The provider must develop and maintain a current service plan that details the program goals, plans, and expected outcomes from all individuals providing these services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:

§13935. Consumer Directed Service

A. The consumer directed initiative is a payment mechanism and a self-determination option for NOW recipients in the Department of Health and Hospitals

Regions 1, 2, and 9. This is a voluntary option where the waiver recipient or his or her authorized representative may choose what services and/or supports best fit their individual needs through the person-centered planning process, and as documented on the BCSS-approved CPOC. The waiver recipient selecting this option will be required to use a contracted fiscal agent to provide designated functions on his/her behalf.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:

Chapter 141. Reimbursement

§14101. Reimbursement Methodology

A. Reimbursement for the following services shall be a prospective flat rate for each approved unit of service provided to the recipient. One quarter hour (15 minutes) is the standard unit of service, which covers both service provision and administrative costs.

1. Center-Based Respite
2. Community Integration Development
3. Day Habilitation
4. Employment Related Training
5. Individualized and Family Support-Day and Night
6. Professional Consultation
7. Professional Services
8. Skilled Nursing Services
9. Supported Employment, One-to-One Intensive and Mobile Crew/Enclave
10. Transitional Professional Support Services
11. Shared Supports (IFS-D and -N, Skilled Nursing, CID)

a. Services furnished to two recipients will be reimbursed at 75 percent of the full rate for each recipient; and

b. services furnished to three recipients will be reimbursed at 66 percent of the full rate for each recipient.

B. The following services are to be paid at cost, based on the need of the individual and when the service has been prior authorized and on the CPOC:

1. environmental accessibility adaptations;
2. specialized medical equipment and supplies; and
3. transitional expenses.

C. The following services are paid through a per diem:

1. substitute family care;
2. residential habitation-supported independent living; and
3. supported employment-follow along.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:

Implementation of this proposed Rule is subject to approval by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Barbara Dodge at the Bureau of Community Supports and Services, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this

Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0311#072

DECLARATION OF EMERGENCY

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

Adult Denture Program? Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides coverage under the Medicaid Program for dentures and denture related services rendered to recipients age 21 years and older. As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the bureau increased the reimbursement fees for certain designated denture procedures. In addition, the bureau established requirements for unique identification information to be processed into all new removable dental prosthetics reimbursed under the Medicaid Program (*Louisiana Register, Volume 27, Number 8*). As a result of the allocation of additional funds by the Legislature during the 2003 Regular Session the bureau increased the reimbursement fees for certain denture procedures (*Louisiana Register, Volume 29, Number 7*). This Emergency Rule is being promulgated to continue the provisions contained in the August 1, 2003 Rule. This action is being taken to promote the health and welfare of Medicaid recipients by encouraging the participation of more dental providers in the Medicaid Program.

Emergency Rule

Effective November 30, 2003, the Department of Health and Hospitals, Bureau of Health Services Financing increases the following reimbursement fees for certain designated procedures.

Procedure Code	Description	Fee
D0150	Comprehensive Oral Exam? Adult	\$ 20
D5110	Complete Denture, Maxillary	\$495
D5120	Complete Denture, Mandibular	\$495
D5130	Immediate Complete Denture, Maxillary	\$495
D5140	Immediate Complete Denture, Mandibular	\$495
D5211	Partial Denture, Resin Base, Maxillary	\$470
D5212	Partial Denture, Resin Base, Mandibular	\$470

D5510	Repair Complete Broken Denture Base	\$100
D5520	Repair Missing or Broken Teeth? Complete Denture, per Tooth	\$52/\$26*
D5610	Repair Resin Denture Base, Partial Denture	\$100
D5630	Repair or Replace Broken Clasp, Partial Denture	\$ 95
D5640	Replace Broken Teeth, Partial Denture, per Tooth	\$52/\$26*
D5650	Add Tooth to Existing Partial Denture	\$52/\$26*
D5660	Add Clasp to Existing Partial Denture	\$ 95
D5750	Reline Complete Maxillary Denture (Lab)	\$238
D5751	Reline Complete Mandibular Denture (Lab)	\$238
D5760	Reline Maxillary Partial Denture (Lab)	\$208
D5761	Reline Mandibular Partial Denture (Lab)	\$208

*the rate for each subsequent tooth in the same arch

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0311#067

DECLARATION OF EMERGENCY

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

Durable Medical Equipment Program
Vagus Nerve Stimulators
(LAC 50:XVII.Chapter 5)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage for durable medical equipment and supplies under the Medicaid Program. All medical equipment, appliances and supplies must be prior authorized to determine medical necessity. In concurrence with the recommendations of the Medical Practices Committee, the bureau established medical necessity criteria for the prior authorization of vagus nerve stimulators (*Louisiana Register, Volume 27, Number 12*). Vagus nerve stimulators (VNS) are implantable devices used to assist in the control of seizures related to epilepsy. This Emergency Rule is being adopted to continue

provisions contained in the December 1, 2001 Rule. This action is being taken in order to protect the health and well being of Medicaid recipients who have epilepsy related seizures and may benefit from use of this medical device.

Effective November 27, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following criteria for prior authorization of vagus nerve stimulators (VNS) under the Durable Medical Equipment Program. The VNS is an implantable device used to assist in the control of seizures related to epilepsy and must be prescribed by a physician.

Title 50

PUBLIC HEALTH? MEDICAL ASSISTANCE

Part XVII. Durable Medical Equipment

Subpart 1. Prosthetics

Chapter 5. Vagus Nerve Stimulator

§501. Prior Authorization

A. The Vagus Nerve Stimulator (VNS) is an implantable device used to assist in the control of seizures related to epilepsy and must be prescribed by a physician. Implantation of the VNS device and all related procedures must be authorized by the department based on criteria in §§503-507.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§503. Recipient Criteria

A. Inclusion Criteria. Consideration shall be given for Medicaid reimbursement for implantation of the VNS if the treatment is considered medically necessary and the patient meets all of the following criteria. The patient:

1. has medically intractable epilepsy;
2. is 12 years of age or older, although case-by-case consideration may be given to younger children who meet all other criteria and have sufficient body mass to support the implanted system;
3. has a diagnosis of partial epilepsy confirmed and classified according to the *International League Against Epilepsy* classification. The patient may also have associated generalized seizures, such as tonic, tonic-tonic, or atonic. The VNS may have efficacy in primary generalized epilepsy as well;
4. has seizures that resist control by antiepilepsy treatment, with adequately documented trials of appropriate antiepilepsy drugs or documentation of the patient's inability to tolerate these medications;
5. has undergone surgical evaluation and is not considered to be an optimal candidate for epilepsy surgery;
6. is experiencing at least four to six identifiable partial onset seizures each month. The patient must have had a diagnosis of intractable epilepsy for at least two years. The two-year period may be waived if it is deemed that waiting would be harmful to the patient;
7. has undergone Quality of Life (QOL) measurements. The choice of instruments used for the QOL must assess quantifiable measures of day to day life in addition to the occurrence of seizures. In the expert opinion of the treating physician, and clearly documented in the request for prior authorization, there must be reason to believe that QOL will improve as a result of the VNS implant. This improvement should be in addition to the benefit of seizure frequency reduction.

B. Exclusion Criteria. Regardless of the provisions of §503.A, authorization for implantation of a VNS shall not be given if the patient meets one or more of the following criteria. The patient:

1. has psychogenic seizures or other nonepileptic seizures; or
2. has systemic or localized infections that could infect the implanted system; or
3. has a body mass that is insufficient to support the implanted system; or
4. has a progressive disorder that is a contraindication to VNS implantation. Examples are malignant brain neoplasm, Rasmussen's encephalitis, Landau-Kleffner Syndrome and progressive metabolic and degenerative disorders. Progressive disorders, psychosis, or mental retardation that are not contraindications to VNS implantation are not exclusion criteria. Taking into consideration the additional diagnosis, the treating physician must document the benefits of the VNS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§505. Programming the Vagus Nerve Stimulator

A. The programming of the VNS stimulator must be performed by the neurosurgeon who performed the implant procedure or by a licensed neurologist. Programming subsequent to the first three times may be subject to post authorization review for medical necessity prior to payment of the claim. Authorization for payment will only be considered when there is documented clinical evidence to show that the recipient has experienced seizures since previous programming attempts. Payment for the programming procedure will only be authorized when it is performed as an attempt to reduce or prevent future episodes of seizures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§507. Subsequent Implants/Battery Replacement

A. Requests to replace batteries or for new implants must be submitted with documentation that shows that the recipient was benefiting from the original VNS transplant.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

0311#069

DECLARATION OF EMERGENCY

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

Early and Periodic Screening, Diagnosis and Treatment
Dental Program? Reimbursement
(LAC 50:XV.6903)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby amends LAC 50:XV.6903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) dental services under the Medicaid Program. Reimbursement for these services is a flat fee established by the bureau minus the amount that any third party coverage would pay. The allocation of additional funds during the 2002 Legislative Regular Session allowed the bureau to increase the reimbursement rates for certain designated dental procedures (*Louisiana Register, Volume 28, Number 12*). As a result of the allocation of additional funds by the Legislature during the 2003 Regular Session the bureau increased the reimbursement fees for certain dental procedures (*Louisiana Register, Volume 29, Number 7*). This Emergency Rule is being promulgated to continue the provisions contained in the August 1, 2003 Rule. This action is being taken to promote the health and welfare of Medicaid recipients and to maintain access to EPSDT dental services by encouraging the continued participation of dental providers in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase expenditures for EPSDT dental services by approximately \$1,561,642 for state fiscal year 2003-2004.

Title 50

PUBLIC HEALTH? MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis and Treatment

Chapter 69. Dental

§6903. Reimbursement

A. Effective for dates of services on or after November 30, 2003, reimbursement fees are increased as follows for certain designated procedure codes. The Procedure Codes have been amended to comply with the Health Insurance Portability and Accountability Act.

Procedure Code	Description	Fee
D0120	Periodic Oral Exam	\$ 18
D0150	Comprehensive Oral Exam	\$ 20
D0220	Radiograph-Periapical? First Film	***
D0230	Radiograph-Periapical? Each Additional Film	***
D0272	Radiograph-Bitewing? Two Films	***

D1110	Adult Prophylaxis	\$ 29
D1120	Child Prophylaxis	***
D1351	Sealant? Per Tooth	\$ 17
D1510	Space Maintainer? Unilateral	\$ 95
D1515	Space Maintainer? Bilateral	\$ 177
D2140	Amalgam? One Surface, Primary or Permanent	***
D2150	Amalgam? Two Surface, Primary or Permanent	***
D2160	Amalgam? Three Surface, Primary or Permanent	***
D2161	Amalgam? Four or more Surface, Permanent	\$ 88
D2330	Resin-Based Composites? One Surface	***
D2331	Resin-Based Composites? Two Surface	***
D2332	Resin-Based Composites? Three Surface	***
D2335	Resin-Based Composites? 4 or More Surfaces, Anterior	\$ 88
D2390	Resin-based Composite Crown, Anterior	\$ 88
D2930	Stainless Steel Crown, Primary	\$ 88
D2931	Stainless Steel Crown, Permanent	\$ 88
D2932	Prefabricated Resin Crown	\$ 84
D2950	Crown Buildup	***
D3220	Pulpotomy? Deciduous Tooth Only	***
D3310	Root Canal? One Canal	***
D3320	Root Canal? Two Canals	***
D3330	Root Canal? Three Canals	***
D4341	Periodontal Scaling and Root Planning	\$ 75
D4355	Full Mouth Debridement	\$ 58
D5110	Complete Denture, Maxillary	\$ 495
D5120	Complete Denture, Mandibular	\$ 495
D5130	Immediate Complete Denture, Maxillary	\$ 495
D5140	Immediate Complete Denture, Mandibular	\$ 495
D5211	Partial Denture, Resin Base, Maxillary	\$ 470
D5212	Partial Denture, Resin Base, Mandibular	\$ 470
D5510	Repair Complete Broken Denture Base	\$ 100
D5520	Repair Missing or Broken Teeth-Complete Denture, per Tooth	\$52/\$26*
D5610	Repair Resin Denture Base, Partial Denture	\$ 100
D5630	Repair or Replace Broken Clasp, Partial Denture	\$ 95
D5640	Replace Broken Teeth, Partial Denture, per Tooth	\$52/\$26*
D5650	Add Tooth to Existing Partial Denture	\$52/\$26*
D5660	Add Clasp to Existing Partial Denture	\$ 95
D5750	Reline Complete Denture, Maxillary (Lab)	\$ 238
D5751	Reline Complete Denture, Mandibular (Lab)	\$ 238
D5760	Reline Partial Denture, Maxillary (Lab)	\$ 208
D5761	Reline Partial Denture, Mandibular (Lab)	\$ 208
D5820	Interim Partial Denture, Maxillary	\$ 300
D5821	Interim Partial Denture, Mandibular	\$ 300
D7140	Extraction, Erupted Tooth or Exposed Root	***
D7210	Surgical Extraction	***
D7220	Removal of Impacted Tooth, Soft Tissue	\$ 86
D7230	Removal of Impacted Tooth, Partially Bony	\$ 136
D7240	Removal of Impacted Tooth, Completely Bony	\$ 161
D7241	Removal of Impacted Tooth, Completely Bony with Unusual Surgical Complications	\$ 186
D8050	Interceptive Orthodontic Treatment, Primary Dentition	** \$ 350
D8060	Interceptive Orthodontic Treatment, Transitional Dentition	** \$ 350

D8070	Comprehensive Orthodontic Treatment, Transitional Dentition	** \$3,600
D8080	Comprehensive Orthodontic Treatment, Adolescent Dentition	** \$3,600
D8090	Comprehensive Orthodontic Treatment, Adult Dentition	** \$3,600
D9110	Palliative (emergency) Dental Pain Treatment	\$ 25
D9241	Intravenous Conscious Sedation/Analgesia? First 30 Minutes	\$ 94

* Rate for each subsequent tooth in the same arch

** Manually-priced maximum fee

[Editor's Note: * * * in the table above are indicative of no changes in rates.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:176 (February 2003), amended LR 30:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0311#070

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Facility Need Review Additional Beds for Certain ICF-MRs (LAC 48:I.12503)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amends LAC 48:I.12503, Determination of Bed Need, as authorized by R.S. 40:2116. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B) and shall be in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals adopted a Rule governing Facility Need Review in August 1995 (*Louisiana Register, Volume 21, Number 8*). The August 1995 Rule was amended in July 1999 to adopt new provisions governing the relocation of nursing facility beds (*Louisiana Register, Volume 25, Number 7*). It was further amended in October 2002 to adopt new provisions creating the Emergency Community Home Bed Pool for nonstate-operated community homes (*Louisiana Register, Volume 28, Number 10*).

The department is now proposing to amend the August 1995 Rule governing the Facility Need Review Process in order to implement the provisions of Act 900 of the 2003

Regular Session. The Act, effective August 15, 2003, enacted R.S. 40:2116(G), grants an exemption from the usual requirements of the Facility Need Review process as set out in R.S. 40:2116 and in the department's rules and regulations. Any intermediate care facility for the mentally retarded which serves children or adults suffering from mental retardation, autism, or behavioral problems, with no less than 150 and no more than 180 beds, is eligible for the exemption, which is granted for a maximum of 50 additional beds. The Legislature did not appropriate any funds to the department to cover the increased expenses it will incur for Medicaid payments for the residents who will occupy the additional beds. This action is being taken to promote the health and welfare of Louisiana citizens by assuring that adequate community home beds are available for Medicaid recipients. It is estimated that implementation of this emergency rule will increase expenditures by \$2,380,219 for state fiscal year 2003-2004.

Effective December 1, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amends the August 20, 1995 rule on Facility Need Review to provide that any ICF-MR which serves children or adults suffering from mental retardation, autism, or behavioral problems, and which had no less than 150 and no more than 180 approved beds as of August 15, 2003, shall, upon application to the department, be granted approval for up to 50 additional beds without having to meet the usual requirements of the Facility Need Review process.

Title 48

PUBLIC HEALTH? GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

§12503. Determination of Bed Need

A. - A.7h. ...

8. Exception for additional beds for certain ICF-MRs
Any ICF-MR which serves children or adults suffering from mental retardation, autism, or behavioral problems, and which had no less than 150 and no more than 180 approved beds as of August 15, 2003, shall, upon application to the Department, be granted approval for up to 50 additional beds without being required to meet the standards set forth in Paragraphs 1 - 6 above or §12505.

B. - B.11.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 28:2190 (October 2002), LR 30:

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

0311#066

DECLARATION OF EMERGENCY

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

Non-Emergency Medical Transportation Services Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage and reimbursement for non-emergency medical transportation services. Reimbursement for these services is the base rate established by the bureau minus the amount which any third party coverage would pay.

As a result of the allocation of additional funds by the Legislature during the 2003 Regular Session, the bureau increased the reimbursement fees for certain designated procedures (*Louisiana Register, Volume 20, Number 7*). This Rule is being promulgated to continue provisions contained in the August 1, 2003 Emergency Rule. This action is being taken to promote the health and welfare of recipients and to maintain access to non-emergency medical transportation services by encouraging the continued participation of these providers in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase expenditures for non-emergency medical transportation services by approximately \$1,258,598 for the state fiscal year 2003-2004.

Emergency Rule

Effective for dates of service on or after November 30, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for the following designated procedures for non-emergency medical transportation services by 20 percent of the rate in effect on July 31, 2003.

- Profit-Local Trip
- Capitated Regular-Urban
- Capitated Regular-Rural
- Enhanced Capitated->5 Trips Per Week
- Capitated Remote-Rural
- Capitated Wheelchair-Rural
- Capitated Wheelchair-Urban
- Local Profit-Wheelchair
- Local Nonprofit-Wheelchair
- Nonprofit-Local Trip

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for

responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0311#071

DECLARATION OF EMERGENCY

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

Nursing Facilities? Adult Day Health Care Standards for Payment (LAC 50:II.10939)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:II.Chapter 109 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Human Resources, Office of Family Security adopted a Rule establishing the Standards for Payment for the Adult Day Health Care Program (*Louisiana Register, Volume 11, Number 6*). The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing subsequently promulgated a Rule that amended the reimbursement methodology for Adult Day Health Care services from a facility specific rate based on historical cost to a statewide rate based on set percentages over the median by cost category (*Louisiana Register, Volume 28, Number 11*). The bureau amended the prospective payment system reimbursement methodology for adult day health care services (*Louisiana Register, Volume 29, Number 8*). This Emergency Rule is being promulgated to continue the provisions contained in the August 1, 2003 Rule.

This action is being taken to enhance federal revenue.

Title 50

PUBLIC HEALTH? MEDICAL ASSISTANCE

Part II. Medical Assistance Program

Subpart 3. Standards for Payment

Chapter 109. Standards for Payment? Adult Day Health Care

§10939. Prospective Payment System

A. General Provisions

1. Development. Effective November 30, 2003 and thereafter, Adult Day Health Care (ADHC) providers shall be reimbursed a per diem rate for services provided under a prospective payment system (PPS). The system shall be designed in a manner that recognizes and reflects the cost of direct care services provided. The reimbursement methodology is designed to improve the quality of care for all adult day health care recipients by ensuring that direct care services are provided at an acceptable level while fairly reimbursing the providers.

2. The prospective payment methodology establishes blended rates consisting of 50 percent of the PPS rate based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports and 50 percent of the facility specific prospectively determined rate based on facility specific reasonable allowable costs.

3. - 3.d. ...

4. Rate Setting. Adult day health care providers shall be reimbursed blended rates consisting of 50 percent of the PPS rate based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports and 50 percent of the facility specific prospectively determined rate based on facility specific reasonable allowable costs plus a direct care incentive.

a. The PPS rate is based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports.

i. Direct Care Costs. A statewide base rate for direct care is computed at 115 percent of the median facility per diem direct care costs submitted on all full year cost reports except those for which an audit disclaimer has been issued. Direct care costs are trended forward using the Consumer Price Index (CPI)? Medical Services.

ii. Care Related Costs. A statewide base rate for care related costs is computed at 105 percent of the median facility per diem care related costs submitted on all acceptable full year cost reports except those for which an audit disclaimer has been issued. Care related costs are trended forward using the CPI? All Items.

iii. Administrative and Operating Costs (AOC). A statewide base rate for administrative and operating costs is computed at 105 percent of the median facility per diem administrative and operating costs submitted on all acceptable full year cost reports except for those for which an audit disclaimer has been issued and are trended forward using the CPI? All Items.

iv. Property. The property rate is computed at the median of property costs submitted on all acceptable full year cost reports. Inflation will not be added to property costs.

b. The facility specific prospectively determined rate is based on facility specific reasonable allowable costs. The facility specific prospectively determined rate shall be limited to 80 percent of the nursing facility intermediate care II rate in effect on July 1, 2002 exclusive of the provider fee.

i. Direct Care Costs. Facility specific direct care is based on the facility specific per diem reasonable allowable direct care costs submitted on the acceptable FY 2001 full year cost report. Direct care costs are trended forward using the Consumer Price Index (CPI)? Medical Services.

ii. Care Related Costs. Facility specific care related cost is based on the facility specific per diem reasonable allowable care related costs submitted on the acceptable FY 2001 full year cost report. Care related costs are trended forward using the CPI? All Items.

iii. Administrative and Operating Costs (AOC). Facility specific AOC is based on the facility specific per diem reasonable allowable AOC submitted on the acceptable FY 2001 full year cost report. AOC are trended forward using the CPI? All Items.

iv. Property. Facility specific property cost is based on the facility specific per diem reasonable allowable property costs submitted on the acceptable FY 2001 full year cost report. Inflation will not be added to property costs.

v. Facilities participating prior to August 1, 2003 who have not filed a full year acceptable cost report shall have the facility specific prospectively determined rate for August 1, 2003 through June 30, 2004 based on budgeted data and limited to 80 percent of the nursing facility weighted average case mix rate in effect on July 1, 2003.

vi. For rates effective July 1, 2004 and thereafter, facilities receiving audit disclaimers shall receive a rate equal to the PPS rate based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports trended forward in accordance with this Rule.

c. All trending shall be from the mid-point of the year preceding the cost report year to the midpoint of the year preceding the rate year.

d. Application of an inflationary adjustment to reimbursement rates in non-rebasing years shall apply only when the legislature allocates funds for this purpose.

e. A direct care incentive based on legislative appropriation shall be added to the per diem rate effective August 1, 2003.

5. Total Per Diem Rate. The per diem rate for providers filing acceptable full year cost reports is the sum of 50 percent of the PPS rate based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports plus 50 percent of the facility specific prospectively determined rate based on facility specific reasonable allowable costs plus the direct care incentive.

6. New providers enrolled in the Medicaid program effective August 1, 2003 and thereafter shall receive the PPS rate based on the base year median reported cost for all ADHC providers filing acceptable cost reports trended forward in accordance with this Rule plus the direct care incentive.

7. Minimum Rate. The minimum adult day health care rate shall be the PPS rate based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports plus the direct care incentive.

8. Cost Settlement. The direct care cost component and the direct care incentive shall be subject to cost settlement. Should an ADHC facility's cost report reveal that the provider did not expend an amount equal to 90 percent of the median direct care rate component trended forward for direct care services plus 90 percent of the direct care incentive, the Medicaid program will recover the difference between 90 percent of the median direct care rate component trended forward for direct care services plus 90 percent of the direct care incentive and the actual direct care amount expended.

B. Cost Reporting

1. Providers of ADHC services are required to file annual acceptable cost reports of all reasonable and allowable costs. An acceptable cost report is one that is prepared in accordance with the requirements of this section and the provider has supporting documentation necessary for completion of a desk review or audit. The annual cost reports are the basis for determining reimbursement rates. A copy of all reports and statistical data must be retained by

the facility for no less than five years following the date reports are submitted to the bureau. A chart of accounts and an accounting system on the accrual basis or converted at year end are required in the cost reporting preparation process. The bureau or its designee will perform desk reviews of the cost reports. In addition to the desk review, a representative number of the facilities shall be subject to a full-scope, annual on-site audit. All ADHC cost reports shall be filed with a fiscal year from July 1 through June 30.

B.2 - C.1.e.iv. ...

2. Rate Determination

a.i. Calculation of Base Rate. Rates for both the PPS rate based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports and the facility specific prospectively determined rate based on facility specific reasonable allowable costs are calculated from cost report data. Allowable costs include those costs incurred by providers to conform to state licensure and federal certification standards. General cost principles are applied during the desk review and audit process to determine allowable costs. These general cost principles include:

- (a). determining whether the cost is ordinary, necessary, and related to the delivery of care;
- (b). the cost is what a prudent and cost conscious business person would pay for the specific goods or services in the open market or in an arm's length transaction; and
- (c). the cost is for goods or services actually provided to the center.

ii. Through the desk review and/or audit process, adjustments and/or disallowances may be made to a provider's reported costs. "HIM-15", the Medicare Provider Reimbursement Manual, is the final authority for allowable costs unless the Louisiana Department of Health and Hospitals has set a more restrictive policy.

C.2.b. - C.2.c. ...

d. The inflated median shall be increased to establish the base rate median component as follows.

i. The inflated direct care median shall be multiplied times 115 percent to establish the direct care base rate component.

ii. The inflated care related median shall be multiplied times 105 percent to establish the care related base rate component.

iii. The administrative and operating median shall be multiplied times 105 percent to establish the administrative and operating base rate component.

e. At least every three years, audited and desk reviewed cost report items will be compared to the rate components calculated for the cost report year to insure that the rates remain reasonably related to costs.

f. Formulae. Each median cost component shall be calculated as follows.

i. Direct Care Cost Component. Direct care per diem costs from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward using the Consumer Price Index for Medical Services. The direct care rate component shall be set at 115 percent of the inflated median.

ii. Care Related Cost Component. Care related per diem costs from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost of the center at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward using the Consumer Price Index for All Items. The care related rate component shall be set at 105 percent of the inflated median.

iii. Administrative and Operating Cost Component. Administrative and operating per diem cost from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost of the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward by dividing the value of the CPI? All Items index for December of the year proceeding the base rate year by the value of the index for the December of the year preceding the cost report year. The administrative and operating rate component shall be set at 105 percent of the inflated median.

iv. Property Cost Component? Property. The property per diem costs from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost at the midpoint of the array shall be the median cost. This will be the rate component. Inflation will not be added to property costs.

g. Formulae. Each facility specific prospectively determined cost component shall be calculated as follows.

i. Direct Care Cost Component. The direct care per diem costs from each facility's full year cost reports shall be trended forward using the Consumer Price Index for Medical Services in accordance with this Rule.

ii. Care Related Cost Component. The care related per diem costs from each facility's full year cost reports shall be trended forward using the Consumer Price Index for Medical Services in accordance with this Rule.

iii. Administrative and Operating Cost Component. The administrative and operating per diem cost from each facility's acceptable full year cost reports shall be trended forward using the Consumer Price Index for Medical Services in accordance with this Rule.

iv. Property Cost Component? Property. The property per diem costs from each facility's acceptable full year cost reports shall be the property cost component. Inflation will not be added to property costs.

v. Facilities participating prior to August 1, 2003 who have not filed a full year acceptable cost report shall have the facility specific prospectively determined rate for August 1, 2003 through June 30, 2004 based on budgeted data and limited to 80 percent of the nursing facility weighted average case mix rate in effect on July 1, 2003;

vi. for rates effective July 1, 2004; and

vii. thereafter, facilities receiving audit disclaimers shall receive a rate equal to the PPS rate based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports trended forward in accordance with this Rule. No facility specific cost component will be included in the per diem of facilities receiving audit disclaimers.

C.2.h. - C.2.h.ii. ...

AUTHORITY NOTE: Promulgated in accordance with RS. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2356 (November 2002), LR 30:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0311#068

DECLARATION OF EMERGENCY

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

Out-of-State Hospitals? Inpatient Services
Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2002-2003 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule in January of 1996 which established the reimbursement methodology for inpatient hospital services provided in out-of-state hospitals at the lower of 50 percent of billed charges or the Medicaid per diem rate of the state wherein the services were provided (*Louisiana Register, Volume 22, Number 1*). This Rule was subsequently amended in September of 1997 to increase the reimbursement to 72 percent of billed charges for inpatient services provided in out-of-state hospitals to recipients up to age 21 (*Louisiana Register, Volume 23, Number 9*).

As a result of a budgetary shortfall, the bureau amended the reimbursement methodology contained in the January 1996 and September 1997 rules for out-of-state hospitals that provided at least 500 inpatient hospital days in state

fiscal year 1999 to Louisiana Medicaid recipients and were located in border cities. The reimbursement is established at the lesser of each hospital's actual cost per day as calculated from the 1998 filed Medicaid cost report or the Mississippi Medicaid per diem rate. The actual cost per day is calculated by dividing total Medicaid inpatient cost by total Medicaid inpatient days, including nursery days. This reimbursement methodology is applicable for all Louisiana Medicaid recipients who received inpatient services in an out-of-state hospital located in a border city, including those recipients up to the age of 21 (*Louisiana Register, Volume 26, Number 12*).

As a result of a budgetary shortfall, the bureau reduced the reimbursement for inpatient services provided in out-of-state hospitals. In addition, the bureau amended the reimbursement for children's hospitals located in states bordering Louisiana (*Louisiana Register, Volume 29, Number 4*). This Emergency Rule is promulgated to continue the provisions of the April 1, 2003 Emergency Rule. This action is necessary in order to avoid a budget deficit in the medical assistance programs.

Emergency Rule

Effective for dates of service on or after November 29, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the January 1996 and September 1997 Rules governing the reimbursement methodology for inpatient services provided in out-of-state hospitals. Reimbursement shall be established at the lower of 40 percent of billed charges or the Medicaid per diem rate of the state wherein the services are provided for recipients age twenty-one and older and the lower of 60 percent of billed charges or the Medicaid per diem rate of the state wherein the services are provided for recipients under the age of 21. Hospitals designated as children's hospitals that are located in states that border Louisiana shall be reimbursed at the lower of the Medicaid per diem rate of the state wherein the services are provided or the Louisiana children's hospital Medicaid peer group rate. Neonatal intensive care unit services, pediatric intensive care unit services, and burn unit services provided in these children's hospitals shall be paid the Louisiana peer group rate for the qualifying level of service documented by the hospital. The hospital stay and the level of service shall be authorized by the bureau.

Out-of-state hospitals that provided at least 500 inpatient hospital days in State Fiscal Year 1999 and are located in border cities (cities located within a 50 mile trade area of the Louisiana state border) will continue to be reimbursed at the lesser of each hospital's actual cost per day (based on the 1998 filed cost report) or the Medicaid per diem rate of the state wherein the services are provided. This reimbursement methodology is applicable for all Louisiana Medicaid recipients who receive inpatient services in an out-of-state hospital located in a border city, including those recipients up to the age of 21.

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden at Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible

for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0311#073

DECLARATION OF EMERGENCY

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

Out-of-State Hospitals? Outpatient Services Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2002-2003 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R. S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule in January of 1996 which established the reimbursement methodology for outpatient hospital services provided in out-of-state hospitals. Reimbursement is set at 50 percent of billed charges except for those services subject to a fee schedule (*Louisiana Register, Volume 22, Number 1*).

As a result of a budgetary shortfall, the bureau reduced the reimbursement for outpatient services provided in out-of-state hospitals to 31.04 percent of billed charges. Outpatient services subject to a fee schedule will continue to be reimbursed per the fee schedule amounts (*Louisiana Register, Volume 29, Number 4*). This Emergency Rule is promulgated to continue the provisions of the April 1, 2003 Emergency Rule. This action is necessary in order to avoid a budget deficit in the medical assistance programs.

Emergency Rule

Effective for dates of service on or after November 29, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology contained in the January 1996 Rule for outpatient services provided in out-of-state hospitals. Reimbursement shall be reduced to 31.04 percent of billed charges. Outpatient services subject to a fee schedule will continue to be reimbursed in accordance with

the amount on the fee schedule. This reimbursement methodology is applicable for all Louisiana Medicaid recipients who receive outpatient services in an out-of-state hospital, including those recipients up to the age of 21.

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden at Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0311#074

DECLARATION OF EMERGENCY

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

Rehabilitation Services Reimbursement Fee Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage and reimbursement for rehabilitation services under the Medicaid Program. Rehabilitation services include physical, occupational and speech therapies. Reimbursement is available for these services through outpatient hospital, home health, rehabilitation center and Early and Periodic Screening, Diagnosis and Treatment (EPSDT) health services. The bureau also adopted a Rule establishing the reimbursement methodology for rehabilitation services rendered in rehabilitation centers and outpatient hospital settings in June of 1997 (*Louisiana Register, Volume 23, Number 6*). The bureau adopted a subsequent Rule in May of 2001 to establish the reimbursement methodology for rehabilitation services rendered by home health agencies (*Louisiana Register, Volume 27, Number 5*). Reimbursement for these services is a flat fee established by the bureau minus the amount that any third party coverage would pay.

Act 13 of the 2002 Regular Session of the Louisiana Legislature directed the department to increase the reimbursement for physical therapy, occupational therapy, and speech/language and hearing therapy services provided to children under three years of age. In compliance with the Appropriation Bill and as a result of the allocation of

additional funds by the Legislature, the bureau promulgated an Emergency Rule that increased the reimbursement rates for rehabilitation services provided to Medicaid recipients up to the age of three, regardless of the type of provider performing the services (*Louisiana Register, Volume 28, Number 7*). The bureau increased the reimbursement for additional rehabilitation services provided by outpatient hospitals and home health agencies (*Louisiana Register, Volume 29, Number 4*). This Emergency Rule is being promulgated to continue provisions contained in the April 21, 2000 Rule. This action is being taken to protect the health and welfare of Medicaid recipients under the age of three and to ensure access to rehabilitation services by encouraging the participation of rehabilitation providers in the Medicaid Program.

Emergency Rule

Effective for dates of service on or after December 19, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the June 20, 1997 and May 20, 2001 Rules governing the reimbursement methodology for rehabilitation services provided by outpatient hospitals and home health agencies to increase the reimbursement rates for rehabilitation services provided to Medicaid recipients up to the age of 3. The new reimbursement rates for rehabilitation services are as follows.

Home Health Agencies and Outpatient Hospitals	
Procedure Name	New Rate
Physical Therapy, one modality	\$37.00
Physical Therapy, 2 or more modalities	\$56.00
P.T. with 1 or more procedures, and/or modalities, 15 minutes	\$18.50
P.T. with procedures, 30 minutes	\$37.00
P.T. with procedures, 75 minutes	\$92.50
Occupational Therapy, 15 minutes	\$15.00
Occupational Therapy, 30 minutes	\$30.00
Speech and Hearing Therapy, 15 minutes	\$14.00
Speech and Hearing Therapy, 30 minutes	\$28.00
Speech and Hearing Therapy, 45 minutes	\$42.00
Speech and Hearing Therapy, 60 minutes	\$56.00

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0311#075

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Family Support**

Strategies to Empower People (STEP) Program
(LAC 67:III.5729)

Editor's Note: Section 5729 is being repromulgated to correct codification errors. The original Emergency Rule may be viewed in its entirety on pages 2000-2007 of the October 2003 edition of the *Louisiana Register*.

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt LAC 67:III, Subpart 16, Chapter 57, Strategies to Empower People (STEP) Program and to amend Subpart 2, Chapter 12, Family Independence Temporary Assistance Program (FITAP), Subpart 3, Chapter 19, Food Stamps, Subpart 12, Chapter 51, Child Care Assistance Program (CCAP), and Subpart 13, Chapter 53, Kinship Care Subsidy Program (KCSP) effective October 1, 2003. This Rule shall remain in effect for a period of 120 days.

In order to assist Louisiana families in becoming economically self-reliant so that their dependence on government benefits is minimized, the department will implement the STEP Program so that all work-eligible cash assistance recipients are actively engaged in activities designed to enable their transition from cash assistance to self-reliance. It is further intended that cash assistance recipients demonstrate active and diligent personal responsibility in achieving self-reliance through employment and increased workplace literacy.

The STEP program will replace the Family Independence Work Program (FIND Work). As a result of this implementation, changes are necessary to the FITAP, Food Stamp, CCAP and KCSP programs so that language concerning FIND Work can be replaced with language reflecting the STEP program as well as other changes necessitated by the implementation of STEP. The FIND Work Program will be repealed once the STEP Program is fully implemented and FIND Work participants have been transitioned into the STEP Program.

The authorization for emergency action is contained in Act 14 of the 2003 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 16. Strategies to Empower People (STEP) Program

Chapter 57. Strategies to Empower People (STEP) Program

Subchapter C. STEP Program Process

§5729. Support Services

A. Clients may be provided support services that include but are not limited to:

1. a full range of case maintenance and case management services designed to lead to self-sufficiency;

2. transportation assistance;
3. Food Stamp benefits;
4. Medicaid benefits;
5. Child Care;
6. TANF-funded services;
7. other services necessary to accept or maintain employment; and
8. transitional benefits (post-FITAP support services).

a. These services may be provided to participants who are or become ineligible for cash assistance due to earned income. They include a transportation payment of \$120 per month and other supportive service payments not to exceed a combined total of \$200 per state fiscal year and used to cover certain costs deemed necessary for employment. The payments may begin with the first month of FITAP ineligibility and continue through the twelfth month of ineligibility or through the last month of employment, whichever comes first. The twelve months need not be consecutive.

B. Support services may be provided to:

1. persons participating in the Family Assessment;
2. persons referred by the Agency to other activities, such as drug counseling, prior to their participation in a work activity;
3. FITAP recipients participating in approved activities necessary to meet exemptions to the FITAP time limits.;
4. FITAP recipients to facilitate their attendance in the FITAP Drug Testing Program or Parenting Skills Program;
5. allow participation in educational activities for FITAP recipients who are exempt from STEP.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

Gwendolyn P. Hamilton
Secretary

0311#003

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

TANF Initiatives (LAC 67:III.Chapters 54 and 55)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to amend LAC 67:III, Subpart 15, Chapter 55, §§5505, 5507, 5509, 5525, 5539, and 5559, to repeal §5529 and Subpart 14, Chapter 54, the Teen Pregnancy Prevention Program, and to adopt §§5575 and 5577 effective October 21, 2003. This Emergency Rule will remain in effect for a period of 120 days.

Pursuant to Act 14 of the 2003 Legislative Session, the agency is amending the following TANF Initiatives: Sections 5505 and 5559 are being amended to revise the TANF goals being met by the services provided and to clarify the eligibility requirements for 5505; Section 5507 is being amended to include additional services that will be provided by the Workforce Commission and the Louisiana

Community and Technical College System; Sections 5509 and 5539 are being amended to remove references to the Office of Women's Services and the Supreme Court of Louisiana respectively. By using non-specific language regarding the TANF partners, future amendments to the Louisiana Administrative Code will be avoided. Section 5525 is being amended to specify targeted population that will be eligible for services.

The agency is repealing Section 5529, Youth in Transition, as funds are no longer being allocated for this program. Additionally, the agency is repealing Subpart 14, Chapter 54, Teen Pregnancy Prevention Program. The program will now be administered by the Department of Education through a Memorandum of Understanding with the agency. Program information will be incorporated into Chapter 55, TANF Initiatives and adopted as Section 5575, Teen Pregnancy Prevention Program. Section 5577, Skills Training for Incarcerated Fathers, is being adopted as a new TANF Initiative.

The authorization for emergency action is contained in Act 14 of the 2003 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 14. Teen Pregnancy Prevention

Chapter 54. Teen Pregnancy Prevention Program

§5401. Authority

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474; Act 14, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:1018 (July 2001), repealed LR 30:

§5403. Strategy

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S.36:474; Act 14, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:1019 (July 2001), amended LR 28:1996 (September 2002), repealed LR 30:

§5405. Goals and Objectives

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474; Act 14, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:1019 (July 2001), amended LR 28:1996 (September 2002), repealed LR 30:

§5407. Program Activities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474; Act 14, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:1019 (July 2001), amended LR 28:1599 (July 2002), repealed LR 30:

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5505. Nonpublic School Early Childhood Development Program

A. ...

B. These services meet the TANF goal to reduce the incidence of out-of-wedlock births by placing children in learning environments at the pre-school level to foster an

interest in learning, increase literacy levels, and increase the likelihood of developing responsible behavior.

C. Eligibility for services is limited to families in which the child is one year younger than the eligible age for public school kindergarten and who have earned income at or below 200 percent of poverty level.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:350(February 2002), amended LR 29:715 (May 2003), LR 30:

§5507. Adult Education, Basic Skills Training, Job Skills Training, and Retention Services Program

A. The Office of Family Support shall enter into Memoranda of Understanding or contracts to create programs to provide adult education and literacy, basic skills training, jobs skills training, court-ordered training and job retention services to low-income families. Employed participants will be provided child care and transportation services. Unemployed participants will be provided short-term child care and transportation services.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session; Act 14, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:870 (April 2002), amended LR 30:

§5509. Domestic Violence Services

A. The Office of Family Support shall enter into Memoranda of Understanding or contracts to provide for services pertaining to domestic violence including rural outreach, services to children in shelters, and training of law enforcement and DSS personnel.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:351 (February 2002), amended LR 30:

§5525. Pre-GED/Skills Option Program

A. - B. ...

C. Eligibility for services is not limited to needy families; however certain populations are targeted for services provided by the Options Program and the JAG LA Program. They include:

1. Eligible participants in the Options Program shall be students 16 years of age or older and meet one or more of the following:

- a. failed the eighth grade LEAP 21 English language arts or math test for one or more years;
- b. failed English language arts, math, science, or social studies portion of the Graduation Exit Exam;
- c. participated in alternate assessment; or
- d. earned not more than 5 Carnegie units by age 17, not more than 10 Carnegie units by age 18, and not more than 15 Carnegie units by age 19.

2. Eligible participants in the JAG LA Program shall be 16-21 years of age (or at least 15 years of age in the middle school pilot program) and must face at least two

designated barriers to success that include economic, academic, personal, environmental, or work related.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session; Act 14, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), amended LR 30:

§5529. Youth in Transition

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session of the Louisiana Legislature; Act 14, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), repealed LR 30:

§5539. Truancy Assessment and Service Centers

A. OFS shall enter into Memoranda of Understanding or contracts for Truancy Assessment and Service Centers designed to identify, assess, and intervene to ensure that children in kindergarten through sixth grade attend school regularly.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session; Act 14, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:353 (February 2002), amended LR 30:

§5559. Early Childhood Supports and Services Program Effective August 2, 2002

A. - A.12 ...

B. Services offered by providers meet one or more of the following TANF goals:

1. - 3. ...

4. to prevent and reduce out-of-wedlock pregnancies.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session; Act 14, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:44 (January 2003), amended LR 30:

§5575. Teen Pregnancy Prevention Program Effective July 1, 2003

A. The Department of Social Services, Office of Family Support, shall enter into Memoranda of Understanding or contracts to prevent or reduce out-of-wedlock and teen pregnancies by enrolling youth ages 8 through 20 in supervised, safe environments, with adults leading activities according to a research-based model aimed at reducing teen pregnancy.

B. Services offered by providers meet the TANF goals to prevent and reduce the incidence of out-of-wedlock births by providing research-based prevention and intervention programming for students who live in poor communities and/or show evidence of academic underperformance, dropping out, or engaging in negative behaviors that can lead to dependency, out-of-wedlock births, or imprisonment.

C. Eligibility for services is not limited to needy families. Custodial and non-custodial parents, legal guardians, or caretaker relatives of youth who are

participants in the program may also receive parenting training and educational services.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 14, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5577. Skills Training for Incarcerated Fathers
Effective September 1, 2003

A. The Office of Family Support shall enter into Memoranda of Understanding to provide educational rehabilitation services to incarcerated male inmates to assist them in becoming self-sustaining individuals upon release.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is limited to male inmates housed in a local or state Louisiana correctional facility, who have served a majority of their sentence and are nearing release and who are the parents of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 14, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

Gwendolyn Hamilton
Secretary

0311#001

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

2003 Bay Junop Oyster Season

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and R.S. 49:967(D), and under the authority of R.S. 56:433(B)1 which provides that the Wildlife and Fisheries Commission may designate what parts or portions of the natural reefs may be fished for oysters, and a resolution adopted by the Wildlife and Fisheries Commission on August 6, 2003 which authorized the Secretary of the Department of Wildlife and Fisheries to take emergency action to open areas if significant oyster resources are located, the Secretary hereby declares:

A five-day oyster season in the Bay Junop Oyster Seed Reservation will begin one-half hour before sunrise on October 27, 2003 and extend until one-half hour after sunset on October 31, 2003 in that portion of the bay falling north of the traditional November/February Department of Health and Hospitals (DHH) seasonal classification line. This line begins on the eastern shoreline of Bay Junop at latitude 29 degrees 14 minutes 03 seconds N, longitude 91 degrees 02 minutes 37 seconds W and follows a westerly line to the western shoreline at latitude 29 degrees 13 minutes 40 seconds N, longitude 91 degrees 03 minutes 31 seconds W.

No harvest was documented from the bay during the September 10-16, 2003 season. Significant oyster resources continue to exist in the northern portion of the bay and it has been determined by area biologists that reefs would benefit from limited harvest. Some northern reefs are overburdened by sediment and limited harvest would help to clean reef surfaces providing improved recruitment conditions for larval oysters.

James H. Jenkins, Jr.
Secretary

0311#002

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

2004 Commercial Spotted Seatrout Season

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons and all rules and regulations pursuant thereto by Emergency Rule, and R.S. 56:6(25)(a) and 56:326.3 which provide that the Wildlife and Fisheries Commission may set seasons for saltwater finfish and Act 1164 of the 2003 Regular Legislative Session (R.S. 56:325.6), the Wildlife and Fisheries Commission hereby sets the following season for the commercial harvest of spotted seatrout in Louisiana state waters:

The commercial season for spotted seatrout in Louisiana state waters shall remain closed until January 2, 2004 when it shall open and remain open through official sunset July 31, 2004 or until the quota is reached, whichever comes first. During the open season the commercial harvest or taking of spotted seatrout is prohibited during the period from official sunset on Friday through official sunrise on Monday. During the open commercial season there shall be no commercial harvest, taking or possession of spotted seatrout in excess of the recreational limit between 10:00 p.m. and 5:00 a.m.

During prohibited harvest times or a closure, spotted seatrout shall not be taken, possessed or transported in excess of a recreational limit. The commercial closure shall apply to spotted seatrout taken, landed or possessed on the water whether taken from within or without Louisiana waters. Spotted seatrout harvested, taken, or landed in Louisiana during the commercial closure shall not be sold, bartered, traded, exchanged or commercially possessed or attempted to be sold, bartered, traded or exchanged. Nothing herein shall prohibit the purchase, sale, barter or exchange of spotted seatrout off the water by commercial dealers taken during any open period or which are legally imported into the state if appropriate records in accordance with R.S. 56:306.5 and 56:306.6 are properly maintained.

Terry D. Denmon
Chairman

0311#036

Rules

RULE

Department of Agriculture and Forestry Horticulture Commission

Examination Fees (LAC 7:XXIX.109)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Commissioner of Agriculture and Forestry, at the request of the Horticulture Commission, has amended the following Rule governing fees for exams administered by the Horticulture Commission.

Louisiana is experiencing an unprecedented shortfall in state finances. The legislature has cut the department's budget; therefore, using other department funds to cover the deficit of the Horticulture Commission is not a continuing option. The fiscal year begins on the first of July. The department must use the emergency adoption provisions to insure that programs that begin in July will be adequately funded for the 2003-2004 fiscal year. Adoption of these Rules will take place in accordance with the Administrative Procedure Act. However, this process takes several months to complete and would cause additional deficits to continue and the possibility of work reductions.

Title 7

AGRICULTURE AND ANIMALS

Part XXIX. Horticulture Commission

Chapter 1. Horticulture

§109. Examination Fees

A. Retail Florist

1. The fee for examination for licensure as a retail florist shall be \$150.
2. The fee for re-examination in the written phase of the examination shall be \$50.
3. The fee for re-examination in any portion of the design phase of the examination shall be \$100.

B. Landscape Architect

1. The fee for examination for licensure as a landscape architect shall be the cost for each section of the examination plus an administrative fee of \$200 for first time applicants and those applying through reciprocity.
2. The fee for re-examination in the various sections for licensure as a landscape architect shall be the cost for each section plus one administrative fee of \$100.

C. Wholesale Florist, Horticulturist, Arborist, Utility Arborist, and Landscape Contractor

1. The fee for examination or re-examination for licensure as a wholesale florist, horticulturist, arborist, utility arborist and landscape contractor shall be \$50.

D. All fees required under this Rule must be submitted at the same time as the application; failure to submit any required fees will bar the applicant from taking the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801, R.S. 3:3805, and R.S. 3:3806.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 18:249 (March 1992), LR 20:640 (June 1994), LR 29:2297 (November 2003).

Bob Odom
Commissioner

0311#064

RULE

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Nursery Certificate Permit Fees (LAC 7:XV.126)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry hereby adopts regulations governing fees for nursery certificate permits and permit tags.

Louisiana is experiencing an unprecedented shortfall in state finances. The legislature has cut the department's budget; therefore, using other department funds is not a continuing option. The fiscal year begins on the first of July. Adoption of these Rules will take place in accordance with the Administrative Procedure Act.

These Rules are enabled by R.S. 3:1655 and 3:1652.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 1. Crop Pests and Diseases

Subchapter B. Nursery Stock Quarantines

§126. Nursery Certificate Permit Fees

A. There is hereby established and henceforth there shall be an annual fee paid by nursery permittees as follows.

1. Any nursery which consists of acreage greater than 2,500 square feet or greenhouse area greater than 200 square feet shall be \$100 per location per year and all other nursery certificate permittees shall pay a fee of \$25 per location per year.

2. There is hereby established and henceforth there shall be a fee of \$0.10 per nursery certificate permit tag issued by the Louisiana Department of Agriculture and Forestry to the nursery certificate permittee.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 15:78 (February 1989), amended LR 29:2297 (November 2003).

Bob Odom
Commissioner

0311#063

RULE

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Sweet Potato Quarantine (LAC 7:XV.143)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, has amended regulations regarding the sweet potato weevil quarantine.

Louisiana is experiencing an unprecedented shortfall in state finances. The legislature has cut the department's budget; therefore, using other department funds to cover the deficit for the sweet potato weevil quarantine program is not a continuing option. The fiscal year begins on the first of July. The department must use the emergency adoption provisions to insure that programs that begin in July will be adequately funded for the 2003-2004 fiscal year. Adoption of this Rule will take place in accordance with the Administrative Procedure Act. However, this process takes several months to complete and would cause additional deficits to continue and the possibility of work reductions.

This Rule is enabled by R.S. 3:1652 and 3:1732.

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 1. Crop Pests and Diseases

Subchapter C. Sweet Potato Weevil Quarantine

§143. Fees

A. fee of \$0.06 per bushel shall be charged for each bushel of sweet potatoes moved or shipped within or out of Louisiana.

B. ...

C. A fee of \$0.10 per thousand shall be charged for vines, plants, slips or cuttings moved or shipped within or out of Louisiana.

D. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655, R.S. 3:1732 and R.S. 3:1734.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:321 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 15:77 (February 1989), LR 18:705 (July 1992), LR 27:1178 (August 2001), LR 29:2298 (November 2003).

Bob Odom
Commissioner

0311#062

RULE

Department of Economic Development Office of Business Development

Enterprise Zone Program (LAC 13:I.Chapter 7)

The Department of Economic Development, Office of Business Development, pursuant to the authority of R.S. 51:1786(5) and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby amends LAC 13.I.Chapter 7, Enterprise Zone Program. The following

Sections are repealed: §§702, 703, 718, 735, 745, 747 and 751. The following Sections are adopted and contain new language: §§703, 713-745. The following Sections are amended: §§701, 705-711, and 749. The purpose of the amended Rules is to comply with changes to the enterprise zone legislation made by Acts 2002 1st Extra Session, No. 4, which changed the basis of determining enterprise zones to the most recent census and extended the \$5,000 per job tax credit for motor vehicle parts manufacturers. The changes also further clarify requirements for creating the minimum number a jobs.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 7. Enterprise Zone Program

§701. Scope

A. Intent of Program. The intent of the program is to stimulate employment for residents in depressed areas of the state which are designated as enterprise zones by providing tax incentives to a business hiring from these areas.

B. Description of Program. The Louisiana Enterprise Zone Program is a jobs program which gives tax incentives to a business hiring from enterprise zones in Louisiana or from one of the other targeted groups. Enterprise Zone Program incentives are in addition to other state sponsored incentives such as the Industrial Tax Exemption Program and the Restoration Tax Abatement Program. Enterprise Zone and Quality Jobs Programs are mutually exclusive.

C. The following incentives are available.

1. A one-time tax credit of \$2,500 for each net new job filled with a Louisiana resident added to the applicant's payroll. The tax credit may be used to satisfy state income tax and/or franchise tax liabilities. If the entire tax credit cannot be used in the year created, the remainder may be applied against the state income tax and/or franchise tax liabilities for the succeeding 10 taxable years or until the entire credit is used, whichever occurs first.

2. In lieu of §701.C.1 tax credit, aviation and aerospace industries [as defined in the 3720s and 3760s Standard Industrial Classification (SIC) manual] and auto parts manufacturers [as defined in 3363s North American Industrial Classification System (NAICS) manual] are eligible for a one-time tax credit of \$5,000 for each net new job filled with a Louisiana resident added to the applicant's payroll. The tax credit may be used to satisfy state income tax and/or franchise tax liabilities. If the entire tax credit cannot be used in the year created, the remainder may be applied against the state income tax and/or franchise tax liabilities for the succeeding 10 years, or until the entire credit is used, whichever occurs first. The \$5,000 tax credit for auto parts manufacturers will sunset June 30, 2006.

3. An additional \$2,500 tax credit is available to an applicant hiring Temporary Assistance for Needy Families (TANF) recipients. This tax credit is in addition to the incentive for new jobs created in §701.C.1 and §701.C.2. The TANF recipient must receive compensation which will disqualify them from continued participation in TANIF and must be employed for two years to generate the additional tax credit. The tax credit may be used to satisfy state income tax and/or franchise tax liabilities. If the entire tax credit cannot be used in the year created the remainder may be applied against the state income tax and/or franchise tax

liabilities for the succeeding 10 years or until the entire credit is used, whichever occurs first. An employer shall not obtain the jobs tax credit for more than 10 TANIF employees in the first year of participation in the program.

4. Rebates can consist of sales/use taxes imposed by the state and imposed by local governmental subdivisions, upon approval of the governing authority of the appropriate municipality, parish, or district, where applicable, on all eligible purchases during the specified project/construction period per §725.H. The project/construction period is limited to a 24 month period. Upon a written request, a project/construction period extension, not to exceed six months, may be granted by the Office of Business Development, Business Incentives Division (BI). Rebates paid by local governmental subdivisions can only consist of those sales/use taxes that are not dedicated to the repayment of bond indebtedness or dedicated to schools. Final requests for the payment of any rebate must be filed with the Louisiana Department of Revenue (LDOR) and/or its local governmental subdivision no later than six months after the project's completion is documented or six months after the date of the governor's signature on the contract, whichever is later. Documentation of the completion of a project shall be either by using the application certification section or the filing of a separate Project Completion Report (PCR), as applicable, whichever date is later. An extension of up to six months on filing the rebate request with the LDOR may be granted upon written request to the BI. This request must be received by BI prior to the standard rebate request time period has expired.

D. Qualifications

1. The applicant's current level of employment must be increased by 10 percent (minimum of one net new job) within the first 12 months or a minimum of five net new jobs must be added to the current payroll within the first two years of the contract period. See §703.*Minimum Net New Jobs Required*. Thirty-five percent net new employees must meet §§709, 711, 713, or 715 as applicable.

2. Any business, except residential developments, (including but is not limited to the construction, selling, or leasing of single-family or multi-family dwellings, apartment buildings, condominiums, town houses, etc), churches, and businesses with gaming (See Title 13.1.3 Gaming Ineligibility) may apply for enterprise zone benefits.

3. An applicant in an urban parish must certify that a minimum of 35 percent of its net new employees meet the requirements of §709.

4. An applicant located in a rural parish and in an enterprise zone must certify that a minimum of 35 percent of its net new employees meet the requirements of §711.

5. An applicant located in a rural parish and not in an enterprise zone must certify that a minimum of 35 percent of its net new employees meet the requirements of §713.

6. An applicant located in an economic development zone must certify that a minimum of 35 percent of its net new employees meet the requirements of §715.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:252 (March 1991), amended by Department of Economic Development, Office of Commerce and Industry, LR 22:446 (June 1996), amended by the Department of

Economic Development, Office of Business Development, LR 29:2298 (November 2003).

§702. Future Contract Availability

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5)) et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, amended LR 22:447 (June 1996), repealed Department of Economic Development, Office of Business Development, LR 29:2299 (November 2003).

§703. Definitions

Affiliate?

1. any business entity that is:
 - a. controlled by the applicant business;
 - b. a controlling owner of the applicant business; or
 - c. controlled by an entity described in Subparagraph a or b;
2. for purposes of this definition, *Control* is defined as owning either directly, or indirectly through control of or by another business entity:
 - a. a majority of the voting stock or other voting interest of such business entity or the applicant business; or
 - b. stock or other interest whose value is a majority of the total value of such business entity or the applicant business;
3. a business entity may be treated as a non-affiliate if the applicant business proves that neither the applicant business nor any of its controlling owners exercise authority over the management, business policies and operations of the business entity.

Beginning of Project/Construction? the first day on which foundations are started or where foundations are unnecessary, the first day on which installation of the facility begins or the first day that materials or equipment purchased for that project are received. Where there is no construction, the first day on which a new hire is made in connection with the project shall mean "Beginning of Project/Construction" for the purposes of this Chapter.

Contract Effective Date? either the day that the advance notification was received by BI or the beginning date of the project/construction shown on the application. The contract effective date cannot be earlier than the date the advance notification was received by BI unless a waiver of timely filing has been approved by the Board of Commerce and Industry (Board).

Date of Hire? the first day of work for which the applicant directly pays an employee and is reported on the applicant's Louisiana Department of Labor (LDOL) Quarterly Report of Wages Paid.

Economic Development Zone (EDZ)? a geographic area of contiguous real properties defined by a visible boundary, designated as such by the state or the local governmental subdivision in which it is located and approved by the Board. The location of an EDZ once defined is permanent, cannot be moved, expanded, or relocated, and is owned or operated by the state or a political subdivision of the state or operated by an entity created by the state or a political subdivision of the state. EDZs must have been created by state statute and are defined to include the following:

1. industrial park;
2. business park;
3. airport or air park;

4. research park;
5. research and development park;
6. downtown development district? with taxing and bonding authority;
7. former federal facility? cannot be a single building or small grouping of prior federally owned and occupied buildings. The immediate previous occupant of this facility must have been a federal governmental entity; and
8. port? only the contiguous real property actually owned by that port.

Enterprise Zone? an area of high unemployment, low income and/or an area where a large number of residents are receiving some form of public assistance. For purposes of R.S.51:1787.B.4 and D.4 the term "some form of public assistance" shall include any program of assistance financed in whole or in part by a federal, state, or any local government agency, eligibility for which is dependant upon the employment status or income level of the individual. Any such assistance must have been received by the individual within a six month period prior to their employment. Receiving unemployment is not public assistance.

Full Time Employee? an employee reported on the applicant's Louisiana Department of Labor (LDOL) Quarterly Report of Wages Paid and who is scheduled to work 35 hours per week on a permanent basis and receive benefits.

Lacking Basic Skills? an employee that exhibits below a 9th grade level proficiency in reading or writing or math.

Louisiana Resident? shall be someone who has lived in Louisiana at least 30 consecutive days prior to being hired by the applicant.

Net New Job? in addition to all the other employees reported on the applicant's LDOL Quarterly Report of Wages Paid based at the site of the enterprise zone project.

Minimum Net New Jobs Required? an applicant must create the lesser of expanding their current workforce by a minimum of 10 percent of their present statewide workforce, minimum of 1, within the first 12 months of the contract or expand their workforce by a minimum of five net new employees within the first 24 months of the contract. The applicant's statewide workforce and the statewide workforce of all of its Louisiana affiliates will be considered when calculating the 10 percent.

Part Time Employee? an employee reported on the applicant's LDOL Quarterly Report of Wages Paid and works a minimum of 20 hours each week for six consecutive months.

Project/Construction Ending Date? the date all construction and purchasing is completed for the project.

Project/Construction Period? the time encompassed by the Contract Effective Date and the Project/Construction Ending Date.

Rural Parish? a parish having a current U.S. Census population of 75,000 or less.

Some Form of Public Assistance? any program of assistance financed in whole or in part by a federal, state, or any local government agency, eligibility for which is dependant upon the employment status or income level of the individual. Any such assistance must have been received by the individual within a six month period prior to their employment.

Unemployable by Traditional Standards? an employee that qualifies as physically challenged.

Urban Parish? a parish having a current U.S. Census population greater than 75,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2299 (November 2003).

§705. Endorsement Resolution

A. An applicant seeking a local sales/use tax rebate must obtain an endorsement resolution(s) from the local governmental subdivision(s) where those taxes are paid. The endorsement resolution must clearly state if the local governmental subdivision intends to rebate the allowable sales/use taxes for the project. This endorsement resolution must be passed by the local governmental subdivision(s) before the board approves the EZ application. Each project seeking a local sales/use tax rebate must have an endorsement resolution specific to the project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 8:230 (May 1982), amended LR 9:544 (August 1983), amended by the Department of Commerce, Office of Commerce and Industry, Division of Financial Programs Administration, LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:253 (March 1991), Department of Economic Development, Office of Commerce and Industry, LR 22:447 (June 1996), amended by the Department of Economic Development, Office of Commerce and Industry, Business Incentives Division, LR 23:295 (March 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:2300 (November 2003).

§707. Documentation of Location

A. A current U.S. Census or the appropriate EDZ map with the project site location clearly marked shall be filed with the BI before the board approves the EZ application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 8:230 (May 1982), amended LR 9:544 (August 1983), amended by the Department of Commerce, Office of Commerce and Industry, Division of Financial Programs Administration, LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:253 (March 1991), amended by the Department of Economic Development, Office of Commerce and Industry, LR 22:447 (June 1996), amended by the Department of Economic Development, Office of Business Development, LR 29:2300 (November 2003).

§709. Targeted Employees for an Applicant in an Urban Parish

A. Applicant located in an urban parish and receiving the benefits of this Chapter must certify that all net new employees creating tax credits are Louisiana residents and at least 35 percent meets one of the following requirements:

1. are residents of an enterprise zone in the same parish at the project's location of the applicant's;
2. are residents of an enterprise zone in a contiguous parish if the applicant has 500 or more employees at the project's location;

3. are/were receiving some form of public assistance, as defined in §703.*Some Form Of Public Assistance*, within a six month period prior to their employment by the applicant;

4. are lacking basic skills; or

5. are unemployable by traditional standards.

AUTHORITY NOTE: Promulgated In accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 8:230 (May 1982), amended LR 9:544 (August 1983), amended by the Department of Commerce, Office of Commerce and Industry, Division of Financial Programs Administration, LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce, Finance Division, LR 17:253 (March 1991), amended by the Department of Economic Development, Office of Commerce and Industry, LR 22:447 (June 1996), amended by the Department of Economic Development, Office of Business Development, LR 29:2300 (November 2003).

§711. Targeted Employees for an Applicant in a Rural Parish and in an Enterprise Zone

A. Applicant located in an enterprise zone in a rural parish and receiving the benefits of this Chapter must certify that all net new employees creating tax credits are Louisiana residents and at least 35 percent meets one of the following requirements:

1. are residents of the same parish as the project's location of the applicant's;

2. are residents of an enterprise zone in a contiguous parish if the applicant business has 500 or more employees at the project's location;

3. are/were receiving some form of public assistance within the six month period prior to their employment by the applicant. (See §703.*Some Form of Public Assistance*);

4. are lacking basic skills; or

5. are unemployable by traditional standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 8:230 (May 1982), amended LR 9:544 (August 1983), amended by the Department of Commerce, Office of Commerce and Industry, Division of Financial Programs Administration, LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:254 (March 1991), amended by the Department of Economic Development, Office of Commerce and Industry, LR 22:448 (June 1996), amended by the Department of Economic Development, Office of Business Development, LR 29:2301 (November 2003).

§713. Targeted Employees for an Applicant in a Rural Parish and not in an Enterprise Zone

A. Applicant located in a rural parish and not located in an enterprise zone and receiving the benefits of this Chapter must certify that all net new employees creating tax credits are Louisiana residents and at least 35 percent meets one of the following requirements:

1. are residents of an enterprise zone in the same parish as the project's location of the applicant;

2. are residents of an enterprise zone in a contiguous parish if the applicant has 500 or more employees at the project's location;

3. are/were receiving some form of public assistance within a six month period prior to their employment by the applicant. (See §703.*Some Form of Public Assistance*);

4. are lacking basic skills; or

5. are unemployable by traditional standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2301 (November 2003).

§715. Targeted Employees for an Applicant in an Economic Development Zone

A. Applicant business located in an EDZ and receiving the benefits of this Chapter must certify that all net new employees creating tax credits are Louisiana residents and at least 35 percent meets one of the following requirements:

1. are residents of the same parish as the project's location of the applicant;

2. are residents of an enterprise zone in a contiguous parish if the applicant has 500 or more employees at the project's location;

3. are/were receiving some form of public assistance within a six month period prior to their employment by the applicant. (See §703.*Some Form of Public Assistance*);

4. are lacking basic skills; or

5. are unemployable by traditional standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2301 (November 2003).

§717. Annual Employee Certification

A. An annual Employee Certification Report (ECR) must be filed with the BI by March 1 on all active contracts validating compliance with §§709, 711, 713, and 715. Failure to file may result in contract cancellation.

B. The "beginning number" from which the net new jobs will be determined shall meet one of the following:

1. the number of employees that an applicant has on the day before the contract effective date; or

2. the last annual average number of employees that was certified under a valid enterprise zone contract the day prior to the new contract effective date on contiguous contracts.

C. An employee count will be taken from the applicant's entire contiguous site for the purposes of calculating the jobs tax credit generated. If the applicant has more than one site within the metropolitan area where the project is located, BI may consider the total employee count using all locations in calculating the jobs tax credits generated.

D. Monthly totals of permanent full time employees will be averaged over a minimum of six months to determine the number of jobs tax credit generated. Only employees reported on the LDOL Quarterly Report of Wages Paid will be used to calculate this average monthly total. In no case shall the new employees exceed the net increase in total employment.

E. Part time employees may be counted after completing a minimum of 20 hours every week for that continuous six month period. Only employees reported on the LDOL Quarterly Report of Wages Paid will be used to calculate this average monthly total. In no case shall the new employees exceed the net increase in total employment.

F. If the ECR substantiates that the company has not met the hiring requirements in this Chapter, the board shall cancel the contract and no jobs tax credit will be granted.

The Department of Economic Development (LDED) will notify LDOR within 30 days after cancellation of a contract. Upon notification by LDED of the failure to meet the minimum jobs requirement, LDOR will immediately assess tax liability to the applicant equal to all state sales/use tax rebates paid pursuant to this Chapter plus any penalty and interests due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2301 (November 2003).

§718. Advance Notification, Timely Filing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development Office of Commerce and Industry, Business Incentives Division, LR 23:295 (March 1997), repealed by the Department of Economic Development, Office of Business Development, LR 29:2302 (November 2003).

§719. Arbitrary Termination of Employees

A. The board shall not accept an application from an applicant which performs essentially the same job at the same or new location but for a different ownership in order to qualify for the benefits of this Chapter. New jobs tax credits shall not be generated by those persons whether or not the name or owner of the business changes over a short period of time (less than two weeks), i.e., a business closes on Friday under one ownership and opens on Monday under a different ownership. These are not net new jobs and shall not generate jobs tax credits under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2302 (November 2003).

§721. Items Eligible for Sales/Use Tax Rebate

A. Materials that are permanently installed at the enterprise zone project site during the project/construction period are eligible for sales/use tax rebates.

B. Materials that originate from a contractor/subcontractor's inventory and are permanently installed at the enterprise zone project site during the project/construction period are eligible for sales/use tax rebates. In order for rebates to be issued on property withdrawn from inventory, the contractor/subcontractor must maintain sufficient records and provide sufficient information to enable the LDOR to verify that Louisiana sales or use taxes were paid on the property for which rebate is claimed.

C. Machinery and/or equipment purchased for the enterprise zone project site during the project/construction period are eligible for sales/use tax rebates provided that the machinery and equipment are used exclusively at the project site, are owned by an entity named in the enterprise zone contract with the state, and are intended to remain at the project site for the expected useful life of the machinery and equipment.

D. Machinery and or equipment transferred into Louisiana for the enterprise zone project site during the project/construction period are eligible for sales/use tax rebates provided that the machinery and equipment are used exclusively at the project site, are owned by an entity named

in the enterprise zone contract with the state, and are intended to remain at the project site for the expected useful life of the machinery and equipment.

E. Software purchased, capitalized, and used by the applicant primarily at the enterprise zone project site during the project/construction period are eligible for sales/use tax rebates.

F. Consumable items are not eligible for sales/use tax rebate. A partial listing of ineligible items are: per diem, labor, service contracts, storage, freight, radios, laptop computers, utilities, permits and fees, office supplies, construction consumables, blades, drill bits, PVC sheeting, tape, gloves, dusk masks, and all leases and rentals.

G. Lease-purchases may be eligible for a sales/use tax rebate upon LDOR's approval. The property acquired through lease-purchase must be used exclusively at the project site, must be owned by an entity named in the enterprise zone contract with the state, and must be intended to remain at the project site for the expected useful life of the machinery and equipment. A copy of the lease-purchase agreement must be submitted with the Claim for Rebate Request to LDOR, Office Audit Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, LR 9:230 (May 1982), amended LR 9:544 (August 1983), LR 11:96 (February 1985), amended by the Department of Economic Development, Office of Business Development, LR 17:255, (March 1991), LR 22:449 (June 1996), amended by the Department of Economic Development, Office of Business Development, LR 29:2302 (November 2003).

§723. Filing of Advance Notification

A. An Advance Notification form and fee shall be filed prior to the beginning of project/construction with BI. All incentives for the same project must be indicated on one advance notification and be identified by one project number. It is not acceptable to apply for Enterprise Zone Program and use the same project in a Miscellaneous Capital Addition application for the Industrial Tax Exemption Program. Internet filing of the advance notification may be made at <http://www.laemall.com>.

B. An advance notification lacking the proper application will expire one year after the project/construction ending date shown on the advance notification unless a written request for a date revision request is received by BI prior to the expiration date.

C.1. An advance notification received by BI after the beginning of the project/construction will obligate the applicant to file written reason(s) for the late filing. The board will accept reasons that fall within the following two categories in determining if it will consider waiving the late filing:

a. events beyond the control of the applicant caused the late filing; or

b. there was some documented fault or error on the part of the BI that caused the applicant's late filing.

2. Lack of knowledge of the existence of the Enterprise Zone Program or its benefits will not be accepted as a valid reason for waiving the timely filing requirement.

D. An advance notification which receives a waiver of late filing will allow the applicant to proceed as if the advance notification was filed timely.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development LR 29:2302 (November 2003).

§725. Filing of Applications

A. Applications must be filed with the Office of Business Development, Business Incentives Division, P.O. Box 94185, Baton Rouge, LA, 70804-9185, on the form prescribed, within three months after project/construction ending date. Internet filing of the application may be made at <http://www.laemall.com>.

B.1. An application fee shall be submitted with the each application based on the following formula:

Application Fee = Total Estimated Tax Relief x 0.2% (.002)

Total Estimated Tax Relief =

Jobs Tax Credit* + State sales/use tax rebate

Application Fee = Total Estimated Tax Relief x .2% (.002)

(Minimum fee is \$200 and the maximum fee is \$5,000 application per Program.)

2. An additional application fee will be due if a project's employment or investment scope is increased, resulting in a minimum fee of \$100 more than what has already been submitted, unless the maximum has been paid.

3. Jobs Tax Credit? the total amount calculated by multiplying all the new jobs estimated to be created within the five year contract period by \$2,500 (\$5,000 for aerospace or auto parts manufacturers).

4. All fees shall be made payable to: Louisiana Department of Economic Development.

D. The applicant shall file an original and a copy of the Inspection/Audit Affidavit Form showing a complete list of building(s) and equipment and the cost of each item on the project with the appropriate fee for the inspection which will be conducted by the BI. This affidavit must be filed within six months of the project/construction ending date or when the signed original contracts are returned to the BI, whichever is later.

E. The BI reserves the right to return the advance notification, application, or inspection/audit affidavit to the applicant if the estimated tax relief or the fee submitted is incorrect. The application or inspection/audit affidavit may be resubmitted within 30 days with the correct fee without penalty.

F. The advance notification, application, and the inspection/audit affidavit will not be considered officially received or accepted without the appropriate fee being received by BI. Processing fees for the advance notification, application, or inspection/audit affidavit, which have been received and accepted, will not be refunded.

G. Applications must be submitted to the BI at least 45 days prior to the board meeting where it is intended to be presented for approval.

H. The applicant proposing a project with a construction period greater than two years is required to separate the project into phases with no phase having over a two year construction period. Each construction phase shall require a separate advance notification, application and fee to be filed with the BI. The applicant must comply with §701.D for each application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2303 (November 2003)

§727. Recommendations of the Secretaries of Economic Development and Revenue

A. BI shall forward the applications with recommendations to the secretary of Louisiana Department of Revenue and the secretary of Louisiana Department of Economic Development for their review. The secretaries of LDOR and LDED may submit a letter of no objection in lieu of a letter of recommendation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2303 (November 2003).

§729. Application Shall Be Presented to the Board of Commerce and Industry

A. BI shall present an agenda of applications to the Board and with recommendations based upon its findings.

B. Applicant or their representatives will be notified of the board meeting date at which their application will be considered. The applicant business should have someone present who is able to answer any questions the board may have regarding the information contained in the application. In the event there is no representative present, the application may be deferred or denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2303 (November 2003).

§731. Board of Commerce and Industry Enters into Contract

A. Upon approval of the application, the board shall enter into contract with the applicant for the benefits allowed by this Chapter. The applicant must execute their portion of the contract and return it within 30 days to BI. The state will complete the execution. A fully executed original contract will be returned to the applicant. An original and a copy will be sent to the LDOR and, if applicable, a copy sent to the local governmental subdivision.

B. BI must be notified of any change that will effect the contract. This includes, but is not limited to, changes in the ownership or operational name of the applicant business holding a contract, or the suspension, closing, or abandonment of operations. Failure to report any changes within six months may constitute a breach of contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2303 (November 2003).

§733. Rebates of Sales/Use Taxes

A. The contract will not authorize the applicant to make tax exempt purchases from vendors. The applicant will be contacted by the LDOR on the proper procedures to obtain the state sales/use tax rebate. Rebates will be obtained by the filing of a rebate request with the LDOR, Office Audit Division, which must include the following:

1. a list of eligible purchases (See §721) including a brief description of each item, the vendor's name, date of the

delivery, sales price and the amount of state sales/use tax paid. The listed items must have been purchased by the applicant of the project, a builder, a contractor, or other party that contracted with the owner to provide materials, equipment, machinery, or software that is used by the applicant primarily at the project site or is listed in Schedule 3 of the enterprise zone contract;

2. a certification that the listed materials are reasonably expected to qualify for a rebate under provisions of this Chapter; and

3. a certification that state sales/use taxes have been paid on the listed items.

B. The request may be filed on the official LDOR "Claim for Rebate" form or on other forms prepared by the applicant. After LDOR has validated the information on the Claim for Rebate, a rebate check will be issued for the amount of substantiated state sales/use taxes paid.

C. The applicant should contact the local governmental subdivision issuing the endorsement resolution to determine the procedure for local sales/use tax rebate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2303 (November 2003).

§735. Applicant with a Contract Must File State Income and Franchise Tax Returns

A. Applicant that have satisfied their Louisiana income tax and/or franchise tax liability by applying jobs tax credits earned under this Chapter shall file the same required forms and tax returns with the LDOR that are required if no jobs tax credit were taken. Each annual return where jobs tax credit are taken will have a copy the letter from BI certifying the tax credits and the unused jobs tax credits from previous years provided. If total jobs tax credits are less than the total taxes, remittance in the amount of the difference must be enclosed with the tax return. Limited Liability Companies, Sub Chapter S Corporations, etc., must have the name(s) of owners and their social security numbers listed on the contract in order for job tax credits to flow through to the owner(s).

B. Partnerships and sole proprietorships shall file the same returns that are required if the jobs tax credit had not been granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2304 (November 2003).

§737. Violations of Rules, Statutes, or Documents

A. On the initiative of the board or whenever a written complaint of violation of the terms of the Rules, the contract documents, or the statutes, is received the board or its representative shall determine if a full investigation should be made. The board shall have full authority for such investigation, including but not exclusively, the authority to call for reports, pertinent records, or other information from the applicant. If the investigation appears to substantiate a violation the board or its representative will present the subject contract for formal action. If an applicant is found to be in violation of these Rules or the contract, the applicant shall remit back to the state all jobs tax credit taken on income tax and/or franchise returns, all sales and use tax

rebates, and any other taxes that would have been imposed but for the issuance of this contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2304 (November 2003).

§739. Economic Development Zone Annual Reporting

A. Each EDZ will submit an annual report which will compare activity in the last completed year to the previous year's activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2304 (November 2003).

§741. Multi-Tenant Facility

A. For a multi-tenant facility to be eligible for the benefits of this Chapter, the applicant must meet one of the following:

1. occupy a minimum of 33 percent of the total floor area of the building;

2. tenants are businesses new to the state;

3. tenants are Louisiana businesses increasing their number of locations within the state by placing a new location within this facility;

4. tenants are relocating within Louisiana and will generate the minimum of new job credits over and above the total jobs at their previous location per §701.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2304 (November 2003).

§743. Relocation of Enterprise Zones

A. A local governmental subdivision requesting the relocation of an enterprise zone must provide valid reason(s) for requesting the move and must have the approval of the board. All relocation of enterprise zone requests must be accompanied by a single map showing the location of the old and the new enterprise zones.

B. The residents of originally designated enterprise zone may qualify as part of the 35 percent residency requirement.

C. The effective date of a relocation approved by the board shall be the date of passage affixed to the resolution by the local governing authority requesting the relocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2304 (November 2003).

§745. Appeals and Petition Procedure

A. Applicants who wish to appeal an action of the Board of Commerce and Industry must submit their appeals along with any necessary documentation to the Office of Business Development, Business Incentives Division no later than 90 days after the board action to be appealed. The appeal shall not be considered by the board less than one month after it is submitted.

B. Petitions, and all documentation, on matters not yet presented to or ruled on, by the board, must be submitted to the Office of Business Development, Business Incentives Division at least one month prior to the meeting of the board or any of its committees in which the petition will be made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2304 (November 2003).

§747. Exclusion of Residential Developments

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 9:546 (August 1983), amended by the Department of Commerce, Office of Commerce and Industry, Division of Financial Programs Administration, LR 11:97 (February 1985), amended by the Department of Commerce, Office of Commerce and Industry Finance Division, LR 12:660 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:257 (March 1991), amended by the Department of Economic Development, Office of Commerce and Industry, LR 22:451 (June 1996), repealed by the Department of Economic Development, Office of Business Development, LR 29:2305 (November 2003).

§749. Prohibit Local Fees and Prohibit Local Conflicting Employment Practices

A. No local governmental subdivision shall charge any fees or require any employment practices which conflict with state law as a precondition to authorize tax benefits under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:257 (March 1991), amended by the Department of Economic Development, Office of Commerce and Industry, LR 22:451 (June 1996), amended by the Department of Economic Development, Office of Business Development, LR 29:2305 (November 2003).

§751. Application Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:257 (March 1991), amended LR 22:451 (June 1996), repealed by the Department of Economic Development, Office of Business Development, LR 29:2305 (November 2003).

Don J. Hutchinson
Secretary

0311#056

RULE

Department of Economic Development Office of Business Development Business Resources Division

Quality Jobs Program
(LAC 13:I.Chapter 11)

The Department of Economic Development, Office of Business Development, pursuant to the authority of R.S. 51:2459 and R.S. 51:2451-2462 and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., hereby amends §§1101-1111, 1115-1119, of the Quality Jobs

Program, repeals §1113, and adopts the following Sections with new language: §§1121, 1123, 1125, 1127, 1129, and 1131. The purpose of the amended Rules is to comply with changes to the Quality Jobs legislation made by Acts 2002 1st Extraordinary Session, No. 153, which made significant changes to the program including lowering the amount a wages required to be paid in order to qualify, providing for a sales/use tax rebate, changing to a fixed benefit rate rather a calculated benefit rate, setting minimum wage requirements, and increasing the health care benefits requirement.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 11. Quality Jobs Program

§1101. General

A. Intent of Law

1. To provide benefits used primarily as an inducement for businesses to locate or expand existing operations in Louisiana in accordance with *Louisiana Vision 2020* with a focus on Louisiana's traditional and seed clusters:

a. to provide appropriate incentives to support employers who will make significant contributions to the development of the economy of the state;

b. to provide or make available incentives that shall be directly related to the new direct jobs created as the result of the employer locating or expanding existing operations in the state;

c. the Departments of Economic Development, Revenue and Labor shall implement the provisions of this program.

B. Program Description

1. A qualified employer must create a minimum of five new direct jobs. If the employer employs more than 50 employees prior to the beginning of the contract, it must have an annual gross payroll for new direct jobs equal to or greater than \$500,000. If the employer employs 50 or less employees, it must have an annual gross payroll for new direct jobs equal to or greater than \$250,000. The annual payroll for new direct jobs must be created by the third fiscal year of the contract.

2. A qualified employer must employ full-time employees working 35 or more hours per week in new direct jobs. If the qualified employer is a Call Center (NAICS code 56142) it must employ full-time employees working 30 or more hours per week in new direct jobs.

3. The amount of the rebate is directly related to the new direct jobs created and to the new annual gross payroll generated as the result of a qualified employer locating or expanding in the state.

4. The qualified employer is entitled to sales and use tax rebates authorized in R.S. 51:1787 if the employer meets the Enterprise Zone Program hiring requirements.

5. Approval by the Louisiana Board of Commerce and Industry and the Governor of Louisiana is required, after consultation with the Secretary of the Department of Labor and the Secretary of the Department of Revenue.

6. An establishment that is engaged in retail; business associations and professional organizations; state and local government enterprises; real estate agents, operators, and lessors; automotive rental and leasing; local solid waste disposal, local sewage systems, and local water systems;

nonprofit organizations; the gaming industry; and attorneys shall not be eligible for rebates under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:961 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2305 (November 2003).

§1103. Definitions

Affiliate?

1. any business entity;
 - a. controlled by the applicant business;
 - b. which is a controlling owner of the applicant business; or
 - c. which is controlled by an entity described in Subparagraphs a or b.
2. for purposes of this definition, "control" is defined as owning either directly or indirectly through control of or by another business entity:
 - a. A majority of the voting stock or other voting interest of such business entity or the applicant business; or
 - b. Stock or other interest whose value is a majority of the total value of such business entity or the applicant business.
3. a business entity may be treated as a non-affiliate if the applicant business proves that neither the applicant business nor any of its controlling owners exercise authority over the management, business policies and operations of the business entity.

Basic Health Benefits Plan or the Health Insurance Coverage? that which is required to be offered and/or provided shall include coverage for basic hospital care, coverage for physician care, and coverage for health care which shall be the same as that provided to executive, administrative, or professional employees.

Benefit Rate? one of the following percentages:

1. for new direct jobs created which pay at least 1 3/4 times the federal minimum hourly wage rate, the benefit rate shall be five percent;
2. for new direct jobs created which pay at least 2 1/4 the federal minimum hourly wage rate and meet one of the following criteria, the benefit rate shall be 6 percent;
 - a. the new direct jobs are located in a distressed region designated by the Department of Economic Development. If an area is designated a distressed region, such designation shall be maintained for the period of the initial contract and during the renewal contract. To qualify an employer shall either be located in a distressed region or at least 50 percent of the new direct jobs of the employer shall be filled by persons who reside in a distressed region; or
 - b. the new direct jobs are with an employer categorized in a traditional or seed cluster identified by the Louisiana Economic Development Council and the Department of Economic Development. The Department of Economic Development shall promulgate rules and regulations defining traditional or seed cluster employers prior to these rules taking effect.

Department? the Louisiana Department of Economic Development.

Distressed Region? one of the following:

1. a parish with a per capita income in the lowest 25 percent of the parishes; or
2. a census tract and block group that is below the state median per capita income, based on the most recent federal decennial census.

Employer? a legal person who executes a contract with the department pursuant to the provisions of R.S. 51:2452-2462, and who offers, or will offer within 90 days of the effective date of qualifying for the incentive rebates, a basic health benefits plan to the individuals it employs in new direct jobs:

1. for advance notifications filed with the department before June 1, 2000, the employer shall pay not less than 50 percent of the insurance premium;
2. for advance notifications filed with the department on or after June 1, 2000, but before May 1, 2002, the employer shall pay not less than 75 percent of the premium for full-time employees. The employer shall offer group coverage for dependents of full-time employees, but the employer is not required to pay the premium;
3. for advance notifications filed with the department on or after May 1, 2002, the employer shall offer the employee the choice of one of the following health insurance coverage programs:
 - a. the employer shall pay not less than 85 percent of the total premium for full-time employees choosing to participate under individual coverage and shall offer coverage for dependents of full-time employees, but the employer is not required to pay the premium; or
 - b. the employer shall pay not less than 50 percent of the total premium for full-time employees who choose to participate and choose to cover their dependents.

Gross Payroll? wages for the new direct jobs upon which the specified benefit rate is calculated.

NAICS? North American Industrial Classification System
New Direct Job?

1. employment in the state of an employee:
 - a. working the average hours per week provided in §1101.B.2; and
 - b. who was not previously on the payroll of;
 - i. the employer;
 - ii. the employer's parent entity, subsidiary, or affiliate; or
 - iii. any business whose physical plant and employees are substantially the same as those of the employer;
2. a new direct job:
 - a. shall be with an employer that has qualified for the incentive rebate;
 - b. did not exist in this state prior to the advance notification being filed by the employer with the department pursuant to the provisions of R.S. 51:2455;
 - c. shall be filled by an individual domiciled in the state of Louisiana;
 - d. shall not be a job that is created by an employer as a result of the employer securing a contract to supply goods and services in the state of Louisiana, if another business was under an obligation to supply the same goods and services from a facility located in Louisiana and such obligation was terminated within three months prior to filling the job by the employer; and

e. shall not include an employee retained following the acquisition of all or part of an in-state business by an employer.

Wages? all remuneration for services from whatever source, including commissions and bonuses and the cash value of all remuneration in any medium other than cash, and dismissal payments which the employer is required by law or contract to make. Gratuities shall be estimated in accordance with the Internal Revenue Code and its rules and regulations. Wages shall not include the following:

1. the amount of any payment with respect to services performed after January 1, 1951, to or on behalf of an individual in its employ under a plan or system established by an employer which makes provision for individuals in its employ generally, or for a class of classes of such individuals, including any amount paid by an employer for insurance or annuities, or into a fund to provide for any such payment, on account of:

- a. retirement;
- b. sickness or accident disability;
- c. medical and hospitalization expenses in connection with sickness or accident disability;
- d. death, provided the individual in its employment does not have the option to receive, instead of provision of such death benefit, any part of such payment or, if such death benefit is insured, any part of the premium or contributions to premiums paid by his employer or does not have the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit or to receive cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon the termination of such plan or system or policy of insurance or of his services with such employer; or

e. a bona fide thrift or savings fund, providing such payment is conditioned upon a payment of a substantial sum by such individuals in its employment and such sum paid by the employer cannot under the provisions of such plan be withdrawn by an individual more frequently than once in any 12 month period, except upon an individual's separation from that employment;

2. any payment made to, or on behalf of, an employee or his beneficiary under a cafeteria plan of the type described in 26 U.S.C. 125 and referred to in 26 U.S.C. 3306(b)(5)(G);

3. any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such financing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under an educational assistance program as described in 26 U.S.C. 127 or a dependent care assistance program as described in 26 U.S.C. 129 and as referred to in 26 U.S.C. 3306(b)(13);

4. the payment by an employer, without deduction from the remuneration of the individual in its employ, of the tax imposed upon such individual in its employ under Section 3 101 of the federal Internal Revenue Code with respect to domestic services in a private home of the employer or for agricultural labor performed after December 31, 1980;

5. dismissal payments that the employer is not required by law or contract to make; or

6. the value of any meals and lodging furnished by or on behalf of an employer to an individual in his employ, provided the meals and lodging are furnished on the business premises of the employer for the convenience of the employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:961 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2306 (November 2003).

§1105. Qualified Employers

A. To qualify for a contract an employer must meet one of the following provisions:

1. be one of the six Vision 2020 cluster industries:
 - a. Medical and Biomedical;
 - b. Micromanufacturing;
 - c. Software, Auto Regulation, Internet, and Telecommunications Technology;
 - d. Environmental Technologies;
 - e. Food Technologies; or
 - f. Materials;
2. be a manufacturer whose primary function is identified by NAICS codes 113310, 211, 213111, 541360, 311-339, 511-512, and 54171;
3. be an oil and gas field services business as defined by the NAICS code 213112 and must pay not less than \$30,000 per year for each new direct job, and Louisiana must be the national or regional headquarters of a multi-state business whose service territory includes Louisiana and the Gulf of Mexico;
4. have or will have sales of at least 75 percent of its total sales within one year to:
 - a. out-of-state customers or buyers;
 - b. in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use; or
 - c. the federal government;
5. meet the requirements of both a and b:
 - a. have or will have sales of at least 50 percent of its total sales within one year to:
 - i. out-of-state customers or buyers;
 - ii. in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use; or
 - iii. the federal government; and
 - b. meet one of the following requirements:
 - i. be classified as an industry defined by NAICS codes that have a direct state employer multiplier of 2.0 or greater in accordance with the most current edition of the Regional Input/Output Multiplier System II or its successor;
 - ii. be a central administrative office that influences the environment in which data processing, customer service, credit accounting, telemarketing, claims processing, and other administrative functions are accomplished;
 - iii. have data processing, back office operations, and telephone call center operations (NAICS Code 56142);
 - iv. be a wholesale trade business (NAICS Code 42) and have a distribution center of not less than 25,000 square feet;

6. must be a National Basketball Association Team, which relocates to Louisiana and may enter into a contract prior to November 1, 2003; however, contracts with such teams:

a. shall not grant a tax rebate greater than \$3,650,000 in any taxable year;

b. shall not allow the salary of any person who owns more than 25 percent of such team to be included in the gross payroll to calculate the rebate;

c. may be renewed for an additional five years, provided the team has complied with all the terms of the contract, has not performed, or failed to perform, any act which made the applicant liable for suspension;

d. shall be awarded a benefit rate of no more than 5 percent; and

e. shall include the wages of players and coaches of the team subject to Louisiana income tax in the calculation of the gross payroll, even though the players and coaches may be non-residents of Louisiana.

B. The following employers or persons shall not be eligible for benefits provided under this Chapter:

1. retail employers identified by NAICS Code Sections 44 and 45;

2. business associations and professional organizations identified by NAICS Code 8139;

3. state and local government enterprises;

4. real estate agents, operators, and lessors;

5. automotive rental and leasing;

6. local solid waste disposal, local sewage systems, and local water systems businesses;

7. nonprofit organizations;

8. employers engaged in the gaming industry identified by NAICS Code Sections 713210 and 721120; and

9. attorneys.

C. The department may promulgate rules annually listing other ineligible employers, professions, or service industries that are not eligible for rebates under the provisions of this program. Such rules shall not take place until the Louisiana Economic Development Council, the House Committee on Ways and Means, and the Senate Committee on Revenue and Fiscal Affairs approves.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:963 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2307 (November 2003).

§1107. Application Fees, Timely Filing

A. The applicant shall submit an advance notification on the prescribed form before locating the establishment or the creation of any new direct jobs in the state. All financial incentive programs for a given project shall be filed at the same time, on the same advance notification form. An advance notification fee of \$100, for each program applied for, shall be submitted with the advance notification form. An advance notification filing shall be considered by the department to be a public record under Louisiana Revised Statutes, Title 44, Chapter 1, Louisiana Public Records Law, and subject to disclosure to the public.

B. An application for the Quality Jobs Program must be filed with the Office of Business Development, P.O. Box

94185, Baton Rouge, Louisiana 70804-9185 on the prescribed forms within 90 days of the creation of the jobs or completion of the project, whichever occurs first. Failure to file an application may result in the application being denied or restricted.

C. An application fee shall be submitted with the application based on the following:

1. 0.2 percent times the estimated total incentive rebates (see application fee worksheet to calculate);

2. the minimum application fee is \$200 and the maximum application fee is \$5,000 for a single project;

3. the check is made payable to the Louisiana Department of Economic Development.

D. A Project Completion Report shall be filed within 90 days after the completion of construction/installation.

E. An Affidavit of Annual Certification shall be filed within 90 days of completing a company's fiscal year. A fee of \$100 must be filed with the initial report.

F. An application to renew a contract shall be filed within 60 days of the initial contract expiring. A fee of \$50 must be filed with the renewal contract.

G. The Office of Business Development reserves the right to return the advance notification, application, or affidavit of annual certification to the applicant if the estimated exemption or the fee submitted is incorrect. The document may be resubmitted with the correct fee. The document will not be considered officially received and accepted until the appropriate fee is submitted. Processing fees for advance notifications, applications, or affidavits of annual certification that have been accepted for eligible projects, shall not be refundable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:963 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2308 (November 2003).

§1109. Application Review, Analysis, Evaluation, Determination

A. Application Review

1. The department will assign a project number and review the advance notification form to determine if the employer is qualified pursuant to §1105.A. The employer will be notified of the project number and due date of the application packet.

2. The application packet must be completed and returned to the Department of Economic Development by the due date. The department must authorize any omissions to the application by the employer in writing. If the application is incomplete, the department may request additional information prior to further action. The application fee must accompany the application packet pursuant to §1107.C.

B. Analysis, Evaluation, Determination

1. The department shall determine qualification for the employer:

a. the employer shall create a minimum of five new direct jobs;

b. the employer shall meet the annual payroll requirements pursuant to §1101.B.1 and 2;

c. the employer shall offer a basic health benefits plan to the individuals it employs in new direct jobs pursuant to §1103.B. A copy of said plan must be provided to the department;

d. the department will analyze the proposed new direct jobs to determine they meet the program criteria;

e. the employer must furnish all sources of remuneration that make up the wages that are used in the determination of the gross payroll. A listing that will identify all positions and wages of all employees shall be furnished to verify the gross payroll;

f. the department will determine the effective date of the contract.

2. The department shall determine the benefit rate pursuant to §1103.E and F and §1105.A.5.c.(5).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:964 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2308 (November 2003).

§1111. Consultation with the Departments of Labor and Revenue

A. The department will provide a copy of the application and all relative information to the Department of Labor and the Department of Revenue for review. Either the Department of Labor or the Department of Revenue or both may require additional information from the applicant.

B. The department must obtain a letter-of-no-objection or a letter-of-approval from the Department of Labor and the Department of Revenue, prior to submitting the application to the Board of Commerce and Industry for action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:964 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2309 (November 2003).

§1113. Application to Department of Revenue and Taxation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:965 (October 1996), repealed by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2309 (November 2003).

§1115. Economic Development Recommendations to Board

A. The department after review and analysis will prepare the application information in a format suitable for presentation to the Board of Commerce and Industry.

B. The department will make a presentation to the Board of Commerce and Industry as to the economic impact and the benefits to be received.

C. The department will make recommendations for approval or disapproval, and will provide information on

behalf of the Department of Labor and the Department of Revenue.

D. The Board of Commerce and Industry must approve the application prior to a contract being issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:965 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2309 (November 2003).

§1117. The Contract

A. The Board of Commerce and Industry or its successor, after no-objection from the secretaries of the Department of Labor and the Department of Revenue, with the approval of the governor, may enter into a contract with an employer for a period up to five years.

1. A contract with an employer shall be limited to a single physical location, and the benefits the employer shall receive will be based solely upon the operations at that location.

2. An employer may have more than one contract covering multiple locations; however, the eligibility of each location shall be determined separately, with the exception of determining new direct jobs. The department shall certify that the employer has a net overall increase in employment statewide for each new direct job.

B. The contract may be renewed for an additional five years provided that:

1. the employer has complied with all the terms of the contract; and

2. the employer has met the statutory minimum hourly wage for the new direct jobs subject to the benefit rate established when the contract was entered into and the hourly wage has increased by an amount which is equal to or greater than one of following:

a. the wage rate has grown by the percentage increase in the Consumer Price Index published by the U.S. Department of Labor for the five years of the initial term of the contract, compounded; or

b. the wage rate has increased by two percent for the five years of the initial term of the contract, compounded.

C. No contract shall be executed if:

1. the employer has defaulted, not repaid a loan, or not repaid an obligation involving public funds;

2. the employer declared bankruptcy and the obligation to pay or repay public funds or monies was discharged as part of such bankruptcy a contract shall not be executed;

3. the employer is in default on any filing or payment to the state, to any of its agencies, or to any of its political subdivisions, and in which an assessment or judgment is final; or

4. the employer employs more than 50 employees and has entered into a contract or other agreement with any person or entity where required payment is contingent upon their success in obtaining the benefits of this program. If an employer employs less than 50 employees and enters into such contract, this provision will not prohibit such employer from being eligible for a Quality Jobs Act Program contract

renewal. However, if at the time of such renewal, such employer employs more than 50 employees, the employer will not be eligible for renewal if the employer has entered into a contract where required payment is contingent upon success in obtaining benefits related to the contract renewal.

D. **Contract Voided.** Violation of the provisions of §1117.C shall void the contract and any rebates paid to the employer prior to the date the violation is discovered, the rebates will be recovered by adding to the income tax liability for the taxable year the violation occurred. Additionally, interest will be assessed from the date of the violation and the employer shall receive no further rebates.

E. **Contract Suspended**

1. If a rebate is received by an employer as provided under this provision and the employer is rendered an assessment or judgment that is final and nonappealable in favor of the state or any of its agencies or any of its political subdivisions, the contract shall be suspended pending the settlement of the assessment. No rebate shall accrue to the employer under the contract during the period of suspension.

2. After the employer's fiscal year for which the employer applied for his third annual rebate, if at any other time during the 10-year contract period the employer applies for a rebate following the end of the employer's fiscal year, and the verified gross payroll for the fiscal year does not demonstrate the required minimum of five new direct jobs and the gross payroll does not equal or exceed a total of \$500,000 or \$250,000, whichever is applicable to said contract, the rebates shall be suspended and shall not be resumed until such time as the payroll and job requirements are met. No rebate shall accrue or be paid to the employer during a period of suspension.

F. **Contract Rebates Reduced**

1. If the employer receives a rebate and it is subsequently determined the employer did not qualify for the rebate, future rebates will be reduced by the amount received by the employer.

2. If there are no future rebates to deduct the amount owed the state, the tax liability of the employer will be increased by the amount of the rebate for the taxable period non-qualification was determined.

3. The secretary of the Department of Revenue may recover any rebates previously granted to an employer but which rebates disallowed as authorized by R.S. 47:1561.2. The employer shall waive prescription for the purpose of recovering any disallowed rebates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:965 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2309 (November 2003).

§1119. Incentive Rebates

A. Except as otherwise provided herein an employer who has entered into a contract may receive a rebate that is calculated by multiplying the benefit rate, as defined in LCA 1103.F.1 and 2, times the annual gross payroll of new direct jobs, as defined in LCA 1103.H.1-9, for the specified period in the contract.

B. Notwithstanding anything to the contrary in either Chapter 1 or Chapter 5 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, as amended, the following rules shall apply with respect to the application of the rebate allowed.

1. The incentive rebate allowed an S corporation shall be paid to the S corporation entity and not the individual shareholders of the corporation.

2. The incentive rebate allowed a partnership, limited liability partnership (LLP), or limited liability company (LLC) shall be paid to the entity and shall not be paid to the individual partners or members of the entity.

C. Notwithstanding any other provision of law to the contrary in Title 47 of the Louisiana Revised Status of 1950, as amended, the Secretary of the Department of Revenue shall make the rebate.

D. In order to receive the rebate provided for by the contract, an employer shall apply with the department.

1. The application shall be filed on the prescribed form designated by the department and shall contain the required information to determine if the applicant is qualified.

2. The application shall contain a sworn statement, by a duly authorized officer of the employer, listing the names of persons or other entities who have received or who will receive any payment or other consideration from the employer for the purpose of representing the employer in applying for or receiving the benefits of this program.

E. In order to qualify to receive the rebate, the employer applying shall meet the requirements of LCA 1101.B.1 and 2.

F. The department shall determine if an applicant is qualified to receive rebates.

G. The approved employer shall apply annually for rebates with the department in the prescribed format and provide the information as described in LCA 1123. The employer may be audited by the department to verify eligibility. The rebates may continue as long as the employer complies with the approved contract and remains eligible.

H. The benefit rate shall be determined annually based on information provided by the employer on the rebate claim reports made annually.

I. The payroll rebates shall be paid annually after the employer submits the required annual report as specified in LCA 1123 and the department determines the employer is eligible for the rebate for that fiscal year. The report shall be filed within 90 days following the end of the employer's fiscal year with the Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:965 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2310 (November 2003).

§1121. Rebate Payments

A. In addition to the payroll rebates, an employer shall be entitled to sales and use tax rebates as authorized in R.S. 51:1787, if the employer meets the hiring requirements as defined in the Enterprise Zone Program and meets the other

limitations, procedures, and requirements of R.S. 51:1787 and the rules promulgated there under, Louisiana Administrative Code, Title 13, Part I, Chapter 7.

B. An employer may request rebates of local sales and use taxes. This request must be accompanied by an endorsement resolution approved by the local governing authority of the appropriate municipality, parish, port district, or industrial district board in whose jurisdiction the employer is or will be located and taxes are paid. The endorsement resolution must clearly state if the local governmental subdivision intends to rebate the allowable sales and use taxes for the project. A copy of the resolution must be filed with the Department of Economic Development prior to action taken by the board on the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2310 (November 2003).

§1123. Rebate Claim Filing

A. Payroll Rebate

1. A qualified employer must file annually an Affidavit of Annual Certification within 90 days of the completion of employer's fiscal year with the department to claim the payroll rebate.

2. The annual report will provide information on the number of employees at the site, the number of employees statewide, the number of new direct jobs created at the site, the number of hours worked by each employee weekly, the hourly wage paid employees in the new direct jobs, the position title, the employee's address, the hire date, the term date, the insurance acceptability, the percentage of the insurance paid by the employer, and the annual gross wages.

3. The department may request additional information from the employer as may be necessary to determine the eligibility for the annual rebate for that fiscal year or may request the employer revise the annual report.

4. Upon approval the department will advise the Department of Revenue the eligible rebate. The Department of Revenue shall make payment of the rebate after offset, if applicable, under R.S. 47:1622. The rebate shall be considered a refundable overpayment for the purpose of such offset.

5. If the actual verified annual gross payroll for the employer's third fiscal year does not show a minimum of five new direct jobs and does not equal or exceed a total annual payroll of \$500,000 or \$250,000, whichever is applicable, the employer will be determined to be ineligible under this Chapter. The Department of Revenue will be notified and the tax liability for the current tax period in which the failure to meet the requirements occurs shall be increased by the amount of rebates previously allowed.

B. Sales and Use Tax Rebate

1. An annual Employee Certification Report must be filed on all active contracts for the employer to qualify for the sales and use tax rebate under this Chapter.

2. The "beginning number" from which the net new jobs will be determined shall be the number of employees that an employer has on the day before the effective date of the contract.

3. An employee count will be taken from the employer's entire contiguous site for the purposes of calculating the jobs.

4. Monthly totals of permanent full time employees will be averaged over a minimum of six months to determine the number of jobs generated. Part time employees may be counted after completing a minimum of six months of continuous employment comprised of a minimum of 20 hours every week during that continuous period. Only employees reported on the Department of Labor's Unemployment Insurance Report will be used to calculate the average monthly total. In no case shall the new employees exceed the net increase in the total employment.

5. If the Employee Certification Report substantiates that the company has not met the hiring requirements under these rules, the employer will not be eligible for the sales and use tax rebate. The department will notify the Department of Revenue of the ineligibility.

C. Sales and Use Tax Rebate Advance Notification

1. Initial Sales and Use Tax Rebate Advance Notification. An employer who receives a Quality Jobs Act contract and who meets the requirements for sales and use tax rebates as authorized in R.S. 51:1787 and §1121 of these Rules, will satisfy the advance notification requirement for sales and use tax rebates for the initial period of the Quality Jobs Act contract by submission of the Quality Jobs Act Program advance notification referred to in §1107 of these Rules. The initial sales and use tax rebate period may begin on or after the Quality Jobs Act contract effective date and shall be no longer than twenty-four months, except to the extent that a longer period is authorized under the Enterprise Zone Program. In order to receive rebates of local sales and use taxes, the employer must satisfy the provisions of §1121.B of these Rules.

2. Subsequent Sales and Use Tax Rebate Periods. On the expiration of the initial sale and use tax rebate period under the Quality Jobs Act contract, an employer may file additional advance notifications on Form, "Quality Jobs Act Sales and Use Tax Rebate Advance Notification," to seek additional state and local sales and use tax rebates as authorized in R.S. 51:1787 and §1121 of these Rules if the employer meets the hiring requirements as defined in the Enterprise Zone Program and meets the other limitations, procedures, and requirements of R.S. 51:1787 and the Rules promulgated thereunder, *Louisiana Administrative Code*, Title 13, Part I, Chapter 7, for each subsequent sales and use tax rebate period during the term of the Quality Jobs Act contract. Each subsequent sales and use tax rebate period shall be no longer than twenty-four months, except to the extent that a longer period is authorized under the Enterprise Zone Program. The local endorsement resolution requirements of §1121.B shall apply to each subsequent sales and use tax rebate period for which an employer under a Quality Jobs Act contract seeks the rebate of local sales and use taxes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2311 (November 2003).

§1125. Prohibited Incentives

A. A qualified employer that enters into a contract under this Chapter shall not be eligible to receive the other credits

or exemptions provided for in the following provisions of law except as provided for in R.S. 51:2456(B):

1. R. S. 47:34 (tax credit for generation of new jobs in Louisiana);
2. R.S. 47:38 and 287.757 (income tax credit for conversion of vehicles to alternate fuel usage);
3. R.S. 47:4301 through 4306 (Industry Assistance Program - income tax, corporate franchise tax, state sales tax, and excise tax exemptions for manufacturing establishments);
4. R.S. 47:6004 (employer credit for employment of previously unemployed person);
5. R.S. 47:6009 (Louisiana basic skills training tax credit-income tax credit);
6. R.S. 47:6010 (employer income tax credit for employment alcohol and substance abuse treatment programs);
7. R.S. 51:1787 (Enterprise Zone Program - incentives tax exemption from sales and use tax materials to be used in the construction of a building and for machinery and income tax credit for each employee in an enterprise zone);
8. R.S. 47:287.748 (re-entrant jobs credit for formerly incarcerated employees-corporate income tax);
9. R.S. 47:287.749 (corporate income tax credit for new jobs);
10. R.S. 47:287.753 (neighborhood assistance income tax credit).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2311 (November 2003).

§1127. Penalties

A. Penalties are provided under R.S. 51:2460 for false or fraudulent information in making application, making a claim for rebate, or other instrument.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2312 (November 2003).

§1129. Termination of Program

A. The Board of Commerce and Industry shall approve no new applications for rebates as provided for under this Chapter on and after January 1, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2312 (November 2003).

§1131. Severability

A. If any Section or provision of this Chapter is held invalid, such invalidity shall not affect other provisions of this Chapter. Any provision of this Chapter that is in conflict with R.S. 51:2451-R.S. 51:2462 or any other statute will be invalid and will be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2312 (November 2003).

Don J. Hutchinson
Secretary

0311#057

RULE

Department of Economic Development Office of the Secretary

Capital Companies Tax Credit Program? Notes Receivable (LAC 10:XV.325)

The Department of Economic Development, Office of the Secretary, pursuant to the authority of R.S. 51:1929 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby adopts the following Rule for the Capital Companies Tax Credit Program. The Rule is being adopted to provide additional guidance to certified Louisiana capital companies on the application of R.S. 22:1068.(E)(1)(b). This Rule provides for certain issues regarding premium tax reductions when certified Louisiana capital companies issue notes receivable to insurance companies that invest certified capital. It provides that the minimum period until maturity of the note shall be five years, and provides for minimum required repayment terms.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC

Part XV. Other Regulated Entities

Chapter 3. Capital Companies Tax Credit Program §325. Notes Receivable

A. The provisions of R.S. 22:1068(E)(1)(b) will be satisfied with respect to a note receivable issued by a certified Louisiana capital company or its investment pool to an investing insurance company if:

1. the note receivable has a stated final maturity date of not less than five years from the date on which the certified Louisiana capital company or its investment pool issues the note receivable; and

2. either:

a. the note receivable is repaid in a manner which results in the note receivable being fully repaid or otherwise satisfied in equal amounts over the stated maturity of the note receivable; or

b. the duration of the note receivable is no shorter than the duration of a hypothetical note that:

i. is issued on the same date as the note issued by the certified Louisiana capital company or its investment pool;

ii. has the same maturity date as the note issued by the certified Louisiana capital company or its investment pool;

iii. has a price and yield the same as that of the note issued by the certified Louisiana capital company or its investment pool, calculated in the same manner (i.e., with respect to compounding, 360 vs. 365 day per year calculations, etc.); and

iv. is fully amortized by equal daily payments, which amounts are calculated as follows:

(a) the aggregate of all amounts scheduled to be paid or otherwise credited to the holder of the note receivable issued by the certified Louisiana capital company or its investment pool for the entire term of the note receivable divided by;

(b). the total number of days scheduled to elapse from the date on which the certified Louisiana capital company or its investment pool issues its note receivable through and including the stated maturity date thereof, calculated on a 365 or 360 day year, consistent with the calculation of interest on the note receivable.

B. For purposes of this Section, a note receivable's "duration" shall mean the weighted-average time to receipt of the present value of the amounts used to repay or otherwise satisfy the note receivable obligation. For purposes of this Section, a note receivable's duration shall be calculated in a manner that is typical in the industry for publicly-traded debt instruments.

C. Each certified Louisiana capital company or its investment pool that issues notes to insurance companies other than those described in A.2.a of this Section shall submit to the Office of Financial Institutions, in writing, the duration for each such note issued by it (or one representative note, if all notes are similar except for the face amount) and the duration for the note described in A.2.b of this Section. Each calculation shall show:

1. all information required to make the duration calculation; and

2. all interim worksheets and formulae used in the duration calculation, reasonably sufficient to allow the Office of Financial Institutions to duplicate the calculation. A copy of the actual spreadsheet model used by the certified Louisiana capital company or its investment pool for its duration calculation in a Microsoft Excel software format shall satisfy the requirements of the preceding sentence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1929.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 29:2312 (November 2003).

Don J. Hutchinson
Secretary

0311#055

RULE

Board of Elementary and Secondary Education

Bulletin 105? Louisiana Content Standards
for Programs Serving Four-Year-Old Children
(LAC 28:LXXVII.Chapters 1-5)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted *Bulletin 105? Louisiana Content Standards for Programs Serving Four-Year-Old Children*. Bulletin 105 will be printed in codified format as Part LXXVII of Title 28 of the Louisiana Administrative Code. At the May 2003 meeting of the State Board of Elementary and Secondary Education, Bulletin 105 was approved. This bulletin contains content standards needed for the effective operation of a quality early childhood program. This action was necessary in order to ensure quality across early childhood programs under the present jurisdiction of the Department of Education, provide quality standards available to other agencies that serve four-year-old students, and to provide for a consistent flow from

pre-kindergarten to kindergarten, thus meeting the mandates of the federal "No Child Left Behind" (NCLB) legislation.

Title 28

EDUCATION

Part LXXVII. Bulletin 105? Louisiana Content Standards for Programs Serving Four-Year-Old Children

Chapter 1. General Provisions

§101. Introduction

A. *The Louisiana Content Standards for Programs Serving Four-Year-Old Children* document was developed by a committee of educators from across the state. The committee consisted of representatives of higher education institutions, technical colleges, childcare, Head Start, Department of Social Services, and the Department of Health and Hospitals, as well as representatives from local school system administrators and classroom teachers. The standards were designed to address the needs of all children in all settings. There are a number of principles that guided the development of the document. [These *Guiding Principles* were reprinted with permission from the Connecticut State Department of Education Preschool Curriculum Framework and Benchmarks for Children in Preschool Programs (May 1999).]

1. Early learning and development are multidimensional; developmental domains are highly interrelated. Development in one domain influences the development in other domains. For example, children's language skills impact their ability to engage in social interactions. Therefore, developmental domains cannot be considered in isolation of each other. The dynamic interaction of all areas of development must be considered.

2. Young children are capable and competent. All children are capable of positive developmental outcomes. Therefore, there should be high expectations for all young children.

3. There are individual differences in rates of development among children. Each child is unique in the rate of growth and the development of skills and competencies. Some children may have a developmental delay or disability that may require program staff to adapt expectations of individual children or adapt experiences so that they will be successful in attaining the performance standard. Additionally, each child is raised in a cultural context that may impact a child's acquisition of certain skills and competencies.

4. Children will exhibit a range of skills and competencies in any domain of development. Preschool age children will exhibit a range of skills and competencies in any area of development. All children within an age group should not be expected to master each skill to the same degree of proficiency at the same time.

5. Knowledge of child growth and development and consistent expectations are essential to maximize educational experiences for children and for program development and implementation. Early care and education program staff must agree on what it is they expect children to know and be able to do, within the context of child growth and development. With this knowledge, early childhood staff can make sound decisions about appropriate curriculum for the group and for individual children.

6. Families are the primary caregivers and educators of their young children. Families should be aware of programmatic goals and experiences that should be provided for children and expectations for children's performance by the end of the preschool years. Program staff and families should work collaboratively to ensure that children are provided optimal learning experiences. Programs must provide families with the information they may need to support children's learning and development.

7. Young children learn through active exploration of their environment through children-initiated and teacher-selected activities. The early childhood environment should provide opportunities for children to explore materials and engage in concrete activities, and to interact with peers and adults in order to construct their own understanding about the world around them. There should therefore be a range of approaches to maximize children's learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2313 (November 2003).

§103. Louisiana Content Standards Foundation Skills

A. The Louisiana Content Standards Task Force has developed the following foundation skills, which should apply to all students in all disciplines.

Citizenship? the application of the understanding of the ideals, rights, and responsibilities of active participation in a democratic republic that includes working respectfully and productively together for the benefit of the individual and the community; being accountable for one's choices and actions and understanding their impact on oneself and others; knowing one's civil, constitutional, and statutory rights; and mentoring others to become productive citizens and lifelong learners.

Communication? a process by which information is exchanged and a concept of "meaning" is created and shared between individuals through a common system of symbols, signs, or behavior. Students should be able to communicate clearly, fluently, strategically, technologically, critically, and creatively in society and in a variety of workplaces. This process can best be accomplished through use of the following skills: reading, speaking, listening, viewing, and visually representing.

Linking and Generating Knowledge? the effective use of cognitive processes to generate and link knowledge across the disciplines and in a variety of contexts. In order to engage in the principles of continual improvement, students must be able to transfer and elaborate on these processes. "Transfer" refers to the ability to apply a strategy or in-content knowledge effectively in a setting or context other than that in which it was originally learned. "Elaboration" refers to monitoring, adjusting, and expanding strategies into other contexts.

Problem-Solving? the identification of an obstacle or challenge and the subsequent application of knowledge and thinking processes, which include reasoning, decision-making, and inquiry in order to reach a solution using multiple pathways, even when no routine path is apparent.

Resource Access and Utilization? the process of identifying, locating, selecting, and using resource tools to help in analyzing, synthesizing, and communicating

information. The identification and employment of appropriate tools, techniques, and technologies are essential to all learning processes. These resource tools include pen, pencil, and paper; audio/video materials, word processors, computers, interactive devices, telecommunication, and other emerging technologies.

NOTE: These foundation skills were developed by the Louisiana Content Standards Task Force in 1997. This task force developed the State Standards for Curriculum Development for kindergarten through grade 12.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2314 (November 2003).

§105. Information Literacy Model for Lifelong Learning

A. Students must become competent and independent users of information to be productive citizens of the 21st century. They must be prepared to live in an information-rich and changing global society. Due to the rapid growth of technology, the amount of information available is accelerating so quickly that teachers are no longer able to impart a complete knowledge base in a subject area. In addition, students entering the workforce must know how to access information, solve problems, make decisions, and work as part of a team. Therefore, information literacy, the ability to recognize an information need and then locate, evaluate, and effectively use the needed information, is a basic skill essential to the 21st century workplace and home. Information literate students are self-directed learners, who, individually or collaboratively, use information responsibly to create quality products and to be productive citizens. Information literacy skills must not be taught in isolation; they must be integrated across all content areas, utilizing fully the resources of the classroom, the school library media center, and the community. The Information Literacy Model for Lifelong Learning is a framework that teachers at all levels can apply to help students become independent lifelong learners.

1. Defining/Focusing. The first task is to recognize that an information need exists. Students make preliminary decisions about the type of information needed based on prior knowledge.

2. Selecting Tools and Resources. After students decide what information is needed, they then develop search strategies for locating and accessing appropriate, relevant sources in the school library media center, community libraries and agencies, resource people, and others as appropriate.

3. Extracting and Recording. Students examine the resources for readability, currency, usefulness, and bias. This task involves skimming or listening for key words, "chunking" reading, finding main ideas, and taking notes.

4. Processing Information. After recording information, students must examine and evaluate the data in order to utilize the information by categorizing, analyzing, evaluating, and comparing for bias, inadequacies, omissions, errors, and value judgments. Based on their findings, they either move on to the next step or do additional research.

5. Organizing Information. Students effectively sort, manipulate, and organize the information that was retrieved.

They make decisions on how to use and communicate their findings.

6. Presenting Findings. Students apply and communicate what they have learned (e.g., research report, project, illustration, dramatization, portfolio, book, book report, map, oral/audio/visual presentation, game, bibliography, hyper stack).

7. Evaluating Efforts. Throughout the information problem solving process, students evaluate their efforts. This assists students in determining the effectiveness of the research process. The final product may be evaluated by the teacher and other qualified or interested resource persons.

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§107. Definitions

Accommodations? changes in the curricular material and experiences to accommodate a child's particular needs. Adaptations are not intended to alter the difficulty of the skill or area of development addressed. Such adaptations may enable children with disabilities to have experiences similar to those of their peers.

Child-Initiated Activities? children are able to select their own centers, activities, materials, and companions, and are able to manage their own play independently. There is adult interaction in response to the children's developmental needs, as well as to introduce and reinforce concepts. This is also called *free play*. (Note: When children are assigned to centers by staff or the staff selects the activities, materials, etc., for the children, this *is not* considered a child-initiated or free play activity.)

Concrete Hands-On Learning Experiences? learning experiences that emphasize choice, free exploration, interaction, and authenticity within a relevant and meaningful context. Such experiences emphasize the development of children's thinking, reasoning, decision-making and problem-solving abilities. Curriculum areas and skills are integrated in the context of the learning activities and experiences as opposed to being taught in isolation.

Content Practice Standards? describes the broad outcomes that children should achieve through a high-quality preschool experience. Each Content Practice Standard is aligned with the Louisiana K-4 Content Standards and other relevant state and national standards.

Developmental Profile? specifies what most preschool children should be able to know and be able to do by the end of their preschool experiences.

Developmentally Appropriate Practice? quality care and education of young children based on:

1. knowledge of how children develop and learn. This includes information about ages and stages of development as well as what materials, activities and interactions are important for each;

2. knowledge of the individual child, including disabilities; and

3. knowledge about the social, cultural and familial cultural context in which children are growing up.

Domain? describe the aspect of development for each standard. content areas are specified for each domain.

Early Childhood Environment Rating Scale-Revised (ECERS-R)? a reliable and valid research based program

quality assessment instrument. This scale is designed for use in classrooms serving children 2 1/2 to 5 years of age. It is used to evaluate classroom environment as well as programmatic and interpersonal features that directly affect children and adults in the early childhood setting. The seven sub-scales of the ECERS-R include: *Space and Furnishings, Personal Care Routines, Language-Reasoning, Activities, Interactions, Program Structure, and Parents and Staff.*

Emerging Skills? skills or abilities, which are not shown as being mastered but are present in a modified or limited form. Attention to emerging skills allows teachers to assess the developmental process and progress of students. Additionally, a focus on emerging skills is important in the planning of the environment and activities to facilitate development of skills.

Examples? tips on how to structure the curriculum and environment to assist a child's optimal performance.

Free Play? see Child-Initiated Activity.

Grapheme? the smallest part of *written* language that represents a phoneme in the spelling of a word.

Head Start Child Outcomes Framework? this framework is intended to guide Head Start Programs in the ongoing assessment of the progress and accomplishments of children. The eight general Domains serve as building blocks that are important for school success. The domains include: Language Development, Literacy, Mathematics, Science, Creative Arts, Social and Emotional Development, Approaches to Learning and Physical and Health Development.

Head Start Performance Standards? these standards used in Head Start Programs are based on sound child development principles about how children grow and learn. The varied experiences provided by the program support the continuum of children's growth and development in all domains.

Indicators? define a Content Practice Standard more specifically so that it can be measured. Each indicator is coded by domain, content area and skill. For example, PK-CM-N1 means Pre-Kindergarten-Cognitive Math-Number 1.

Interest Center? an area in the classroom used during free play/ child-initiated activities. In each area, the materials are organized by type and are stored so that they are accessible to the children, shelves have picture/word labels, and the area is appropriately furnished. Interest centers can also be established outdoors.

Louisiana Literacy Profile? provides teachers of children in grades K-3 with the means of observing and recording progress in a continuum of growth that is based on literacy behaviors. It informs instruction and promotes development of literacy behaviors.

Manipulatives? materials that allow children to explore, experiment, and interact by using their hands or by mechanical means. These learning materials promote dexterity and eye-hand coordination while promoting problem-solving and higher levels of critical thinking. Such items include, but are not limited to, beads and laces, puzzles, small blocks, playdoh, lacing cards, and items that can be snapped, zipped or hooked together to name a few.

Modifications? limiting, restricting, or altering materials, the environment or experiences without fundamentally changing the outcome or use of such. Modifications may enable children who are experiencing difficulty with a

particular skill or an area of development to successfully achieve competence in these areas. Examples of modifications include offering a variety of levels of puzzles such as interlocking and pegged puzzles.

Multisensory Experiences? experiences that allow children to respond to physical stimuli relating to more than one of the five senses. Included in these types of experiences would be cooking activities where the senses of sight, smell, taste, touch and hearing would all be involved.

National Association for the Education of Young Children (NAEYC)? links to the Louisiana Content Standards for Programs Serving Four-Year Olds are related to NAEYC's Guide to Accreditation (1998) which is a compilation of self-studies designed to guide programs through the accreditation process.

Non-Standard Units of Measurement? methods of measurement that do not include traditional means such as rulers, scales, clocks, etc. Non-standard units of measurement allow children to explore and thus understand the concept of measurement without being tied to exact numerical data. Items such as pieces of string, rows of blocks or pencils may serve as non-standard units to measure length; balances may help promote understanding of varying weights, and picture-graphs of daily routines allow children to understand the concept of time and passage of time.

Non-Textual Information? information expressed through the use of pictures, symbols or icons. Such information may be used by children to process information and to create mental images symbolic of real-world situations without the use of written text.

Onset? this is a part of spoken language that is smaller than a syllable but larger than a phoneme. It is the initial consonant sound of a syllable (The onset of *bag* is *b-*; of *swim*, *sw-*).

Open-Ended Questioning? questioning that promotes a child's development as opposed to mere information gathering. This method of questioning is used to motivate children to learn, inquire about and discover their world. Open-ended questioning prompts students to think about their responses and requires a more in-depth level of critical thinking in order to respond. These questions help the student to recognize a problem, analyze contributing factors and to consider a choice of optimal solutions. Open-ended questions are characterized by the words "What if?", "How?" , "What would happen if?", "Why do you think?", "Is there another way?" etc.

Phoneme? the smallest part of *spoken* language that makes a difference in the meaning of words.

Phonemic Awareness? the ability to hear, identify, and manipulate the individual sounds (phonemes) in spoken words. A child who possesses phonemic awareness can segment sounds in words and blend strings of isolate sounds together to form recognizable words.

Phonological Awareness? a broad term that includes phonemic awareness. In addition to phonemes, phonological awareness activities can involve work with rhymes, words, syllables, and other onsets and rimes.

Play-Based Environment? a teaching-learning interactive environment through which play is the medium that children learn and make sense of their world. It provides a forum for children to learn to deal with the world on a symbolic level – the foundation for all subsequent intellectual development.

In a play-based environment, children have the opportunity to gain a variety of social, emotional and physical skills. This type of environment is in contrast to the environment where learning is compartmentalized into the traditional content areas and children have little opportunity to actively explore, experiment and interact.

Print Concepts? materials, activities, and props, etc. that prompt the ongoing process of becoming literate; that is, learning to read and write. Print concepts include exposure to textual information through books, stories, field trips, notes, labels, signs, chants, etc., and should be part of the emergent-literacy environment of all preschool classrooms.

Props? materials used throughout the classroom to extend learning in any one of the interest areas or centers. Props added to an interest center are generally placed in the area in addition to standards items. Examples of props include: puppets that correlate with stories in the library center or phone books and recipe cards in the dramatic play center. Such props allow children to engage in activities in which they can interact with other children, share and take turns, role-play and exercise their imaginations. Additionally, props added to interest centers help children accept responsibility for clean-up, break barriers for sex/culture stereotyping, and deal with age/stage personal relations.

Rime? the part of a syllable that contains the vowel and all that follows it (the rime of *bag* is *-ag*; of *swim*, *-im*).

Self-help Tasks or Skills? these skills or tasks comprise a large portion of a young child's daily living tasks and are important in all areas of development. These skills include toileting, serving and eating meals and snacks, cleaning up their environment and grooming and dressing.

Skill Area? defines each content area more specifically.

Spatial Sense or Spatial Awareness? the sense of orienting to one's environment. A sense of awareness of directionality as well as the child's relationship to self, the environment and others in that environment.

Substantial Portion of the Day? free play/child-initiated activities are available to the children at least one third or 35 percent of the instructional day. Example: During a 6 hour instructional day, these activities are available at least 2 hours of the instructional day.

Syllable? a part of a word that contains a vowel or, in spoken language, a vowel sound.

Teacher-Directed Activity? the activities and/or materials are chosen for the children by the teacher to engage in educational interaction with small groups and individual children as well as with the whole group. (Examples: read a story, cooking activity, or science activity.)

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Chapter 3. Pre-Kindergarten Content Standards Subchapter A. General

§301. Content Standards

A. This Section contains content standards, which are organized alphabetically into five domains of development.

1. Cognitive development:
 - a. Mathematical development;
 - b. Science development;
 - c. Social Studies development;
2. Creative Arts development;

3. Health and Physical development;
4. Language and Literacy development;
5. Social and Emotional development.

B. The five developmental domains are designed to be interdependent and must be considered as a whole when considering the development of pre-kindergarten children. Each developmental domain includes the following.

1. *Content Practice Standards?* describes the broad outcomes that children should achieve a high-quality preschool experience.

2. *Developmental Profile Indicators?* specifies what most pre-kindergarten children should be able to do by the end of their pre-kindergarten experience.

3. *Links?* Each content practice standard is aligned with the Louisiana K-4 Content Standards and other relevant state and national standards.

C. The content practice standards provide the pre-kindergarten personnel with a common understanding of what young children should know and do. It is designed to be a guide for designing and implementing a curriculum that will facilitate learning and skill acquisition in each pre-kindergarten child. Skills such as letter, numbers, shapes, colors, etc., should not be taught in isolation, but integrated throughout the curriculum.

D. The content practice standards and developmental profile indicators are based on research in developmentally appropriate practice for preschool children. In developing these standards, the *Accreditation Standards of the National Association for the Education of Young Children* (NAEYC) and the *Head Start Performance Standards* were reviewed. The *Early Childhood Environment Rating Scale, Revised Edition* (ECERS-R) was also reviewed and linked to the appropriate content practice standards.

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§303. Developmentally Appropriate Practices

Developmentally Appropriate Practices Include:	Developmentally Appropriate Practices Do Not Include:
?? Learning centers/Free choice centers	?? Timed rotation/Teacher selected centers
?? Concrete learning experiences with real items	?? Workbooks or ditto sheets
?? Balance of student-initiated and teacher-directed activities in instructional day	?? Teacher-directed activities more than 35% of the instructional day
?? Actively engaged learners	?? Passive quiet learners
?? Language and talking encouraged daily	?? Classrooms quiet most of the day
?? Cozy inviting environments	?? Sterile cold environments
?? Daily outdoor gross motor time/Adults interacting with the children to facilitate learning	?? Recess/Adults are On Duty
?? Individual creative art expressions	?? Patterned art/Uniform Art projects (all look the same)
?? Language/Literacy rich activities encourage phonological awareness	?? Alphabet letters taught through rote drill or Letter of the week
?? Hands-on math activities	?? Rote drill of numbers, shapes, colors, etc.
?? Use a variety of materials changed frequently to meet the needs and interests of the children	?? Same materials and equipment used daily throughout the school year

?? Adult-Child Interactions encourage learning through open-ended questions, extending conversations, reasoning, etc.	?? Adult-Child Interactions minimal, unpleasant, non-responsive, inappropriate, or only to control behavior
?? Use of TV, videos and computers related to classroom events, appropriate, limited to short periods of time and adult interaction occurs	?? TV, videos, and computers not related to classroom events, used inappropriately, no alternative activities are used, and no adult interaction occurs
?? Teacher uses a variety of strategies and meaningful activities to develop skills and concepts	?? Teacher uses direct instruction to teach and isolates the skills and concepts
?? Assessment ongoing/Portfolios used that include anecdotal records, work samples, photographs, etc.	?? Isolated testing/Worksheets

NOTE: For more Developmentally Appropriate Practices refer to ECERS-R, NAEYC guidelines, and Bulletin 741.

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Subchapter B. Mathematics

§305. Mathematical Development

A. Young children develop mathematical concepts through meaningful and concrete experiences that are broader in scope than numerals and counting. In an inclusive, developmentally appropriate play-based environment, pre-kindergarten children will have opportunities to acquire and understand mathematical skills and concepts using hands-on experiences. They will have access to a wide variety of tools and technologies that foster the understanding of mathematics in real-life situations.

B. Early childhood teachers must be flexible during daily routines and strive to capture teachable moments using open-ended questioning techniques to expand mathematical concepts. These teachers must also facilitate activities that address and extend young children's developmental levels.

C. Accommodations for children with special needs:

1. simplify a complicated task by breaking it into smaller parts or reducing the number of steps;
2. use shorter but more frequent activities and routines;
3. add new activities and specific activities as needed to meet individual needs.

NOTE: Partial participation is considered appropriate for children with special needs, according to their abilities.

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§307. Stages of Math Development

A. 2-3 Year-Olds:

1. begin to understand the use of numbers as they hear others using them;
2. understand the use of numbers through exploring objects;
3. work large-piece puzzles;
4. understand direction and relational words;
5. recognize geometric shapes, like a circle;
6. sequence up to three items.

B. 3-4 Year-Olds:

1. recognize and express quantities like *some, more, a lot,* and *another*;
2. begin to have a sense of time;
3. recognize familiar geometric shapes in the environment;
4. sort objects by one characteristic;
5. rote count to 5;
6. notice and compare similarities and differences;
7. use words to describe quantity, length, and size.

C. 4-5 Year-Olds:

1. play number games with understanding;
2. count objects to 10 and sometimes to 20;
3. identify the larger of two numbers;
4. answer simple questions that require logic;
5. recognize more complex patterns;
6. position words;
7. sort forms by shape;
8. compare sizes of familiar objects not in sight;
9. work multi-piece puzzles.

D. 5-6 Year-Olds:

1. begin to understand concepts represented in symbolic form;
2. can combine simple sets;
3. begin to add small numbers in their heads;
4. rote count to 100 with little confusion;
5. count objects to 20 and more;
6. understand that the number is a symbol that stands for a certain number of objects;
7. classify objects by multiple attributes;
8. can decide which number comes before, or after, another number.

Source: The Portfolio and Its Use: A Road Map for Assessment by Southern Early Childhood Association

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§309. Cognitive Math Development

Cognitive Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Mathematical Development		
Number Concepts:		
Understand numbers, ways of representing numbers and relationships between numbers and numerals	PK-CM-N1* Compare numbers of objects Examples: ?? Compare objects in groups such as: shoes which tie and do not tie ?? Compare number of boys to girls ?? Compare unifix towers to each other ?? Begin to use names of numbers in play such as: "I need two more blocks." PK-CM-N2 Perform one-to-one correspondence Examples: ?? Put pegs in each hole of pegboard ?? Set the table ?? Hand out snacks to each child PK-CM-N3 Count by rote Examples: ?? Sing counting songs ?? Count in rhymes, fingerplays, poems, stories, etc. PK-CM-N4* Begin to count objects Examples: ?? Count manipulatives ?? Count days on the calendar ?? Count children to line up for field trip ?? Count the number of children present each day PK-CM-N5 Begin to recognize numerals Examples: ?? Identify some numerals in their environment ?? Discriminate between letters and numerals by sorting ?? Play number games PK-CM-N6 Begin to demonstrate estimation skills Examples: ?? Estimate how many scoops of sand will fill a pail ?? Place a small number of items in a see-through container and ask children to estimate number and record the estimate ?? Estimate how many eggs fit in a strawberry basket	Louisiana K-4 Content Standards: N-1-E N-9-E NAEYC Criterion: B-8, B-5d, B-7c, B-7d ECERS-R Items: 26(5.1), 26(5.4), 26(7.1), 26(7.2) Head Start Performance Standards: 1304.21 (a) (4) (iv) 1304.21 (c) (1) (ii) Head Start Child Outcomes: Domain 3
*PK-CM-N-- Pre-Kindergarten – Cognitive Math – Number Concepts		

Cognitive Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS -R, NAEYC, Head Start, etc.
Mathematical Development		
Measurement:		
Uses non-standard units to measure and make comparisons	PK-CM-M1* Experience, compare, and use language relating to time Examples: ?? Use different types of timers ?? Participate in discussions about the daily schedule ?? Begin to use words to describe time intervals such as: yesterday, today, and tomorrow PK-CM-M2 Anticipate, remember, and describe sequences of events Examples: ?? Recall daily schedule ?? Count down days to an event ?? Retell sequential events in a story and/or activity PK-CM-M3 Use mathematical language to describe experiences involving measurement Examples: ?? Use comparison terms such as: heavy/light; long/short; more/less; big/little, etc. PK-CM-M4 Measure objects in the physical world using non-standard units of measurement Examples: ?? Use hands to measure objects ? Use string to measure child's height or circumference of an object such as: pumpkin, watermelon, orange, etc.	Louisiana K-4 Content Standards: M-1-E M-2-E M-3-E M-4-E M-5-E NAEYC Criterion: B-8, B-5d, B-7c, B-7d ECERS-R Items: 26(5.1), 26(7.1), 26(7.2) Head Start Performance Standards: None Applicable Head Start Child Outcomes: Domain 3
*PK-CM-M ? Pre-Kindergarten – Cognitive Math – Measurement		

Cognitive Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Mathematical Development		
Geometry and Spatial Sense:		
Develop an understanding of geometrical and spatial concepts	PK-CM-G1* Recognize, name, describe, compare, and create basic shapes. Examples: ?? Combine unit blocks to make shapes ?? Go on shape scavenger hunt ?? Use shapes to make pictures PK-CM-G2 Identify shapes to describe physical world Examples: ?? Identify shapes of objects in the environment such as: the classroom door is a rectangle, etc. ?? Identify roof in photo of house as a triangle PK-CM-G3 Describe and interpret spatial sense: positions, directions, distances, and order Examples: ?? Describe the position of people or things in relation to self or other objects ?? Give and follow directions using positional words ? Describe the movement of objects such as: "The dog jumped over the fence."	Louisiana K-4 Content Standards: G-1-E G-2-E G-4-E NAEYC Criterion: B-8, B-5d, B-7c, B-7d ECERS-R Items: None applicable Head Start Performance Standards: 1304.21 (a) (1) (iv) Head Start Child Outcomes: Domain 3
PK-CM-G ? Pre-Kindergarten – Cognitive Math – Geometry and Spatial Sense		

Cognitive Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Mathematical Development		
Data Collection, Organization, and Interpretation:		
Investigates, organizes, responds, and creates representations	PK-CM-D1* Sort and classify materials by one or more characteristics Examples: ?? Sort buttons by color ?? Group items with common characteristics ?? Return materials to shelf by matching objects to labels PK-CM-D2 Collect and organize data about themselves, their surroundings, and meaningful experiences Examples: ?? Create simple graphs (picture, bar, representational, venn diagrams) such as: leaves by type, favorite ice cream, etc. ?? Use webbing to collect information PK-CM-D3 Interpret simple representations in data Examples: ?? Participate in discussion about the calendar ?? Participate in discussion using information from child-created graphs ?? Participate in discussion about charts	Louisiana K-4 Content Standards: P-1-E P-2-E P-3-E D-1-E D-2-E D-3-E D-4-E NAEYC Criterion: B-5d, B-7c, B-7d, B-8 ECERS-R Items: None applicable Head Start Performance Standards: None Applicable Head Start Child Outcomes: Domain 3
PK-CM-D? Pre-Kindergarten – Cognitive Math – Data Collection, Organization, and Interpretation		

Cognitive Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Mathematical Development		
Patterns and Relationships:		
Identify and create patterns	PK-CM-P1* Recognize patterns in the physical world Examples: ?? Go on shape walks to identify patterns in environment ?? Recognize patterns in snack kabobs ?? Identify patterns on common objects such as: flag, clothes, environmental patterns, etc. PK-CM-P2* Describe, copy, extend, create patterns and make predictions about patterns Examples: ?? Line up boy, girl, boy, girl ... ?? Clap out patterns ?? Make patterns with manipulatives such as: lacing beads, unifix cubes, links, etc. ?? Tell what comes next in a pattern ?? Create musical patterns playing music on cans PK-CM-P3 Seriate objects Examples: ?? Place blocks in order from shortest to tallest ?? Place colored bears in order from smallest to largest	Louisiana K-4 Content Standards: P-1-E P-3-E NAEYC Criterion: B-8, B-5d, B-7c, B-7d ECERS-R Items: None applicable Head Start Performance Standards: 1304.21 (a) (1) (iv) Head Start Child Outcomes: Domain 3
PK-CM-P? Pre-Kindergarten – Cognitive Math – Patterns and Relationships		

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Subchapter C. Science

§311. Scientific Development

A. Young children are natural scientists. They easily become mesmerized by everyday happenings. Through varied and repeated opportunities to predict, observe, manipulate, listen, experiment with, reflect, and respond to open-ended questions, pre-kindergarteners make inferences and become higher-level thinkers.

B. Quality early childhood science programs require a balance of content and process, using multi-sensory experiences. In addition to science inquiry skills, pre-kindergarteners can begin to acquire a foundation of science

concepts and knowledge on which they can build a clear understanding of their world. Early childhood teachers should look for opportunities to explore scientific concepts in all content areas.

C. Accommodations for children with special needs:

1. simplify a complicated task by breaking it into smaller parts or reducing the number of steps;
2. use shorter but more frequent activities and routines;
3. add new activities and specific activities as needed to meet individual needs.

NOTE: Partial participation is considered appropriate for children with special needs, according to their abilities.

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§313. Cognitive Science Development

Cognitive Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Scientific Development		
Science As Inquiry:		
Begin to engage in partial and full inquiries.	<p>PK-CS-I1* Use prior knowledge and experiences to hypothesize, predict, generate questions, and draw conclusions about organisms and events in the environment.</p> <p>Examples:</p> <p>?? Generate questions about insects (KWL or Experience Charts)</p> <p>?? Engage in spontaneous discussion (teachable moments)</p> <p>?? Engage in discussion through questioning, after reading a nonfiction science book</p> <p>?? Hypothesize or predict why certain phenomenon occurred</p> <p>PK-CS-I2 Conduct simple scientific investigations</p> <p>Examples:</p> <p>?? Observe ice melting</p> <p>?? Compare cars rolling down a ramp</p> <p>?? Compare objects that sink and float</p> <p>PK-CS-I3 Make observations using senses</p> <p>Examples:</p> <p>?? Taste test a variety of foods and describe tastes</p> <p>?? Describe objects in feely box</p> <p>?? Describe changes in weather</p> <p>PK-CS-I4 Employ equipment and tools to gather data and extend sensory observations</p> <p>Examples:</p> <p>?? Sift soil with sieve to find organisms in soil</p> <p>?? Observe objects using color paddles</p> <p>? Balance objects in scale to determine which is heavier, lighter, etc.</p> <p>PK-CS-I5 Collect, interpret, communicate data and findings from observations and experiments in oral and written formats</p> <p>Examples:</p> <p>?? Communicate scientific information in a variety of ways (graph, tally, web, draw pictures, oral report)</p> <p>?? Create models of objects in the environment</p> <p>?? Participate in discussions where points of view are openly shared</p> <p>PK-CS-I6 Use appropriate scientific vocabulary related to topics</p> <p>Examples:</p> <p>?? Describe the common physical changes of melting, freezing, and evaporating.</p> <p>?? Identify life cycle of butterfly using scientific terms (egg, chrysalis etc.)</p>	<p>Louisiana K-4 Content Standards:</p> <p>SI-E-A1, A2, A3, A4, A5, A6</p> <p>SI-E-B1, B2, B3, B4, B5, B6</p> <p>NAEYC Criterion:</p> <p>B-5d, B-7c, B-7d, B-8</p> <p>ECERS-R Items</p> <p>25 (3.3), 25 (5.2), 25 (5.3), 25 (5.4), 25 (7.1), 25 (7.2)</p> <p>Head Start Performance Standards:</p> <p>1304.21(a)(1)(i)</p> <p>1304.21(a)(1)(iv)</p> <p>1304.21(a)(2)(ii)</p> <p>1304.21(a)(3)(i)(B)</p> <p>1304.21(a)(4)(i)</p> <p>Head Start Child Outcomes:</p> <p>Domain 4</p>
*PK-CS-I – Pre-Kindergarten – Cognitive Science – Inquiry		

Cognitive Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Scientific Development		
Physical Science:		
Begin to acquire scientific knowledge related to physical science	<p>PK-CS-P1* Begin investigating states of matter: solids, liquids, and gases</p> <p>Examples:</p> <ul style="list-style-type: none"> ?? Sort and classify objects by their state of matter ?? Participate in block play using a variety of types of blocks (wooden unit blocks, cardboard blocks, foam blocks) ?? Participate in a variety of sand and water activities ?? Observe what happens to objects when filled with gases ?? Explore three states of water: ice (solid), water (liquid), and steam (gas) <p>PK-CS-P2 Describe objects by their physical properties</p> <p>Examples:</p> <ul style="list-style-type: none"> ?? Describe objects according to size, shape, color, or state of matter ?? Describe characteristics of sand and water during sand and water play ?? Describe what happens when bottles filled with objects suspended in liquids are moved in various ways such as: dirt in water, confetti in Karo syrup, etc. <p>PK-CS-P3 Explore the physical world using five senses</p> <p>Examples:</p> <ul style="list-style-type: none"> ?? Take a walk exploring the environment using the senses of sight, touch, smell, and/or sound – describe findings ?? Match things during a tasting, touching, smelling party ?? Listen to and identify environmental, animal, or voice sounds <p>PK-CS-P4 Explore simple machines, magnets, and sources of energy</p> <p>Examples:</p> <ul style="list-style-type: none"> ?? Explore magnets, magnifying glasses, balance scales, gears, pulleys, mirrors, wind-up toys, etc. ?? Discuss what makes things run by answering open-ended questions (car-gas, waterwheel-water, lamp-electricity) 	<p>Louisiana K-4 Content Standards:</p> <p>SI-E-A1, A2, A3, A4 SI-E-B1, B2, B3, B4, B5 PS-E-A1, A2, A3, A4 PS-E-C6, C7</p> <p>NAEYC Criterion: B-5d, B-7c, B-7d, B-8</p> <p>ECERS-R Items: 25(5.3), 25(5.4), 25(7.1), 25(7.2)</p> <p>Head Start Performance Standards: None Applicable</p> <p>Head Start Child Outcomes: Domain 4</p>
*PK-CS-P – Pre-Kindergarten – Cognitive Science – Physical Science		

Cognitive Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Scientific Development		
Life Science:		
Begin to acquire scientific knowledge related to life science	<p>PK-CS-L1* Explore, observe, and describe a variety of living things</p> <p>Examples:</p> <ul style="list-style-type: none"> ?? Catch insects and place in bug catchers ?? Use magnifying glass to observe insects ?? Keep a class pet and/or plants in the classroom ?? Observe the effect of darkness and light on growing plants <p>PK-CS-L2 Explore, observe, and describe a variety of non-living things</p> <p>Examples:</p> <ul style="list-style-type: none"> ?? Compare live insects to plastic insects ?? Make collections of non-living things such as: rocks, sea shells, buttons, etc. ?? Sort examples of living and nonliving things <p>PK-CS-L3 Explore, observe, describe, and participate in a variety of activities related to preserving their environment</p> <p>Examples:</p> <ul style="list-style-type: none"> ?? Participate in constructing a compost heap ?? Participate in planting a tree ?? Participate in a campus cleanup day ?? Participate in collecting items to recycle <p>PK-CS-L4 Begin to develop an awareness and understanding of plant and animal life cycles and how the life cycles vary for different reasons</p> <p>Examples:</p> <ul style="list-style-type: none"> ?? Plant and maintain a butterfly garden ?? Read non-fiction age appropriate books about life cycles ?? Observe life cycles of larvae, tadpoles, or mealworms 	
PK-CS-L – Pre-Kindergarten – Cognitive Science – Life Science		

Cognitive Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Scientific Development		
Earth and Space Science:		
Begin to acquire scientific knowledge related to earth science	PK-CS-ES1* Investigate, compare, and contrast seasonal changes in their immediate environment Examples: ?? Draw, write, and/or dictate a message in journal about what they see, feel, and do in certain kinds of weather or over a period of time ?? Dress-up in a variety of seasonal clothing in the dramatic play center ?? Play a lotto game about the seasons PK-CS-ES2 Discover through observation that weather can change from day to day Examples: ?? Graph each day's weather ?? Keep weather journal ?? Read a thermometer to determine temperature ?? Keep a record of the day's temperature either from the newspaper, home, or outside thermometer PK-CS-ES3 Use vocabulary to describe major features of the earth and sky Examples: ?? Listen to and retell stories about the earth, sky, land formations, and bodies of water such as: In the Night Sky, Happy Birthday Moon, Good Night Moon, In a Small, Small Pond, In the Tall, Tall Grass, Swimmy, Big Al, The Tiny Seed ?? Discuss things in the day and night time sky ?? Observe and discuss shadows at various times of the day	Louisiana K-4 Content Standards: SI-E-A1, A2, A3, A4 SI-E-B1, B2, B3, B4, B5 ESS-E-A1, A4 ESS-E-B1 NAEYC Criterion: B-5d, B-7c, B-7d, B-8 ECERS-R Items: 25(5.3), 25(5.4), 25(7.1), 25(7.2) Head Start Performance Standards: 1304.21(a)(1)(i) 1304.21(a)(1)(iv) 1304.21(a)(2)(ii) 1304.21(a)(3)(i)(B) 1304.21(a)(4)(i) Head Start Child Outcomes: Domain 4
*PK-CS-ES –Pre-Kindergarten – Cognitive Science – Earth and Space Science		

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2321 (November 2003).

§315. Social Studies Development

A. For young children the foundation for learning in social studies and history begins with the child's personal experiences and understanding of the relationship of self to home and family. Their understanding then gradually expands to include the people they meet in school, neighborhood, community, and the larger world. Teachers need to identify children's current knowledge and understanding. The pre-kindergarten curriculum needs to focus on concepts that are related to the child's immediate experience.

B. Accommodations:

1. provide adaptive equipment and materials where needed to accommodate children's special needs;
2. assure that the classroom and school environments are handicapped accessible and meet the needs of all children;
3. use appropriate verbal, visual, and physical cues in all the activities to meet the special needs of individual children.

NOTE: Partial participation is considered appropriate for children with special needs, according to their abilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2323 (November 2003).

Subchapter D. Social Studies
§317. Cognitive Social Studies Development

Cognitive Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Social Studies Development		
Civics:		
Develop community and career awareness	PK-CSS-C1* Recognize community workers and increase awareness of their jobs Examples: ?? Identify different community workers by the uniform worn or the equipment used ?? Participate in field trips to observe community workers ?? Listen to guest speakers, such as: a firefighter, a police officer, etc. ?? Dress-up and role play different types of community workers PK-CSS-C2 Identify his/her role as a member of family/class Examples: ?? Participate in classroom duties ?? Describe experiences shared within the family ?? Participate in role playing	Louisiana K-4 Content Standards: C-1D-E3, E4 NAEYC Criterion: A-4a, A-9, B-7a, B-7h ECERS-R Items: 33(7.2) Head Start Performance Standards: 1304.21(c)(1)(ii) Head Start Child Outcomes: Domain 6
*PK-CSS-C – Pre-Kindergarten – Cognitive Social Studies - Civics		

Cognitive Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Social Studies Development		
Economics:		
Develop an understanding of how basic economic concepts relate to their everyday lives	PK-CSS-E1* Demonstrate an awareness of money being used to purchase things Examples: ?? Use pretend money to purchase things in a dramatic play grocery store, bank, post office, etc.	Louisiana K-4 Content Standards: E-1A-E3 NAEYC Criterion: None Applicable ECERS-R Items: None Applicable Head Start Performance Standards: None Applicable Head Start Child Outcomes: None Applicable
*PK-CSS-E – Pre-Kindergarten – Cognitive Social Studies -Economics		

Cognitive Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Social Studies Development		
Geography:		
Develop an understanding of location, place, relationships within places, movement, and region	PK-CSS-G1* Include representations of roads, bodies of water, and buildings in their play Examples: ?? Use blue paper for a lake in the block area ?? Drive toy cars on roads made from blocks PK-CSS-G2 Use words to indicate directionality, position, and size Examples: ?? Correctly use and respond to words such as: left, right, first, last, big, little, top, bottom, etc. ?? Verbalize location of objects that are hidden during a Hide and Seek game PK-CSS-G3 Develop awareness of the world around them Examples: ?? Recognize some common symbols of state and country, such as the shape of Louisiana or United States, the Louisiana or American flag, etc. ?? Observe the path a letter travels when teacher shows route on the map ?? Answer questions about where they went on a trip or other places they have lived	Louisiana K-4 Content Standards: G-1B-E1 NAEYC Criterion: B-7h ECERS-R Items: 22(7.1) Head Start Performance Standards: 1304.21(c)(1)(ii) Head Start Child Outcomes: Domain 6
*PK-CSS-G – Pre-Kindergarten – Cognitive Social Studies - Geography		

Cognitive Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Social Studies Development		
History:		
Develop an understanding of the concept of time	PK-CSS-H1* Use words to describe time (yesterday, today, tomorrow) Examples: ?? Use statements like, "I'm getting a bike today!" or "My birthday is tomorrow!" ?? Use statement like, "The field trip was yesterday."	Louisiana K-4 Content Standards: H-1A-E1 NAEYC Criterion: None applicable ECERS-R Items: None applicable Head Start Performance Standards: 1304.21(c)(1)(ii) Head Start Child Outcomes: None Applicable
*PK-CSS-H – Pre-Kindergarten – Cognitive Social Studies - History		

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2324 (November 2003).

Subchapter E. Creative Arts

§319. Creative Arts Development

A. Creative development opens an avenue for the application of individual ideas, feelings, and expressions. In the pre-kindergarten classroom, creative development will be integrated into all curriculum areas to develop an appreciation for the arts and as a way to conduct classroom activities to meet the expectations in all content areas.

B. In a developmentally appropriate classroom, creative development fosters creative and individual expression, self-esteem, imagination, and appreciation of cultural diversities. With the introduction of the various components, music/movement, dramatic expression, and visual arts, the pre-kindergarten child is encouraged to explore and express him/herself creatively.

C. On a daily basis, young children are given opportunities for creative endeavors, emphasizing the experience rather than the outcome. These endeavors should be concrete, hands-on learning activities, offered in a risk-free environment where all children are encouraged to express themselves freely.

D. Accommodations for Children with Special Needs

1. Provide materials that can be easily adapted for independent participation.

2. Materials should be easily accessible to encourage participation.

3. Adapt the environment to promote participation, engagement, and learning.

4. Provide opportunities for interaction with typically developing peers.

NOTE: Partial participation is considered appropriate for children with special needs, according to their abilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2325 (November 2003).

§321. Stages of Art Development

A. Scribbling Stage (3 to 4 years of age). Child use crayons, markers and paint in zigzag fashion and circular motions. Later, the scribbles become more controlled. Their work is exploratory. Color is unrealistic. The child begins to draw symbols like circles, crosses and lines.

B. Preschematic Stage (4 to 7 years of age)

1. Age 4? the child begins to show definite forms in representing a person, making a circle for the head and two vertical lines for legs. Sometimes there is a mouth, arms, hands, feet or shoes. Objects are drawn at random and they are not in sequence or proportion. At this stage, form is more important than color. As children progress through this stage, size becomes more proportional, and they gain more brush control as their paintings begin to look more like illustrations.

2. Age 7? child has established a mental picture of an object that is repeated with each painted repetition of the object. For example, each time the child paints a house, it will look very much like all the other houses he/she painted.

C. Schematic Stage (6 to 9 years of age). At this stage, sky lines (usually blue) and base lines (usually green) appear on the top and bottom of drawings. Items drawn between these lines usually are proportional, and they are on the base line as appropriate.

Source: The Portfolio and Its Use: A Road Map for Assessment by Southern Early Childhood Association

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§323. Creative Arts Development

Creative Arts Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Music and Movement		
Music Appreciation:		
Develop an appreciation for music	<p>PK-MM-MA1* Listen to a variety of musical genre – jazz, classical, country, lullaby, patriotic, instrumental, vocal, etc. Examples: ?? Hear a variety of diverse music throughout the day (arrival time, circle time, transitions, lunch, nap, snacks) ?? Participate in musical listening games to hear differences in sounds (vocal, instrumental, sounds of instruments, and other genre types) ?? Attend and view live performances ?? Become aware of the lives and art forms of various musical artists PK-MM-MA2 Respond to variations in music – pitch, volume, tempo, beat, rhythm, and pattern Examples: ?? Observe a musician demonstrating different musical variations ?? Reproduce a musical variation heard with rhythm instruments, computer program, or vocally</p>	<p>Louisiana K-4 Content Standards: CE-1M-E1, E3, E4, E5 AP-2M-E1, E3, E4 HP-3M-E1, E3, E4 CA-4M-E1, E2, E3, E5 NAEYC Criterion: A-8a, B-4, B-5d, B-7g, B-9, G-4 ECERS-R Items: 21(5.1), 21(5.2), 21(7.1), 21(7.2), 21(7.3) Head Start Performance Standards: 1304.21(a)(4)(ii) 1304.53 Head Start Child Outcomes: Domain 5</p>
*PK-MM-MA – Pre-Kindergarten – Music and Movement – Music Appreciation		

Creative Arts Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Music and Movement		
Music Expression:		
Become involved in musical expression	<p>PK-MM-ME1* Use music as an avenue to express thoughts, feelings, and energy Examples: ?? Use props (scarves, streamers, instruments) to respond with expression to music ?? Record original songs that become part of a listening center ?? Draw a picture in response to how they feel as they listen to a variety of music PK-MM-ME2 Participate in group singing, fingerplays, rhymes, poetry, and rhythm Examples: ?? Participate in daily musical activities, games, instruments, singing, and books ?? Use musical instruments and props outdoors as an additional experience</p>	<p>Louisiana K-4 Content Standards: CE-1M-E1, E3, E4, E5 HP-3M-E1, E3, E4 CA-4M-E1, E2, E3, E5 NAEYC Criterion: A-8, A-6a, A-11, B-4, B-5d, B-7g, B-9, G-4 ECERS-R Items: 21(5.1), 21(5.2), 21(7.1), 21(7.2), 21(7.3) Head Start Performance Standards: 1304.21(a)(3)(i)(D) 1304.21(a)(3)(ii) 1304.21(a)(4)(ii) 1304.53 Head Start Child Outcomes: Domain 5</p>
*PK-MM-ME – Pre-Kindergarten – Music and Movement – Music Expression		

Creative Arts Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Music and Movement		
Creative Movement:		
Develop an appreciation for creative movement through observation, communication, and participation	PK-MM-CM1* Observe various forms of movement Examples: ?? View people, animals, and various objects that move in the world around them PK-MM-CM2 Communicate words or concepts through movement Examples: ?? Develop movements that express concepts (feelings and directions), words, and ideas ?? Play charades with prompts from teacher (stop, go, walk, come, angry, sad, hurry, surprise) PK-MM-CM3 Show creativity using their bodies (dance, march, hop, jump, sway, clap, snap, stomp, twist, turn) Examples: ?? Respond freely to music ?? Imitate various environmental movements such as animals, trees, water, etc. ?? Exhibit a variety of ways to move (forward, backward, sideways, etc.)	Louisiana K-4 Content Standards: CE-1M-E1, E3, E4, E5 CE-1D-E1, E3 HP-3D-E2 AP-2D-E1 NAEYC Criterion: A-6a, A-9, A-11, B-4, B-5d, B-7, B-7e, B-7g, B-8, G-4 ECERS-R Items: 16(7.1), 16(7.2) 21(5.1), 21(5.2), 21(7.1), 21(7.2), 21(7.3) Head Start Performance Standards: 1304.21(a)(4)(ii) 1304.53 Head Start Child Outcomes: Domain 5
*PK-MM-CM – Pre-Kindergarten – Music and Movement – Creative Movement		

Creative Arts Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Visual Arts		
Visual Arts Appreciation:		
Develop an appreciation for visual arts	PK-VA-VA1* Observe various forms of art expression (paintings, drawings, sculpture, prints, collages, and other art forms) Examples: ?? View exhibits, books, Internet activities, and photographs of various art forms ?? Observe various artists who demonstrate different techniques and art media PK-VA-VA2 Share various forms of art (sculpture, pencils, watercolors, clay, collage, pen and ink, etc.) found in their environment Examples: ?? Point out various forms of media found in books, photographs/prints, on school site and on field trips ?? Experience various media in the classroom ?? Tell about an observation of an artist/crafter (quilter, taxidermist, illustrator, wood carver, ice sculptor, sculptor, designer) displaying/demonstrating his/her work	Louisiana K-4 Content Standards: CE-1VA-E1, E2, E4, E5 AP-2VA-E2, E3 HP-3VA-E3 NAEYC Criterion: A-8a, A-8b, A-9, B-4, B-5a, B-7, B-7e, B-7g, G-4 ECERS-R Items: 15(5.1), 20(5.1), 20(5.2), 20(7.1), 27(5.3), 27(7.1), 28(5.1) Head Start Performance Standards: 1304.21(a)(4)(ii) 1304.21(b)(3)(ii) 1304.53 Head Start Child Outcomes: Domain 5
*PK-VA-VA – Pre-Kindergarten – Visual Arts – Visual Arts Appreciation		

Creative Arts Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Visual Arts		
Creative Expression:		
Develop confidence in their own creative expression through process-oriented experiences	PK-VA-CE1* Participate in individual and group art activities Examples: ?? Participate daily in creative art opportunities using water colors, collage materials, paints, paper, scissors, glue, crayons, stamp pads, templates, stencils, markers, and clay ?? Use a computer program and create a piece of art	Louisiana K-4 Content Standards: CE-1VA-E1, E2, E4, E5 AP-2VA-E2, E3 HP-3VA-E3 NAEYC Criterion: A-8a, A-8b, A-9, B-4, B-7, B-7e, B-7g, B-8, G-4 ECERS-R Items: 20(5.1), 20(5.2), 20(7.1), 20(7.2), 20(7.3) Head Start Performance Standards: 1304.21(a)(4)(ii) 1304.21(b)(3)(ii) 1304.53 Head Start Child Outcomes: Domain 5
*PK-VA-CE – Pre-Kindergarten – Visual Arts – Creative Expression		

Creative Arts Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Dramatic Arts		
Dramatic Appreciation:		
Develop an appreciation for the dramatic arts	PK-DA-DA1* Attend a variety of dramatic performances Examples: ?? View various forms of dramatic expression (puppetry, story-telling, dance, plays, pantomime, theater) PK-DA-DA2 Participate in discussions of dramatic performances Examples: ?? Engage in discussion during language experience story after attending a dramatic performance	Louisiana K-4 Content Standards: CE-1TH-E1, E2, E3 AP-2TH-E1, E2, E3 HP-3TH-E1 NAEYC Criterion: A-8a, A-8b, A-9, B-4, B-5a, B-7, G-4 ECERS-R Items: 24(5.1), 24(5.3), 24(7.1), 24(7.2), 24(7.3) Head Start Performance Standards: 1304.21 1304.53 Head Start Child Outcomes: Domain 5
*PK-DA-DA – Pre-Kindergarten – Dramatic Arts – Dramatic Arts Appreciation		

Creative Arts Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Dramatic Arts		
Dramatic Expression:		
Explore roles and experiences through dramatic play	<p>PK-DA-DE1* Role play or use puppets to express feelings, dramatize stories, try out social behaviors observed in adults, re-enact real-life roles and experiences</p> <p>Examples:</p> <p>?? Play in various interest centers with a variety of props, such as: home-living, fire station, police station, beauty parlor, grocery/department store, circus, fast food restaurant, doctor's office/hospital, bakery, gas station, florist, etc.</p> <p>?? Role play problem solving in classroom situations, such as: taking turns, sharing, playing cooperatively, expressing feelings, appropriate behaviors and manners, etc.</p> <p>?? Participate in various forms of dramatic expression from different cultures</p> <p>PK-DA-DE2* Participate in activities using symbolic materials and gestures to represent real objects and situations</p> <p>Examples:</p> <p>?? Exhibit free expression and imagination in songs, stories, poems, and fingerplays, such as: scarves to represent birds; hands as thunder, raindrops, footsteps; sticks for wands, pointer, a horse, or a walking cane, etc.</p>	<p>Louisiana K-4 Content Standards:</p> <p>CE-1TH-E1, E2, E3</p> <p>AP-2TH-E1, E2, E3</p> <p>HP-3TH-E1</p> <p>NAEYC Criterion:</p> <p>A-6a, A-8a, A-8b, A-9, B-4, B-5a, B-7, B-8, G-4</p> <p>ECERS-R Items:</p> <p>15(5.2), 15(5.4) 24(5.1), 24(5.3), 24(7.1), 24(7.2), 24(7.3), 24(7.4)</p> <p>28(5.1), 28(5.2), 28(7.2)</p> <p>Head Start Performance Standards:</p> <p>1304.21(a)(1)(iii)</p> <p>1304.53</p> <p>Head Start Child Outcomes:</p> <p>Domain 5</p>
*PK-DA-DE – Pre-Kindergarten – Dramatic Arts – Dramatic Expression		

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2326 (November 2003).

Subchapter F. Health and Physical Development
§325. Health and Physical Development

A. Physical development and health and safety activities should be integrated into all curriculum areas. Activities should be structured to encourage pre-kindergarten children to explore their world, promote agility and strength, enhance neural processing, and develop general body competence and overall autonomy. Young children should be introduced to concepts that promote a healthy lifestyle, and they should be provided adequate age-appropriate indoor and outdoor space and facilities that allow them to experience a variety of developmentally appropriate physical activities.

B. The development of gross motor and fine motor skills is an integral part of the development of the pre-kindergarten child. These skills serve as the foundation for the

development of the future academic skills such as writing and reading.

C. Accommodations for children with special needs:

1. provide adaptive equipment and materials where needed;
2. assure that the classroom and school environments are easily accessible;
3. use appropriate verbal, visual, and physical cues in all the activities;
4. provide opportunities for interaction with typically developing peers.

NOTE: Partial participation is considered appropriate for children with special needs, according to their abilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2329 (November 2003).

§327. Health and Physical Development

Health and Physical Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Health Development		
Health and Hygiene:		
Develop appropriate health and hygiene skills	PK-HP-HH1* Show awareness of healthy lifestyle practices Examples: ?? Understand that germs affect our daily lives ?? Understand that healthy bodies require rest, exercise, and good nutrition ?? Use napkin, tissue and other objects of hygiene ?? Wash hands before meals and snacks, and after toileting PK-HP-HH2 Show awareness of good hygiene and personal care habits Examples: ?? Use proper hand washing techniques ?? Use appropriate dental hygiene practices ?? Practice proper use of tissue ?? Use appropriate toileting skills ?? Demonstrate autonomy in personal care such as: self-dressing, taking care of personal belongings, cleaning up after activities	Louisiana K-4 Content Standards: 1-E-1, E-2 3-E-1, E-2 NAEYC Criterion: B-7f, B-11, H-17c ECERS-R Items: 10 (3.3) 13 (3.1), 13(7.1) Head Start Performance Standards: 1304.21(a)(1)(V) 1304.23(b)(3) Head Start Child Outcomes: Domain 8
*PK-HP-HH – Pre-Kindergarten – Health and Physical Development – Health and Hygiene		

Health and Physical Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Health Development		
Nutrition:		
Become aware of good nutritional practices	PK-HP-N1* Exhibit knowledge that some foods are better for your body than others Examples: ?? Engage in discussions about healthy and unhealthy foods ?? Make selections of foods that are healthy and recognize that some foods are not healthy ?? Participate in nutritious cooking activities	Louisiana K-4 Content Standards: 1-E-2, E-5 3-E-1 6-E-3 NAEYC Criterion: I-3 ECERS-R Items: 10(7.1), 10(7.3) Head Start Performance Standards: 1304.21(c)(1)(iii) 1304.23(c)(1) Head Start Child Outcomes: Domain 8
*PK-HP-N – Pre-Kindergarten – Health and Physical Development – Nutrition		

Health and Physical Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Health Development		
Safety:		
Demonstrate safe behaviors in all situations	PK-HP-S1* Identify potentially harmful objects, substances, or behaviors Examples: ?? Know the difference between a medicine and harmful drugs ?? Know that objects such as weapons, syringes, matches, etc. can be dangerous and should not be touched PK-HP-S2 Be aware of and follow universal safety rules Examples: ?? Follow classroom and school rules ?? Practice appropriate emergency drills (fire, tornado, bomb, 911, bus) ?? Follow basic safety rules: bus, bicycle, playground, crossing street, stranger awareness	Louisiana K-4 Content Standards: 1-E-2 3-E-2, E-3, E-4 5-E-4 6-E-3 NAEYC Criterion: B-7f ECERS-R Items: 14(5.1), 14(7.1), 14(7.2) Head Start Performance Standards: 1304.21(a)(6) Head Start Child Outcomes: Domain 8
*PK-HP-S – Pre-Kindergarten – Health and Physical Development – Safety		

Health and Physical Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Physical Development		
Gross Motor:		
Develop coordination, balance, spatial awareness and strength through gross motor activities	PK-HP-GM1* Exhibit body coordination and strength Examples: ?? Engage in large motor activities such as: climbing stairs (alternating feet), marching, hopping, running, jumping, dancing, riding tricycles, pulling wagons, pushing wheelbarrows, and riding scooters ?? Use outdoor gross motor equipment (climbing apparatus, swings, tunnels, slide, etc.) safely and appropriately ?? Use open-ended materials (planks, wooden boxes, hollow blocks, etc.) to move about, build and construct PK-HP-GM2 Exhibit balance and spatial awareness Examples: ?? Engage in large motor activities that promote basic non-locomotion skills, spatial awareness and balance ?? Engage in manipulative activities that develop skills with a ball: bouncing, kicking, throwing, catching, rolling, etc. ?? Play simple group games	Louisiana K-4 Content Standards: 1-P-1, P-2, P-3 3-P-1 5-P-3 NAEYC Criterion: B-4c, B-5d, B-7e ECERS-R Items: 7(7.1), 8(5.2), 8(7.2) Head Start Performance Standards: 1304.21(a)(5)(i) 1304.21(b)(3)(i) 1304.21(c)(1)(vii) Head Start Child Outcomes: Domain 8
*PK-HP-GM – Pre-Kindergarten – Health and Physical Development – Gross Motor		

Health and Physical Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Physical Development		
Fine Motor:		
Develop coordination, spatial awareness, and strength through fine motor activities	PK-HP-FM1* Strengthen and control small muscles in hands Examples: ?? Work with play dough and clay ?? Squeeze wet sponges or use tongs to pick up objects ?? Tear paper PK-HP-FM2 Exhibit manual coordination Examples: ?? Use hands and fingers to act out fingerplays and songs ?? Use scissors and art materials ?? Snap, button, zip, etc. PK-HP-FM3 Participate in eye-hand coordination activities Examples: ?? Use beads, laces, and pegs ?? Cut paper with scissors ?? Complete simple puzzles ?? Use computer mouse ?? Scoop dry sand and pour into a bottle ?? Use a variety of items/textures	Louisiana K-4 Content Standards: 1-P-3 NAEYC Criterion: B-4c, B-5d, B-7e ECERS-R Items: 19(5.1), 19(5.3), 19(7.1) Head Start Performance Standards: 1304.21(a)(5)(ii) 1304.21(b)(3)(iii) Head Start Child Outcomes: Domain 8
*PK-HP-FM – Pre-Kindergarten – Health and Physical Development – Fine Motor		

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2330 (November 2003).

Subchapter G. Language and Literacy

§329. Language and Literacy Development

A. Language and literacy are composed of listening, speaking, writing, thinking, and reading. The foundations of language and literacy are critical to all other curriculum areas as well as to the individual's social and emotional development. Children develop the basis for communication in the early childhood years, beginning with nonverbal and social exchanges, then developing spoken language, moving to an understanding of how oral language is translated into written symbols, and finally learning to decode and create written symbols to develop literacy. A solid foundation in language development in the years before a child enters school will promote success in reading and writing in the future. Young children who have rich language and literacy experiences are less likely to have difficulties learning to read.

B. Accommodations for Children with Special Needs

1. Provide good models of communication.
2. Use special or adaptive devices to increase level of communication and/or participation.
3. Use a favorite toy, activity or person to encourage communication and/or participation.
4. Provide opportunities for interaction with typically developing peers.

NOTE: Partial participation is considered appropriate for children with special needs, according to their abilities.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2332 (November 2003).

§331. Beginning Reading Skills

A. Scientifically based reading research shows that it is important for preschool age children to experience the following language, cognitive, and early reading skills for continued school success.

1. Phonological Awareness includes:
 - a. identifying and making oral rhymes;
 - b. identifying and working with syllables in spoken words through segmenting and blending;
 - c. identifying and working with "onsets" (all sounds of a word that come before the first vowel) and "rimes" (the first vowel in a word and all the sounds that follow) in spoken syllables;
 - d. identifying and working with individual sounds in spoken words (phonemic awareness).

2. Oral Language: development of expressive and receptive language, including vocabulary, the contextual use of speech and syntax, and oral comprehension abilities.

3. Print Awareness: knowledge of the purposes and conventions of print.

4. Alphabet Knowledge: recognize letters of the alphabet (not rote memory).

Source: Early Reading First Guidelines

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2332 (November 2003).

§333. Stages of Written Language Development

A. Children learn to write through a natural developmental progression. Each child should be allowed to progress at their own pace. There are at least six different stages of writing.

Stage 1? Random Scribbling: (2 and 3 years old)
Children make marks on paper with little muscular control.
Stage 2? Controlled Scribbling: (3 years old)
Children "write" across the paper in linear fashion, repeating patterns over again, showing increased muscular control.
Stage 3? Letter-like Forms: (3 and 4 year olds)
Children make mock letters. These are written lines of letters that have letter characteristics, but they are misshapen and written randomly, even covering the page. They pretend they are writing; in their work they separate writing from drawing. They have purpose to their letter-like forms.
Stage 4? Letter and Symbol Relationship: (4 year olds)
Children write letters to represent words and syllables. They can write their names. They know the word that represents their names. They can copy words. Reversals are frequent.
Stage 5? Invented Spelling: (4 and 5 year olds)
Children make the transition from letter forms to invented spelling. This requires organization of letters and words on the page. They use a group of letters to form a word. Many of the letters will be consonants. They understand that letters relate to sounds. Some punctuation appears. They can copy words from their environment.
Stage 6? Standard Spelling: (5, 6, and 7 year olds)
Most of the words the children use are written correctly; some add punctuation. They organize their words in lines with spaces between the words; they move from left to right, and from the top of the page to the bottom.

Source: The Portfolio and Its Use: A Road Map for Assessment by Southern Early Childhood Association

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§335. Language and Literacy Development

Language and Literacy Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	LA K-4 Content Standards, LA Literacy Profile, ECERS-R, NAEYC, Head Start, etc.
Listening:		
Develop and expand listening skills	<p>PK-LL-L1* Listen with understanding to directions and conversations Examples: ?? Respond to stories read to the whole class ?? Understand changes in the morning activity schedule being described by the teacher ?? Carry on a conversation with another person that develops a thought or idea expressed by the group earlier ?? Listen to tapes or CD's and show understanding through body language or by interacting with such</p> <p>PK-LL-L2 Follow directions that involve two- or three-step sequence of actions Examples: ?? Repeat an instruction to a friend ?? Follow these instructions, "Wash your hands, then sit at the table." ?? Follow these instructions, "Get your coat, put it on, then sit next to your friend." ?? Follow directions given to the class, such as: "Take this note about our class trip home, have a family member sign it, and bring it back to me."</p> <p>PK-LL-L3 Hear and discriminate the sounds of language in the environment to develop beginning phonological awareness Examples: ?? Listen to and participate in many nursery rhymes, chants poems, fingerplays, and songs ?? Make up silly rhymes, such as: funny bunny or silly willy ?? Clap hands for each syllable in a word, such as: clap hands three times when saying Su-zan-na ?? Sing songs that segment words or accent beginning sounds, and with teacher, clap to the syllables ?? Play with sounds to create new words, such as: "Pass the bapkin napkin." (rimes) ?? Notice words that begin the same way, such as: "My name begins the same as popcorn and pig." (onsets)</p> <p>PK-LL-L4 Demonstrate understanding of new vocabulary introduced in conversations, activities, stories or books Examples: ?? Listen to a variety of literature genre, including narratives, nursery rhymes, other poems, and informational books ?? Listen to read-aloud books that are characterized by less common vocabulary, more complex sentences, and concepts</p> <p>PK-LL-L5 Engage in activities that offer the opportunity to develop skills associated with technology by viewing, comprehending, and using non-textual information. Examples: ? Listen to a story on a tape or a CD ? Listen to recordings of age-appropriate stories while looking at a book ? Use age-appropriate and interactive software programs when available</p>	<p>Louisiana K-4 Content Standards: ELA-1-E1 ELA-4-E2, E3, E6, E7 Louisiana Literacy Profile: 1-10 NAEYC Criterion: A-1, A-2, A-3a, A-3b B-7d ECERS-R Items: 18 (7.1) (7.2) Head Start Performance Standards: 1304.21 (a)(4)(iii) 1304.21 (a)(4)(iv) Head Start Child Outcomes: Domains 1 and 2</p>
*PK-LL-L – Pre-Kindergarten – Language and Literacy Development-- Listening		

Language and Literacy Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	LA K-4 Content Standards, LA Literacy Profile, ECERS-R, NAEYC, Head Start, etc.
Speaking:		
Communicate experiences, ideas, and feelings through speaking	<p>PK-LL-S1* Develop and expand expressive language skills Examples: ?? Use different voices for characters in stories read aloud or told: such as The Three Bears and The Three Billy Goats Gruff ?? Role play activities where different levels of volume would be used, such as: when a baby is sleeping or when calling to someone standing far away ?? Participate as an equal partner in conversations by responding to others, making relevant comments, or providing more information when message is not understood ?? Talk through or explain reasoning when problem-solving (classroom materials, behaviors, etc.)</p> <p>PK-LL-S2 Use new vocabulary in spontaneous speech Examples: ?? Incorporate words and phrases from books, stories, and activities into play ?? Incorporate story elements into play ?? Participate in class discussions of books, stories, and activities ?? Use new vocabulary introduced in a thematic study during play</p> <p>PK-LL-S3 Ask and answer relevant questions and share experiences individually and in groups Examples: ?? Dictate stories during small group time about experiences they have had ?? Ask simple questions, such as: "What's for lunch?" or "Can we play outside today?" ?? Ask questions to further their understanding, such as: "Where does the snow go when it melts?" or "Why does that man wear a uniform?" ?? Answer questions with a complete thought, such as: "I took a bus to school." or "I want purple and blue paint."</p>	<p>Louisiana K-4 Content Standards: ELA-2-E1, E2 ELA-4-E1, E2, E5, E6, E7 Louisiana Literacy Profile: 11-23, 44-45, 48 NAEYC Criterion: B-7d</p> <p>ECERS-R Items: 15(7.1), 15(7.2), 17(5.1), 17(5.2), 17 (7.1), 17 (7.2)</p> <p>Head Start Performance Standards: 1304.21 (a)(4)(iii) 1304.21(a)(4)(iv) Head Start Child Outcomes: Domains 1 and 2</p>
PK-LL-S – Pre-Kindergarten – Language and Literacy Development – Speaking		

Language and Literacy Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	LA K-4 Content Standards, LA Literacy Profile, ECERS-R, NAEYC, Head Start, etc.
Reading:		
Engage in activities that promote the acquisition of emergent reading skills	<p>PK-LL-R1* Actively engage in reading experiences</p> <p>Examples:</p> <ul style="list-style-type: none"> ?? Listen with interest to a story read or told by an adult or another child ?? Track along and verbalize as teacher points to individual words in shared reading (big books, songs, poems, recipes, etc.) ?? Retell familiar stories ?? Complete phrases about familiar stories ?? Ask questions about the illustrations in a book or about details in a story just heard ?? Choose and look at books independently ?? Act out familiar stories with props <p>PK-LL-R2 Retell information from a story</p> <p>Examples:</p> <ul style="list-style-type: none"> ?? Use words or pictures to begin to retell some story events in sequence ?? Dramatize familiar stories, such as: Caps for Sale; Brown Bear, Brown Bear; etc. ?? Relate the main thought of a story read several days before ?? Stage a puppet show based on a story read or told to the group <p>PK-LL-R3 Demonstrate an understanding of print concepts and beginning alphabetic knowledge</p> <p>Examples:</p> <ul style="list-style-type: none"> ?? Recognize and begin writing their own name, demonstrating that letters are grouped to form words ?? Pretend to read by pointing with a finger while reciting text ?? Look at books appropriately, turning one page at a time, left to right over text, going from top to bottom, front to back of book ?? Recognize familiar logos, such as McDonald's, Wal-Mart, etc. ?? Recognize book by cover <p>PK-LL-R4 Use emerging reading skills to make meaning from print</p> <p>Examples:</p> <ul style="list-style-type: none"> ?? Use illustrations to predict printed text, such as saying, "And the wolf blew down the pig's house." ?? Make predictions about print content by using prior knowledge, pictures, text heard, and story structure skills 	<p>Louisiana K-4 Content Standards:</p> <p>ELA-2-E1, E2</p> <p>ELA-4-E1, E2, E5, E6, E7</p> <p>Louisiana Literacy Profile:</p> <p>11-23, 44-45, 48</p> <p>NAEYC Criterion:</p> <p>B-7d</p> <p>ECERS-R Items:</p> <p>15 (5.1), 15(7.1), 15(7.2)</p> <p>Head Start Performance Standards:</p> <p>1304.21 (a)(4)(iii)</p> <p>1304.21(a)(4)(iv)</p> <p>Head Start Child Outcomes:</p> <p>Domains 1 and 2</p>
*PK-LL-R – Pre-Kindergarten – Language and Literacy Development – Reading		

Language and Literacy Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	LA K-4 Content Standards, LA Literacy Profile, ECERS-R, NAEYC, Head Start, etc.
Writing:		
Engage in activities that promote the acquisition of emergent writing skills	<p>PK-LL-W1* Experiment with a variety of writing tools, materials, and surfaces</p> <p>Examples:</p> <p>?? Draw or write using pencils, crayons, chalk, markers, rubber stamps, and computers</p> <p>?? Draw or write using materials such as, brushes and water, feathers, roll-on bottles, shaving cream, and zip-lock bags filled with hair gel or paint</p> <p>?? Draw or write on paper, cardboard, chalkboard, dry erase boards, wood, and concrete</p> <p>PK-LL-W2 Use forms of shapes and letter-like symbols to convey ideas</p> <p>Examples:</p> <p>?? Use scribble writing and letter-like forms, especially those letters in their own name</p> <p>?? Begin to represent ideas and experiences through drawing and early stages of writing, such as: "I ms u."</p> <p>?? Attempt to connect the sounds in words with their written letter forms</p> <p>PK-LL-W3 Participate in a variety of writing activities focused on meaningful words and print in the environment</p> <p>Examples:</p> <p>?? Use a variety of writing utensils and props to encourage writing in different centers such as:</p> <p>?? Journals, sign-in sheets, name cards, cards with words and pictures in the writing center</p> <p>?? Counter checks, grocery store advertisements with paper to make grocery list in the dramatic play center</p> <p>?? Materials to make books, cards, or write messages in the art center</p> <p>?? Paper, tape, dowels, and play dough to make signs or enhance structures in the block center</p> <p>?? Paper or blank books to record observations of animals or results of experiments in the science center</p> <p>PK-LL-W4 Demonstrate an interest in using writing for a purpose</p> <p>Examples:</p> <p>?? Pretend to write a prescription while playing clinic</p> <p>?? Scribble writes next to picture</p> <p>?? Tell teacher, "Write it down so everyone can read it."</p> <p>?? Ask teacher, "How do I write Happy Birthday?"</p> <p>?? Write own name on a drawing for a friend</p> <p>?? Make deliberate letter choices during writing attempts</p> <p>?? Draw a representation of a school bus getting a flat and explains picture. Make a book from the paper and write the school bus story using scribbles, letter-like symbols or letters to retell the school bus incident.</p> <p>?? Create a recipe for a favorite snack</p> <p>?? Compose notes/invitations to family/friends</p>	<p>Louisiana K-4 Content Standards:</p> <p>ELA-1-E5</p> <p>ELA-2-E1, E2, E6</p> <p>ELA-3-E1</p> <p>Louisiana Literacy Profile:</p> <p>51-55</p> <p>NAEYC Criterion:</p> <p>B-7d</p> <p>ECERS-R Items:</p> <p>16 (7.2)</p> <p>19 (5.1)</p> <p>Head Start Performance Standards:</p> <p>1304.21 (a)(4)(iv)</p> <p>Head Start Child Outcomes:</p> <p>Domain 2</p>
*PK-LL-W – Pre-Kindergarten – Language and Literacy Development ? Writing		

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Subchapter H. Social and Emotional

§337. Social and Emotional Development

A. One of the primary goals of a quality early childhood program is to foster social and emotional development in young children. Pre-kindergarten children need proper guidance to develop the ability to negotiate issues that occur,

to take turns, to lead and follow, and to be a friend. They also need to learn how to deal with their feelings in a socially acceptable manner.

B. The social and emotional development of young children is strengthened when they feel good about themselves and have secure relationships with their parents, teachers, and peers. Other influences on this development are the relationships young children have with their families, their communities, their culture and their world. Since social and emotional development is such an important aspect of a

pre-kindergarten child's development, it has been included as a separate section.

C. Accommodations for children with special needs:

1. Plan for and support appropriate social behaviors.
2. Provide opportunities for social interactions with typically developing peers.
3. Utilize peers as models and helpers, or to provide praise and encouragement.

NOTE: Partial participation is considered appropriate for children with special needs, according to their abilities.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2336 (November 2003).

§339. Social and Emotional Development

Social and Emotional Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Self-Esteem:		
Develop a sense of one's own self-worth	PK-SE-SE1* Respond to own name Examples: ?? Look up, and/or make eye contact when called ?? Respond verbally when name is called PK-SE-SE2 Stand up for own rights in an appropriate manner Examples: ?? Say, "Stop! I had that first!" if toy is taken away ?? Say, "I didn't get one," or "I need one," if he/she needs or wants something ?? Say, "I want a turn," or "I didn't get a turn." PK-SE-SE3 Recognize and express own feelings and respond appropriately (all emotions, happiness, surprise, anger, etc.) Examples: ?? Be able to calm self down when angry and use words to express why – "I'm mad. You took my toy." PK-SE-SE4 Demonstrate appropriate behaviors when completing a task or solving a problem Examples: ?? Smile, express self verbally, or make eye contact with teachers or another child upon completion of task	Louisiana K-4 Content Standards: None applicable NAEYC Criterion: A-2, A-8b, A-9, A-11, B-7a, B-7b ECERS-R Items: None applicable Head Start Performance Standards: 1304.21(b)(2)(i) 1304.21(c)(1)(iv) 1304.21(c)(1)(v) Head Start Child Outcomes: Domain 6
*PK-SE-SE – Pre-Kindergarten – Social and Emotional Development – Self-Esteem		

Social and Emotional Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Attitude:		
Develop a positive attitude toward life	PK-SE-A1* Separate easily from parent Examples: ?? Show pleasure in seeing teacher and other children upon arrival ?? Say goodbye to parent without undue stress ?? Engage in classroom activities when parent is gone PK-SE-A2 Play well with other children Examples: ?? Offer to help child carry something that is heavy ?? Participate with a group when deciding what roles to play in dramatic play ?? Share a book with a friend PK-SE-A3 Respond sympathetically to peers who are in need Examples: ?? Give a pat, friendly word or toy to a distressed child ?? Help someone find something he/she has lost ?? Invite another child to play when other children have rejected him/her PK-SE-A4 Recognize the feelings of others and respond appropriately Examples: ?? Laugh or smile when others are happy ?? Tell someone a child is sad because her mom left ?? Bring a truck book to someone who loves trucks	Louisiana K-4 Content Standards: None applicable NAEYC Criterion: A-6a, A-9, A-11, B-7a, B-7b ECERS-R Items: 31(7.2) 32(5.1), 32(5.3), 32(7.2) 33(5.1), 33(5.2), 33(7.1), 33(7.2) Head Start Performance Standards: 1304.21(a)(3)(i)(b) 1304.21(a)(3)(i)(d) 1304.21(c)(1)(iv) 1304.21(c)(1)(v) Head Start Child Outcomes: Domain 6
* PK-SE-A – Pre-Kindergarten – Social and Emotional Development - Attitude		

Social and Emotional Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Cooperation:		
Develop skills which will teach them to cooperate	<p>PK-SE-C1* Develop increasing abilities to give and take in interactions Examples: ?? Take turns in games or when using materials ?? Listen to others while they are speaking ?? Work with others to complete a task ?? Play cooperatively alongside other children</p> <p>PK-SE-C2 Work or play cooperatively with other children with minimal direction Examples: ?? Become involved with classroom materials without teacher prompting ?? Participate in group activities such as singing ?? Try new activities such as a new nursery rhyme or a fingerplay</p> <p>PK-SE-C3 Respond appropriately during teacher-guided and child-initiated activities Examples: ?? Respect others' feelings within the context of group play ?? Use acceptable ways of joining in an on-going activity or group ?? Wait his/her turn in playing games or using materials</p> <p>PK-SE-C4 Use conflict resolution strategies Examples: ?? Trade one toy for another ?? Ask teacher for help when dealing with others who are less able to resolve a conflict</p> <p>PK-SE-C5 Develop appropriate listening skills Examples: ?? Wait turn to speak ?? Demonstrate emerging ability to show sensitivity to peers and teacher as they speak in large or small settings</p>	<p>Louisiana K-4 Content Standards: Not applicable NAEYC Criterion: A-3b, A-10, A-11, B-7a, B-8 ECERS-R Items: 29(7.3), 31(7.1), 33(5.1), 33(7.1), 33(7.2) Head Start Performance Standards: 1304.21(a)(3)(i)(b) 1304.21(a)(3)(i)(c) 1304.21(c)(1)(iv) Head Start Child Outcomes: Domain 1 and 6</p>
*PK- SE- C – Pre-Kindergarten – Social and Emotional Development - Cooperation		

Social and Emotional Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Pro-Social Behavior:		
Develop self-control and understand that actions have consequences	<p>PK-SE-PB1* Show progress in expressing feelings, needs and opinions in difficult situations and conflicts without harming self, others, or property Examples: ?? Begin to use socially acceptable means to resolve conflict ?? Move from physical to verbal responses in their interactions with other children ? Express frustrations and anger effectively</p> <p>PK-SE-PB2 Develop a growing understanding of how their actions affect others and begin to accept consequences of their actions Examples: ?? Begin to demonstrate remorse ?? Leave a learning center or choose another learning center without protest when asked, due to inappropriate behavior</p> <p>PK-SE-PB3 Demonstrate increasing capacity to follow rules and routines and use materials purposefully, safely and respectfully Examples: ?? Respect and care for classroom environment and materials ?? Participate in snack time, nap or other routine activities without much delay or protest ?? Begin to verbalize and understand the reason for class rules ?? Return materials to appropriate place when task is complete</p>	<p>Louisiana K-4 Content Standards: C-1A-E1 NAEYC Criterion: A-6a, A-8b, A-9, ECERS-R Items: 19(7.2) 22(7.2) 24(5.4) 31(7.1) Head Start Performance Standards: 1304.21(c)(1)(iv) 1304.21(a)(3)(i)(c) Head Start Child Outcomes: Domain 6</p>
PK-SE-PB – Pre-Kindergarten – Social and Emotional Development – Pro-Social Behavior		

Social and Emotional Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Family:		
Develop a knowledge and understanding of self and family	<p>PK-SE-F1* Demonstrate knowledge of personal information Examples: ?? Demonstrate or verbalize their age in a variety of ways ?? Say name when asked or sing name during name song ?? Share their gender verbally or demonstrate it in a variety of ways</p> <p>PK-SE-F2 Identify family composition and describes roles of family members Examples: ?? Discuss family members who live in and out of the home such as: "I live with my grandma, but I stay with my dad on the weekends." ?? Act out family roles in dramatic play center</p> <p>PK-SE-F3 Discuss family traditions, practices and cultural roots of family members Examples: ?? Share information about family celebrations ?? Tell stories, draw pictures, and/or verbally express family practices such as: "My family eats rice with every meal."</p>	<p>Louisiana K-4 Content Standards: None Applicable NAEYC Criterion: B-7a, 7h ECERS-R Items: 32(7.2) Head Start Performance Standards: 1304.21(a)(3)(i)(e) Head Start Child Outcomes: Domain 6</p>
PK-SE-F – Pre-Kindergarten – Social and Emotional Development - Family		

Social and Emotional Development		
Content Practice Standards	Developmental Profile Indicators	Links
Preschool programs will provide experiences for children to:	Educational experiences will assure that preschool children will:	Louisiana K-4 Content Standards, ECERS-R, NAEYC, Head Start, etc.
Diversity:		
Develop a respect for differences in people	<p>PK-SE-D1* Recognize themselves as unique individuals and become aware of the uniqueness of others Examples: ?? State, "I have blue eyes. Jennifer has brown eyes." ?? Graph hair color or style, eye color, transportation to school, etc.</p> <p>PK-SE-D2 Demonstrate emerging awareness and respect for culture and ethnicity Examples: ?? Show interest in how people in different cultures live ?? Show pride in own culture and accept peers of different ethnicity ?? Participate in various cultural activities (stories, cooking, etc.)</p> <p>PK-SE-D3 Demonstrate emerging awareness and respect for abilities and disabilities Examples: ?? Show interest in how people with differing abilities live ?? Accept peers with different abilities ?? Participate in discussions and story telling experiences which deal with people with differing abilities</p> <p>PK-SE-D4 Begin to demonstrate an understanding of social justice and social action issues Examples: ?? Understand and join in discussion about charities and/or charitable events the class can become involved in ?? Contribute to the penny drive for the homeless or bring cans for the food bank</p>	<p>Louisiana K-4 Content Standards: None applicable NAEYC Criterion: B-7h ECERS-R Items: 24(7.2) 28(5.1), 28(5.2), 28(7.1), 28(7.2) Head Start Performance Standards: 1304.21(a)(1)(iii) 1304.21(a)(3)(i)(d) 1304.21(a)(3)(i)(e) Head Start Child Outcomes: Domain 6</p>
PK-SE-D – Pre-Kindergarten – Social and Emotional Development - Diversity		

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2337 (November 2003).

Chapter 5. Pre-K Standards at-a-Glance
§501. Cognitive Development

Cognitive Development – Mathematical	
Number Concepts	
PK-CM-N1	Compare numbers of objects
PK-CM-N2	Perform one-to-one correspondence
PK-CM-N3	Count by rote
PK-CM-N4	Begin to count objects
PK-CM-N5	Begin to recognize numerals
PK-CM-N6	Begin to demonstrate estimation skills
Measurement	
PK-CM-M1	Experience, compare, and use language relating to time
PK-CM-M2	Anticipate, remember, and describe sequences of events
PK-CM-M3	Use mathematical language to describe experiences involving measurement
PK-CM-M4	Measure objects in the physical world using non-standard units of measurement
Geometry and Spatial Sense	
PK-CM-G1	Recognize, name, describe, compare, and create basic shapes
PK-CM-G2	Identify shapes to describe physical world
PK-CM-G3	Describe and interpret spatial sense: positions, directions, distances, and order
Data Collection, Organization, and Interpretation	
PK-CM-D1	Sort and classify materials by one or more characteristics
PK-CM-D2	Collect and organize data about themselves, their surroundings, and meaningful experiences
PK-CM-D3	Interpret simple representations in data
Patterns and Relationships	
PK-CM-P1	Recognize patterns in the physical world
PK-CM-P2	Describe, copy, extend, create patterns and make predictions about patterns
PK-CM-P3	Seriate objects
Cognitive Development? Science	
Science as Inquiry	
PK-CS-I1	Use prior knowledge and experiences to hypothesize, predict, generate questions, and draw conclusions about organisms and events in the environment
PK-CS-I2	Conduct simple scientific experiments
PK-CS-I3	Make observations using senses
PK-CS-I4	Employ equipment and tools to gather data and extend sensory observations
PK-CS-I5	Collect, interpret, communicate data and findings from observation and experiments in oral and written format
PK-CS-I6	Use appropriate scientific vocabulary related to topics
Physical Science	
PK-CS-P1	Begin investigating states of matter: solids, liquids, and gases
PK-CS-P2	Describe objects by their physical properties
PK-CS-P3	Explore the physical world using five senses
PK-CS-P4	Explore simple machines, magnets, and sources of energy
Life Science	
PK-CS-L1	Explore, observe, and describe a variety of living things

PK-CS-L2	Explore, observe, describe, and participate in a variety of non-living things
PK-CS-L3	Explore, observe, describe, and participate in a variety of activities related to preserving their environment
PK-CS-L4	Begin to develop an awareness and understanding of plant and animal life cycles and how the life cycles vary for different reasons
Earth and Space Science	
PK-CS-ES1	Investigate, compare, and contrast seasonal changes in their immediate environment
PK-CS-ES2	Discover through observation that weather can change from day to day
PK-CS-ES3	Use vocabulary to describe major features of the earth and sky
Cognitive Development – Social Studies	
Civics	
PK-CSS-C1	Recognize community workers and increase awareness of their jobs
PK-CSS-C2	Identify his/her role as a member of family/class
Economics	
PK-CSS-E1	Demonstrate an awareness of money being used to purchase items
Geography	
PK-CSS-G1	Include representations of roads, bodies of water, and buildings in their play
PK-CSS-G2	Use words to indicate directionality, position, and size
PK-CSS-G3	Develop awareness of the world around them
History	
PK-CSS-H1	Use words to describe time (yesterday, today, tomorrow)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2340 (November 2003).

§503. Creative Arts Development

Creative Arts Development? Music and Movement	
Music Appreciation	
PK-MM-MA1	Listen to a variety of musical genre – jazz, classical, country, lullaby, patriotic, instrumental, vocal, etc.
PK-MM-MA2	Respond to variations in music – pitch, volume, tempo, beat, rhythm, and pattern
Music Expression	
PK-MM-ME1	Use music as an avenue to express thoughts, feelings, and energy
PK-MM-ME2	Participate in group singing, fingerplays, rhymes, poetry, and rhythm
Creative Movement	
PK-MM-CM1	Observe various forms of movement
PK-MM-CM2	Communicate words or concepts through movement
PK-MM-CM3	Show creativity using their bodies (dance, march, hop, jump, sway, clap, snap, stomp, twist, turn)
Creative Arts Development – Visual Arts	
Visual Arts Appreciation	
PK-VA-VA1	Observe various forms of art expression (paintings, drawings, sculpture, prints, collages, and other art forms)
PK-VA-VA2	Share various forms of art (sculpture, pencils, watercolors, clay, collage, pen and ink, etc.) found in their environment
Creative Expression	

PK-VA-CE1	Participate in individual and group art activities
Creative Arts Development – Dramatic Arts	
Dramatic Appreciation	
PK-DA-DA1	Attend a variety of dramatic performances
PK-DA-DA2	Participate in discussions of dramatic performances
Dramatic Expression	
PK-DA-DE1	Role play or use puppets to express feelings, dramatize stories, try out social behaviors observed in adults, re-enact real-life roles and experiences
PK-DA-DE2	Participate in activities using symbolic materials and gestures to represent real objects and situations

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2340 (November 2003).

§505. Health and Physical Development

Health and Physical Development - Health	
Health and Hygiene	
PK-HP-HH1	Show awareness of healthy lifestyle practices
PK-HP-HH2	Show awareness of good hygiene and personal care
Nutrition	
PK-HP-N1	Exhibit knowledge that some foods are better for your body than others
Safety	
PK-HP-S1	Identify harmful objects, substances, or behaviors
PK-HP-S2	Be aware of and follow universal safety rules
Health and Physical Development? Physical	
Gross Motor	
PK-HP-GM1	Exhibit body coordination and strength
PK-HP-GM2	Exhibit balance and spatial awareness
Fine Motor	
PK-HP-FM1	Strengthen and control small muscles in hands
PK-HP-FM2	Exhibit manual coordination
PK-HP-FM3	Participate in eye-hand coordination activities

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2341 (November 2003).

§507. Language and Literacy Development

Language and Literacy Development	
Listening	
PK-LL-L1	Listen with understanding to directions and conversations
PK-LL-L2	Follow directions that involve two- or three-step sequence of actions
PK-LL-L3	Hear and discriminate the sounds of language in the environment to develop beginning phonological awareness
PK-LL-L4	Demonstrate understanding of new vocabulary introduced in conversations, activities, stories or books

PK-LL-L5	Engage in activities that offer the opportunity to develop skills associated with technology by viewing, comprehending, and using non-textual information
Speaking	
PK-LL-S1	Develop and expand expressive language skills
PK-LL-S2	Use new vocabulary in spontaneous speech
PK-LL-S3	Develop appropriate listening skills
Reading	
PK-LL-R1	Actively engage in reading experiences
PK-LL-R2	Retell information from a story
PK-LL-R3	Demonstrate an understanding of print concepts and beginning alphabetic knowledge
PK-LL-R4	Use emerging reading skills to make meaning from print
Writing	
PK-LL-W1	Experiment with a variety of writing tools, materials, and surfaces
PK-LL-W2	Use forms of shapes and letter-like symbols to convey ideas
PK-LL-W3	Participate in a variety of writing activities focused on meaningful words and print in the environment
PK-LL-W4	Demonstrate an interest in using writing for a purpose

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2341 (November 2003).

§509. Social and Emotional Development

Social and Emotional Development	
Self-Esteem	
PK-SE-SE1	Respond to own name
PK-SE-SE2	Stand up for own rights in an appropriate manner
PK-SE-SE3	Recognize and express own feelings and respond appropriately (all emotions - happiness, surprise, anger, etc.)
PK-SE-SE4	Demonstrate appropriate behaviors when completing a task or solving a problem
Attitude	
PK-SE-A1	Separate easily from parent
PK-SE-A2	Play well with other children
PK-SE-A3	Respond sympathetically to peers who are in need
PK-SE-A4	Recognize the feelings of others and respond appropriately
Cooperation	
PK-SE-C1	Develop increasing abilities to give and take in interactions
PK-SE-C2	Work or play cooperatively with others with minimal direction
PK-SE-C3	Respond appropriately during teacher-guided and child-initiated activities
PK-SE-C4	Use conflict resolution strategies
PK-SE-C5	Ask and answer relevant questions and share experiences individually and in groups
Pro-Social Behavior	
PK-SE-PB1	Show progress in expressing feelings, needs and opinions in difficult situations and conflicts without harming self, others, or property

PK-SE-PB2	Develop a growing understanding of how their actions affect others and begin to accept consequences of their actions
PK-SE-PB3	Demonstrate increasing capacity to follow rules and routines and use materials purposefully, safely and respectfully
Family	
PK-SE-F1	Demonstrate knowledge of personal information
PK-SE-F2	Identify family composition and describe roles of family members
PK-SE-F3	Discuss family traditions, practices and cultural roots of family members
Diversity	
PK-SE-D1	Recognize themselves as unique individuals and become aware of the uniqueness of others
PK-SE-D2	Demonstrate emerging awareness and respect for culture and ethnicity
PK-SE-D3	Demonstrate emerging awareness and respect for abilities and disabilities
PK-SE-D4	Begin to demonstrate an understanding of social justice and social action issues

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2341 (November 2003).

Weegie Peabody
Executive Director

0311#019

RULE

Board of Elementary and Secondary Education

Bulletin 741? Louisiana Handbook for
Nonpublic School Administrators
(LAC 28:LXXIX.Chapters 1-37)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revision of Nonpublic *Bulletin 741? Louisiana Handbook for Nonpublic School Administrators*. The revised Nonpublic Bulletin 741 will be printed in codified format as Part LXXIX of the *Louisiana Administrative Code*. The State Board of Elementary and Secondary Education at its April 2003 meeting approved the revision of this bulletin which contains policies regulating the administration of nonpublic pre-K through 12 schools. Nonpublic Bulletin 741 was revised to change or delete outdated information, to clarify language, and to bring policies in line with what is currently required for public schools. The document had not been revised since 1997. Some policy changes are as follows.

The revised document allows for the flexible use of instructional time as is allowed for public schools. This policy allows secondary schools to use block scheduling. The policies regarding GEE 21 for schools awarding a state diploma are updated. The requirements for the BESE Honors Curriculum are revised to reflect the course requirements for nonpublic school students. The High School Program of Studies is updated to include recent changes.

Title 28 EDUCATION

Part LXXIX. Louisiana Handbook for Nonpublic School Administrators

Chapter 1. Operation and Administration

§101. General Authority

A. The nonpublic school board or governing body shall pass a resolution establishing the nonpublic school and setting forth its goals and objectives.

B. Nonpublic schools are designed to meet the needs of a specific group of students. Each nonpublic school will evaluate itself on the basis of its stated goals and objectives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2342 (November 2003).

§103. School Administration

A. The educational program shall be designed to implement the stated goals and objectives and shall be directly related to the unique educational requirements of its student body.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2342 (November 2003).

§105. Philosophy and Purposes of School

A. Each nonpublic school shall develop and maintain a written statement of its philosophy and/or mission statement and the major purposes to be served by its program. The statement shall reflect the individual character of the school and the characteristics and needs of the students it serves.

B. The statement of philosophy and/or mission statement shall be reviewed annually and shall be revised as necessary.

C. Written evidence that these requirements are being met shall be on file.

D. Copies of the philosophy and/or mission statement shall be furnished to all staff members and made available to interested persons on request.

E. Each school shall maintain on the file the following:

1. written statement of philosophy and/or mission statement;
2. goals and objectives for the current year; and
3. plan for implementation of these goals and objectives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2342 (November 2003).

§107. School Approval

A. In order to benefit from state and federal funds, each school shall have a state approval classification and shall be in compliance with *Brumfield vs. Dodd*.

B. Each state-approved nonpublic school receiving state and/or federal funds shall permit all colleges, universities and branches of the military to have equal access to the schools for the purpose of college recruitment.

C. When applying to the State Department of Education for a classification category, all nonpublic schools seeking state approval shall include all grades/programs taught at the school.

1. Classification Categories. Schools shall be classified according to the following categories.

a. Approved (A)? school meets all standards specified in Standards for Approval of Nonpublic Schools.

b. Provisionally Approved (PA)? school has some deficiencies in standards, such as: class size and number(s) of the faculty teaching in an area of which qualifications specified are not met, etc.

c. Probationally Approved (P)? school has one or more of the following deviations from standards:

i. principal does not hold a master's degree or principalship certification;

ii. non-degreed teacher with fewer than five years teaching experience is employed;

iii. school has been on provisional approval for the previous two years for the same deficiency.

d. Unapproved (U)? school maintains any of the above-mentioned deviations from standards which placed it in the probationally approved category the preceding year. A school may not maintain a probationally approved category for two consecutive years. A school which loses annual school approval shall become ineligible for state and federal funding.

D. The Department of Education shall submit to the SBESE a yearly report recommending the classification status of the nonpublic schools in accordance with the nonpublic school standards.

E. After the Annual School Reports are submitted by the State Department of Education to the State Board of Elementary and Secondary Education (SBESE) for approval, all nonpublic schools seeking to change their classification category must submit their request to the SBESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2342 (November 2003).

§109. Initial Classification

A. Schools seeking initial approval must be qualified to be classified as either approved or provisionally approved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2343 (November 2003).

§111. Re-Applying for State Approval

A. An unapproved school reapplying for state approval must qualify as either approved or provisionally approved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2343 (November 2003).

§113. Pre-Kindergarten/Kindergarten

A. The local educational governing authority shall have the option of establishing a pre-kindergarten and/or kindergarten program on a half-day or full-day schedule.

B. The pre-kindergarten program shall be listed on the annual school report when operated as a developmental program within the total school program.

C. Any other program which operates in a school as a childcare program shall follow the day care standards as prescribed by the appropriate state agency and is not to be listed on the annual school report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2343 (November 2003).

§115. Minimum Session/Instructional Day

A. Each school shall adopt a calendar for a minimum session of 180 days, of which at least 175 days consisting of 330 minutes of instructional time, or the equivalent, shall be scheduled.

1. If a daily schedule must be abbreviated, the class schedule must be abbreviated in such a manner to ensure that all classes are taught during partial days, except in self-contained classrooms.

2. Each school may include in its calendar a provision for dismissal of senior students prior to the end of the school year. This provision is not to exceed 10 days of instructional time.

B. If a local school does not meet at least 175 school days, the State Board of Elementary and Secondary Education (SBESE) shall require the school to adjust its calendar to meet the minimum days of required instructional time by such means as Saturday classes, reduced holidays, expanded calendar length, etc.

1. A school system and/or independent school shall notify the State Board of Elementary and Secondary Education (SBESE) immediately when the minimum number of days of required instructional time cannot be met in crises such as fire, natural disasters, and so forth.

2. An alternate proposal to the original school calendar which meets the minimum number of 175 days or annual instructional minutes shall also be provided by the school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2343 (November 2003).

§117. Written Policies

A. Each school system and/or independent school shall have written policies and/or regulations governing the general operation of the school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2343 (November 2003).

§119. Emergency Planning and Procedures

A. Each school system and/or independent school shall have written plans and procedures that address the immediate response to emergency situations that may develop in the school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2343 (November 2003).

§121. Personnel

A. No person who has been convicted of or has plead nolo contendere to a crime listed in R.S. 15:587.1(c) shall be hired by a nonpublic school for a position of supervisory or disciplinary authority over school children unless approved in writing by a district judge of the parish and by the district attorney.

B. Any employee hired after September 30, 1987, must request in writing, a criminal history review through the Department of Public Safety on the form prepared by the Bureau of Criminal Identification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2344 (November 2003).

Chapter 3. Certification of Personnel

§301. Principal

A. A nonpublic school principal, assistant principal, or headmaster must hold a master's degree in any area from an accredited institution or have principalship on his Louisiana teaching certificate. The principal is to be a full-time, on-site employee. (The principal may be a teacher as well as the educational administrator of the school.)

B. Assistant principals who do not meet minimum qualifications may be retained in a school provided they were employed in that school during the 1992-93 school year as an assistant principal.

C. A list of these assistant principals is to be maintained on file in the State Department of Education. Upon their retirement or replacement, these assistant principals must be replaced with properly qualified personnel under the nonpublic school standards. These individuals may not be transferred or employed by another school unless they meet the requirements stated in the above standard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2344 (November 2003).

§303. Instructional Staff

A.1. All members of the instructional staff teaching secular subjects, pre-kindergarten through 12, shall have received a bachelor's degree from a regionally accredited institution.

2. They shall also have completed a minimum of 12 semester hours of professional education courses. A beginning teacher shall have a two-year period in which to meet this 12-semester hour standard. The teacher shall be required to have a certificate or college major in the field of work for which the teacher is responsible during one half or more of the school day or shall have earned credits in the required specific specialized academic courses as described in Bulletin 746, *Louisiana Standards for State Certification*

of School Personnel. A teacher may work in areas other than the major field for a period of time that is less than one-half of the school day provided that he has earned at least 12 semester hours in each such area. (Exception may be made for teachers in Trade and Industrial Education classes.)

a. Teachers of the pre-kindergarten class shall be qualified in either elementary, kindergarten, or nursery school or have earned 12 hours in child growth and development. The 12 hours in child growth and development may be earned through the College of Education or the Department/School of Family and Consumer Sciences.

b. Teachers of the kindergarten class shall be qualified in either elementary or kindergarten or have earned 12 hours in child growth and development. The 12 hours in child growth and development may be earned through the College of Education or the Department/School of Family and Consumer Sciences.

c. Staff members teaching religion at the high school level (9-12) for Carnegie units must have a minimum of a bachelor's degree. Staff members teaching religion that do not meet minimum qualifications may be retained in a school provided they were employed during the 1995-96 school year as teachers of religion.

B. Professional and/or technical personnel? e.g., C.P.A.s, doctors, college or university professors, lab technicians, lawyers, and so forth, may teach less than one-half of a school day in their area of expertise.

C. Non-degreed teachers having taught for a period of at least five years prior to September 1, 1977, may be rehired in a school provided their teaching performance was satisfactory; however, these teachers are eligible to teach only in the subject areas as listed prior to September 1, 1977. Upon retirement or replacement, these teachers must be replaced with degreed teachers eligible under the nonpublic school standards.

D. Credentials for graduates of foreign universities or colleges may be accepted by the local administrator, as qualified to teach in nonpublic schools subject to the review by the Nonpublic School Commission.

1. Applicants with foreign credentials seeking state certification should follow procedures as outlined by the State Department.

E. Teachers in nonpublic schools seeking state certification shall follow the approved procedure.

1. Secondary and elementary personnel may teach grades pre K-12 in their qualified areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2344 (November 2003).

§305. Professional Staff Development

A. Regular and planned faculty meetings on professional issues shall be held.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2344 (November 2003).

Chapter 5. Records and Reports
Subchapter A. Maintenance and Use of School Records and Reports

§501. General

A. The school shall maintain accurate and current information on students, personnel, instructional programs, facilities, and finances.

B. There shall be procedures in place to ensure confidentiality and parental access to records, in accordance with applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2345 (November 2003).

§503. School Records

A. Each school shall maintain necessary records for the effective operation of the school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2345 (November 2003).

§505. Student Records

A. Each school shall keep records which shall provide for the registration and attendance of students and shall maintain an up-to-date permanent record of individual students showing personal data and progress through school.

B. Schools shall not reveal a student's confidential records, except by his or her parents/guardian consent, or for the purpose of the state's conduct of other activities, e.g., Department of Health and Human Resources surveying and monitoring of personnel, or use by other educational institutions and law enforcement officials, or by the order of a court, or pursuant to the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, et seq., and 34 CFR, et seq.

C. If a school discontinues its operation, it must provide the parent or receiving school with an up-to-date copy of the permanent student record, if requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2345 (November 2003).

§507. Use of School Records

A. Student records shall be reviewed regularly, and results shall be used for instructional planning, student guidance, and placement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2345 (November 2003).

§509. Transfer of Student Records from Approved Schools

A. A student transferred from a state-approved school, in- or out-of-state, will be allowed credit for work completed in the former school. When a student transfers from one school to another, a properly certified transcript, showing the

students record of attendance, achievement, and the units of credit earned are required.

B. Every nonpublic school, approved or nonapproved, shall provide written notification directly to the public school in which the student was previously enrolled. This notification shall take place within 10 days of enrollment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2345 (November 2003).

§511. Transfer of Student Records from Schools that are not State Approved

A. Local school principals from any state-approved school receiving a student from an unapproved school, in- or out-of-state, will determine the placement and/or credits for the student. The principal and/or superintendent may require the student to take an entrance examination on any subject matter for which credit is claimed. The school issuing the high school diploma shall account for all the credit required for graduation, and its records will show when and where the credit was earned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2345 (November 2003).

§513. Students Transferring from Home Study

A. The school shall adhere to the policies and procedures established by the school system/school for students entering the system from an approved home study program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2345 (November 2003).

§515. Students Transferring from Foreign Schools

A. The school shall determine placement of students transferring from foreign schools. This determination shall be accepted by the State Department of Education (SDE).

B. Credits earned by students in American schools in foreign countries shall be accepted at face value.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2345 (November 2003).

§517. Textbook Records

A. A record of all state-purchased textbooks shall be kept. This shall include textbooks on hand at the beginning of the session, those added, and those lost or worn-out.

B. State funds allocated for buying textbooks shall be used to buy books on the state-adopted textbook lists and academically related ancillary materials according to the state guidelines.

1. Local schools may use state textbook dollars for the purchase of non-adopted instructional materials, when they are purchasing instructional materials for grades K-3 that are manipulative concrete materials, or gross motor materials; or

when they do not exceed 10 percent of the total state textbook allocation.

2. Schools may petition in writing the State Department of Education for permission to spend in excess of the 10 percent allowance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2345 (November 2003).

§519. Health Records

A. A health record shall be maintained on each student from pre-kindergarten through grade 12.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2346 (November 2003).

Subchapter B. School Reports

§525. General

A. Reports required by the State Department of Education and BESE shall be made on appropriate forms, shall contain accurate information, and shall be returned by the specified date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2346 (November 2003).

§527. Annual School Report

A. Each nonpublic school shall submit an annual school report to the appropriate division within the State Department of Education, according to the established time line.

B. By October 15, the principal shall forward a report through the nonpublic superintendent's or administrator's office, to the State Department of Education, on forms provided for that purpose. This report shall be signed by the administrative head of the school. One copy shall be filed with the nonpublic school superintendent's or administrator's office and another copy shall be filed in the principal's office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2346 (November 2003).

§529. Annual Financial and Statistical Report

A. Information required for the completion of the annual financial and statistical report shall be recorded on forms furnished by the State Department of Education.

B. A copy of this report shall be filed in the principal's office and a copy forwarded to the appropriate office in the State Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2346 (November 2003).

§531. Reports of High School Credits

A. Before a student may graduate from a nonpublic high school, a certificate of high school credits (transcript) shall be submitted to and approved by the State Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2346 (November 2003).

§533. Other Reports

A. Any other records and reports applicable to nonpublic schools that may be required by the State Board of Elementary and Secondary Education (SBESE) or the State Department of Education shall be submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2346 (November 2003).

Chapter 7. Scheduling

§701. General

A. The purpose of scheduling within available time frames and staff resources shall be to meet educational needs of students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2346 (November 2003).

§703. Secondary Scheduling

A. The minimum length of periods for any high school class in which a Carnegie unit is earned shall be no less than 55 minutes of instructional time in a six-period day and no less than 50 minutes of time in a seven-period day.

B. The minimum length of any high school class in which one-half Carnegie unit of credit is earned shall be no less than one-half of the total minutes required for one full Carnegie unit of credit.

C. Any high school class scheduled for a 90 minute per period block of instructional time must meet for a minimum of one full semester, or the equivalent, in order to earn a Carnegie unit.

D. The schedule of subjects offered in the program of studies may be arranged by school principals in order to reduce or increase the number of class periods per week provided that the yearly aggregate time requirements are met.

E. Significant accommodations and/or modifications may be made for special education students in accordance with the Individualized Education Program (IEP), provided that the integrity of the Carnegie unit is not diminished.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2346 (November 2003).

§705. Length of the School Day

A. The minimum instructional day for a full-day kindergarten program shall be 330 minutes and for a one-half day kindergarten program, the minimum instructional day shall be 165 minutes.

B. For grades 1-12, the minimum school day shall include 330 minutes of instructional time exclusive of recess, lunch, and planning periods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2347 (November 2003).

§707. Class Size and Ratio

A. The maximum enrollment allowed in any class or section shall not exceed 35 students except in certain activity classes such as physical education, music, art, etc.

B. The class size for pre-kindergarten developmental programs shall not exceed 20 children for one teacher. Schools that choose to use the assistance of a full-time aide may have a maximum of 30 children per class.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2347 (November 2003).

Chapter 9. Reporting Student Progress

§901. Reporting Student Progress to Parents

A. Reports covering the students' achievement and progress shall be made to parents or guardians periodically. These reports shall contain an evaluation of the pupil's scholastic achievement and conduct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2347 (November 2003).

Chapter 11. Review and Evaluation

§1101. School Self-Evaluation

A. School self-evaluation shall be used to effect improvement in the purposes of the school and in the understanding of pupils, instructional methods, and educational outcomes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2347 (November 2003).

Chapter 13. Student Services

§1301. Attendance

A. Students who have attained the age of seven years shall attend a public or private day school or participate in an approved home study program until they reach the age of 17 years; however, a student between the ages of 16 and 17 years of age may withdraw from school with the written consent of his parent, tutor, or legal guardian.

B.1. A student is considered to be in attendance when he or she:

a. is physically present at a school site or is participating in an authorized school activity; and

b. is under the supervision of authorized personnel.

2. This definition for attendance would extend to students who are homebound, assigned to and participating in drug rehabilitation programs that contain a state-approved education component, or participating in school-authorized field trips.

a. Half-Day Attendance. A student is considered to be in attendance for one-half day when he or she:

i. is physically present at a school site or is participating in an authorized school activity; and

ii. is under the supervision of authorized personnel for more than 25 percent but not more than half (26 percent-50 percent) of the student's instructional day.

b. Whole-Day Attendance. A student is considered to be in attendance for a whole day when he or she:

i. is physically present at a school site or is participating in an authorized school activity; and

ii. is under the supervision of authorized personnel for more than 50 percent (51 percent-100 percent) of the student's instructional day.

C. In order to be eligible to receive grades, high school students shall be in attendance a minimum of 80 days per course each semester or 160 days per course during a school year for schools not operating on a semester basis. Elementary students shall be in attendance a minimum of 160 days a school year.

1. Students attending high school classes operating in 90 minute blocks of instructional time shall be in attendance 80 days, or its equivalent, in order to be eligible to receive grades.

D. Each school shall develop and implement a system whereby a student's parent, tutor, or legal guardian is given notice when that student has been excessively absent from school and at intervals thereafter. This notification shall be provided each semester for those high schools operating on a semester basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2347 (November 2003).

§1303. Extenuating Circumstances

A. Exception to the attendance policy can be made only in the event of extended personal illness, verified by a physician, or at the discretion of the principal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2347 (November 2003).

§1305. Entrance Requirements

A. All students, upon entering Louisiana schools for the first time, shall present:

1. an official birth certificate;
2. a record of immunization; and
3. an official Social Security Card.

B. If no official Social Security Card is available, the student shall be assigned an identification number by the school. Other official records may be used for verification upon the discretion of appropriate school officials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2347 (November 2003).

§1307. Age Requirements

A. The minimum age for kindergarten shall be one year younger than the age requirement for that child to enter first grade.

B. Each school system and/or independent school may adopt by rule and enforce ages for entrance into first grade in school. It is recommended that a child entering first grade be six years of age on or before September 30 of that school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003).

Chapter 15. Health

§1501. Immunization

A. The school principal of each school shall be responsible for checking student records to ensure that immunization requirements are enforced. Refer to R.S. 17:170.

B. After parental notification that a student's immunization schedule is not up-to-date, the student shall be excluded from school until evidence has been presented that the required immunization program is in progress or unless Section E of R.S. 17:170 is invoked. Refer to R.S. 17:170

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003).

Chapter 17. Preventive Programs

§1701. Substance Abuse

A. Each school is encouraged to include in the curriculum a program of substance abuse prevention.

B. Each school shall develop a method by which to mark drug free zones, including the use of signs or other markings suitable to the situation. Signs or other markings shall be located in a visible manner on or near each school and on and in each school bus indicating that such area is a drug free zone, that such zone extends to one thousand feet of school property, and that a felony violation of the Uniform Controlled Dangerous Substances Law will subject the offender to severe penalties under law. Refer to R.S. 17:405.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003).

§1703. Abuse

A. Any school employee having reasonable cause to believe that a student has been mentally, physically, or sexually abused shall report these facts to the appropriate authorities.

B. Any person making a report in good faith regarding child abuse shall have immunity from civil liability that may be otherwise incurred. Refer to R.S. 14:403.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003).

§1705. Weapons

A. Carrying a firearm or dangerous weapon, as defined in R.S. 14:2(3), by a student or non-student on school property, at a school function, or in a firearm-free zone is unlawful and shall be defined as possession of any firearm or dangerous weapon, on one's person, at any time while on a school campus, on school transportation, or at any school-sponsored function in a specific designated area including, but not limited to, athletic competitions, dances, parties, or any extracurricular activities, or within one thousand feet of any school campus. Refer to R.S.14:95.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003).

§1707. Search and Seizure

A. It is recommended that each school shall adopt a policy to provide for reasonable search and seizure by school teachers, by principals, and by other school administrators, of students' desks, lockers, or other school areas for illegal drugs, weapons, alcohol, stolen goods, or other material or objects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003).

Chapter 19. Building Operation and Maintenance

§1901. Building and Maintenance

A. The school site and building shall include appropriate physical facilities and custodial services to meet the needs of the education program and to safeguard the health and safety of the pupils in each school.

B. Each school system/independent school must be in compliance with any state or local regulations regarding health and safety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003).

Chapter 21. Instructional Support

§2101. School Libraries/Media Centers

A. It is recommended that all school libraries and media centers provide students access to information through monitored electronic formats.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003).

§2103. Elementary Libraries/Media Centers

A. It is recommended that elementary schools with a centralized library/media center have a trained

librarian/media specialist for at least 20 hours per week. This person does not have to be a certified librarian, but should have at least a bachelor's degree from an accredited institution.

B. It is recommended that elementary schools have library books at the ratio of 10 volumes per pupil. Three subscriptions per 100 students are recommended for elementary schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003).

§2105. Secondary Libraries/Media Centers

A. Secondary schools with more than 350 students are required to have a full-time librarian with at least 18 hours of library science or certification in library science. Secondary schools with fewer than 350 students are required to have a part-time librarian with at least 12 hours of library science or certification in library science.

B. Secondary schools are recommended to have library books at the ratio of 10 volumes per pupil. Three subscriptions per 100 students are recommended for secondary schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2349 (November 2003).

Chapter 23. Support Services

§2301. Transportation

A. If transportation is not provided by the public school board, parents of students attending nonpublic schools shall be reimbursed for transportation, provided funds are appropriated. Refer to R.S. 17: 158.C, D, H.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2349 (November 2003).

§2303. School Food Service

A. Any recognized school of high school grade or under shall be eligible to participate in the school food service programs administered by the State Department of Education, provided that requirements set forth in the agreements with the local educational governing authority are met.

B. Reimbursement payments shall be made only to schools operating under an agreement between the school's governing body, called "school food authority" in the agreement and the State Department of Education (SDE). Agreements shall be signed by the designated representative of each school's governing body. Agreements shall be renewed by a signed statement annually unless an amendment is necessary. These agreements may be terminated by either party or may be canceled at any time by the State Department of Education upon evidence that terms of agreements have not been fully met.

C. Participating schools shall adhere to conditions of agreement as stipulated in Louisiana Food and Nutrition

Programs, Policies of Operation, Bulletin 1196, and all other applicable State and Federal laws regulations, policies, and requirements established for the school food service program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2349 (November 2003).

Chapter 25. Curriculum and Instruction

Subchapter A. General

§2501. Curriculum

A. The school shall plan and implement a continuous program of skills, concepts, and instruction in a learning environment designed to promote excellence in order that every individual may be afforded an equal opportunity to develop to his/her potential.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2349 (November 2003).

Subchapter B. Elementary Program of Studies

§2503. Minimum Time Requirements

A. Pre-Kindergarten/Kindergarten

1. The pre-kindergarten and/or kindergarten should be planned to meet the developmental needs of young children and should be informal in nature, with teacher-directed and student-initiated activities.

2.a. Suggested time requirements for pre-kindergarten are as follows.

Teacher-directed activities (whole or small group)	35 percent
Student-initiated activities (learning center)	35 percent
Snack and restroom time	10 percent
Lunch, rest period and/or quiet activities	20 percent

b. The above suggested time requirements shall be flexibly scheduled to meet the developmental needs of young students.

3.a. Suggested time requirements for kindergarten are as follows.

Teacher-directed activities (whole or small group)	40 percent
Student-initiated activities (learning center)	35 percent
Snack and restroom time	10 percent
Lunch, rest period and/or quiet activities	15 percent

b. The above minimum suggested time requirements shall be flexibly scheduled to meet the developmental needs of young students.

B. Elementary Schools

1. Nonpublic elementary schools shall devote no less than 50 percent of the school day to the skill subjects: reading, language arts, and mathematics. The remainder of the school day may be devoted to such subjects as social studies, arts, religion, science, physical education, or other electives.

2. The following elementary program of studies will be followed for nonpublic elementary schools.

Program of Studies for Nonpublic Elementary Schools Self-Contained Classrooms	
Subject	Percent of School Day
Reading	50% (minimum)
Language Arts	
Mathematics	
Social Studies	
Fine Arts	
Science	50% (maximum)
Physical Education/Health	
Religion and/or Electives	

3. An articulated elementary foreign language program is recommended for academically able students and optional for all others.

4. The above minimum time requirements shall apply to all students performing at or above grade levels in language arts and mathematics. Subject to review and approval of the principal, teachers may vary the daily schedule for the various subject time requirements as long as the weekly aggregate of time for each subjects is in accordance with the above.

5. For students performing below grade level in language arts or mathematics, teachers may increase the daily/weekly time in language arts or mathematics by reducing instructional time in other subjects.

Departmental Classes 6-Period Day Option		
	Periods per Week	Minimum
Language Arts	5	55
Mathematics and Introduction to Algebra	5	55
Social Studies (LA Studies & Am. History)	5	55
Science	5	55
Health and Physical Education, Religion and/or Electives	10	10
330 minutes per day		

Departmental Classes 6-Period Day Option		
	Periods per Week	Minimum
Language Arts	5	50
Mathematics and Introduction to Algebra	5	50
Social Studies (LA Studies & Am. History)	5	50
Science	5	50
Health and Physical Education, Religion and/or Electives	5	50
330 minutes per day		

6. Grades 7 and 8 (including grade 6 when grouped with grades 7 and 8) may offer electives from the following:

- a. Reading;
- b. Mathematics;
- c. Writing;
- d. Social Studies;
- e. Exploratory Agriscience;
- f. Exploratory Technology Education Science;

- i. Construction;
- ii. Manufacturing;
- iii. Communication;
- iv. Transportation;
- v. Production;
- g. Exploratory Family and Consumer Sciences;
- h. Art;
- i. Foreign Languages;
- j. Instrumental or Vocal Music;
- k. Keyboarding/Typing;
- l. Speech;
- m. Computer Literacy/Computer Science.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2349 (November 2003).

§2505. Adding Electives to the Program of Studies for Middle Schools

A. A school choosing to add an elective course to its program of studies shall apply to the director of the Division of Student Standards and Assessments, State Department of Education (SDE), at least 30 days prior to the anticipated date of implementation.

B. The application for an elective course shall be signed by the school principal and superintendent, if applicable, and shall contain the following information:

1. detailed outline of course content;
2. time requirements (minutes per day; days per year or semester);
3. detailed course objectives and how they shall be measured;
4. qualifications of the instructor;
5. when the course is to begin;
6. approximate number of students;
7. criteria for enrollment.

C. If the course is to be offered for the succeeding school year, an end-of-the-year evaluation shall be sent, along with the second and third year applications, to the Division of Student Standards and Assessments, for determining its continuation.

D. After an elective course has been in effect for three successive school years and the school wants the course to be a permanent part of its curriculum, the school principal and/or superintendent, if applicable, shall apply by letter to the Director of the Division of Student Standards and Assessments, Department of Education for permission to include it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2350 (November 2003).

Subchapter C. Secondary Schools

§2507. Unit of Credit

A. The basic unit of high school credit shall be the Carnegie unit. One unit of credit shall be equivalent to one Carnegie unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2350 (November 2003).

§2509. High School Graduation Requirements

A. A student shall complete a minimum of 23 Carnegie units of credit in an individual program which shall be cooperatively planned by the student, the student's parents, and the school to meet high school graduation requirements.

B. The 23 units required for graduation shall include 15 required units and 8 elective units.

C. Minimum Requirements (Effective for Incoming Freshmen 1999-2000 and Thereafter).

1. English? 4 units, shall be English I, II, and III, in consecutive order; and English IV or Business English.

2. Mathematics? 3 units, shall be selected from the following courses and may include a maximum of 2 entry level courses (designated by E):

a. Introductory Algebra/Geometry (E), Algebra I-Part 1 (E);

b. Algebra 1-Part 2, Integrated Mathematics I (E), Integrated;

c. Mathematics II, Integrated Mathematics III, Applied;

d. Mathematics 1 (E), Applied Mathematics II, Applied;

e. Mathematics III, Algebra I (E), Geometry, Algebra II, Financial;

f. Mathematics, Advanced Mathematics I, Advanced Mathematics II;

g. Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics.

3. Science? 3 units, shall be 1 unit of Biology I; 1 unit of Physical Science or Integrated Science (but not both), Chemistry I, Physics I, or Physics of Technology I; 1 unit from Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience I, Agriscience II, or any other course not already taken from the Physical Science cluster, or a locally designed elective.

a. If a student takes Physical Science or Integrated Science, s/he may then take Chemistry I, Physics I, or Physics of Technology I as the required science course.

b. If a student takes Chemistry I, Physics I, or Physics of Technology I to fulfill the Physical Science requirement, he may not then take Physical Science or Integrated Science as the third required science course but may take such courses as one of the eight allowed elective graduation requirements.

c. Both Agriscience I and II must be completed for one unit of science credit.

4. Social Studies? 3 units, shall be American History; one-half unit of Civics, one-half unit of Free Enterprise or one full unit of Civics; and one of the following: World History, World Geography, or Western Civilization.

5. Health and Physical Education? 2 units, shall be Health and Physical Education I and Health and Physical Education II, or Adapted Physical Education for eligible special education students.

Note: The substitution of JROTC is permissible. A maximum of four units may be used toward graduation.

6. Electives (Including a maximum of four credits in religion)? 8 units.

7. Total? 23 units.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2351 (November 2003).

§2511. Graduation Exit Examination

A. Any approved nonpublic school may award a school diploma to any student who meets the state minimum high school graduation requirements.

B.1. Any approved nonpublic school that participates in the state Graduation Exit Examination (GEE 21) shall award a state and/or school diploma to a student who successfully completes the state's minimum graduation requirements and successfully pass English/Language Arts and Mathematics and either Science or Social Studies components of the examination.

2. A student who attends a school that opts to administer the test but who does not successfully complete the state's minimum graduation requirements and required components of the examination shall not be eligible for either a state or a school diploma.

C.1. Any state-approved nonpublic school that wishes to award the state diploma to its students shall contact the state department for time lines and other administrative guidelines for administering the State Exit Testing Program.

2. Any nonpublic school that opts to give the graduation exit examination shall follow rules and regulations set by the State Board of Elementary and Secondary Education.

D. Any approved nonpublic school that does not choose to administer the state graduation exit examination to its students may grant a school diploma, which shall carry the same privileges as one issued by a state-approved public school.

E. The awarding of high school diplomas shall in no way effect the school approval classifications of any school (see Addendum for The State Test Security Policy).

F. Honors Curriculum (Effective for incoming freshmen 1997-98 and thereafter)

1. English? 4 Units:

a. English I, II, III, IV (No substitutions)

2. Mathematics? 4 Units:

a. Algebra I or Applied Mathematics I and II;

b. Algebra II;

c. Geometry or Applied Geometry; and

d. one additional unit to be selected from Pre-Calculus, Calculus, Advanced Mathematics I or II.

3. Natural Science? 3 Units:

a. Biology;

b. Chemistry; and

c. Environmental Science;

d. Physics or Physics of Technology.

4. Social Studies? 3 Units:

a. United States History;

b. World History; and

c. World Geography or Western Civilization.

5. Free Enterprise (1/2 unit) and Civics (1/2 unit), or Civics (1 unit)? 1 Unit.

6. Fine Arts Survey? 1 Unit, any two units of credit in band, orchestra, choir, dance, art or drama may be substituted for one unit of Fine Arts Survey.

7. Foreign Language (in same language)? 2 Units.
8. Health and Physical Education? 2 Units.
9. Electives? 4 Units.
10. Total? 24 Units.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2351 (November 2003).

§2513. State Diplomas

A. A nonpublic high school choosing to issue a state diploma shall meet state requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2352 (November 2003).

§2515. Special Requirements

A. Each school shall follow established procedures for special requirements for high school graduation that will allow each school to address individual differences of all students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2352 (November 2003).

§2517. High School Credit for Elementary Students

A.1. An elementary student shall be eligible to receive high school credit in a course listed in the program of studies provided that:

- a. the time requirement for the awarding of a Carnegie unit is met;
- b. the teacher is qualified at the secondary level in the course taught; and
- c. the student has mastered the set standards of the course taken; or
- d. the student has passed the credit examination in the subject taken, mastering the set standards for the course.

2. Credit

a. The school system may grant credit on either a letter grade or a pass or fail (P/F) basis, provided there is consistency system wide. The course title, year taken, P/F (pass or fail) or the letter grade and unit of credit shall be entered on the Certificate of High school Credits (transcript). High School Credit (H.S.C.) must be indicated in the remarks column.

b. Credit shall be granted on a pass or fail (P/F) basis only. The course title, year taken, P/F (pass or fail), and unit of credit earned shall be entered on the certificate of high school credits (transcript). Credit examination (C.E.) must be indicated in the remarks column.

c. If a credit examination has not been developed in a subject area, the school may submit an examination developed locally. The testing instrument and the passing score must be approved by the Division of Student Standards and Assessments, State Department of Education. Credit or credit examinations may be given in the following subjects:

- i. Computer Literacy;
- ii. Computer Science I-II;
- iii. English I-IV;

- iv. Advanced Mathematics I-II;
- v. Algebra I-II;
- vi. Calculus;
- vii. Geometry; and
- viii. Keyboarding.

d. Additionally, credit may be given in all courses listed in the Program of Studies in Foreign Languages, Science, and Social Studies. The Bureau of Secondary Education Division of Student Standards and Assessments, State Department of Education may make exceptions, upon request of the school principal.

B. A request for the state examination shall be made by the school principal, prior to the close of the school term to the Department of Education. The test shall be administered within one week after it has been received from the Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2352 (November 2003).

§2519. Proficiency Examination for High School Students

A. High school credit shall be granted to a student following the students passing of a proficiency examination for the eligible course. Refer to §513 for students transferring from an approved Home Study Program.

1. A proficiency examination shall be made available to a student when a school official believes that a student has mastered eligible subject matter and has reached the same or a higher degree of proficiency as that of a student who successfully completed an equivalent course at the regular high school or college level.

2. The testing instrument and the passing score shall be submitted for approval to the State Department of Education. The course title, year taken, P/F (pass or fail) and unit of credit earned shall be entered on the certificate of high school credits (transcript). Minimum proficiency standards (M.P.S.) must be indicated in the remarks column.

B. Students shall not be allowed to take proficiency examinations in courses previously completed in high school or at a level below that which they have completed.

1. Proficiency examinations may be given in the following subjects: Computer Literacy, Computer Science I-II, English IV, Advanced Mathematics III, Algebra III, Calculus, Geometry, and Keyboarding/Keyboarding Applications.

2. Additionally, credit may be given in all courses listed in the Program of Studies in foreign languages, science and social studies. Exceptions may be made by the Division of Student Standards and Assessment, State Department of Education, upon request of the local superintendent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2352 (November 2003).

§2521. Advanced Placement Program

A. High school credit shall be granted to a student successfully completing an advanced placement course or a

course designated as advanced placement regardless of his test score on the examination provided by the college board.

B. Courses Listed in the Program of Studies

1. Procedures established by the college board must be followed.

2. Courses listed in the Program of Studies may be designated as advanced placement courses, without permission from the State Department of Education, by inserting the words advanced placement in parentheses following the title on the certificate of high school credits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2352 (November 2003).

§2523. Service Credit

A. Two units of elective credit toward high school graduation shall be awarded to any member of the United State Armed Forces, their reserve components, the National Guard, or to any honorably discharged veteran who has completed his/her basic training, upon presentation of a military record attesting to such completion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2353 (November 2003).

Chapter 27. High School Program of Studies

§2701. General

A. The high school shall provide a comprehensive college preparatory and/or vocational curriculum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2353 (November 2003).

§2703. General and Academic Course Offerings

A. One-half unit of credit may be awarded by the local school authority for all one-unit courses listed in the academic and vocational course offerings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2353 (November 2003).

§2705. Art

A. Art course offerings shall be as follows.

Course Title	Unit(s)
Art I, II, III, IV	1 each

B. Fine Arts Survey (Art). Fine arts survey shall be taught by a certified art teacher and the other semester by a certified music teacher. If one or both of these teachers is not available, the principal is authorized to select the most qualified teacher, preferably one with a strong liberal arts or humanities background.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2353 (November 2003).

§2707. Computer Education

A. Computer education/technology course offerings shall be as follows.

Course Title	Unit(s)
Computer Applications	1
Computer Architecture Occupations	1
Computer Science I	1
Computer Science II	1
Computer Systems and Networking	1
Computer Systems and Networking I	1
Computer/Technology Literacy	1/2
Desktop Publishing	1/2
Digital Graphics and Animation	1/2
Multimedia Productions	1
Web Mastering	1/2
Independent Study in Technology Application	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2353 (November 2003).

§2709. Driver Education

A. Driver Education course offerings shall be as follows.

Course Title	Unit(s)
Driver Education and Traffic Safety	1/2

B. English. Four units of English shall be required for graduation. They shall be English I, II, and III in consecutive order; and English IV or Business English. The English course offerings shall be as follows.

Course Title	Unit(s)
English I, II, III, IV	1 each
Business English	1
Reading I, II	1 each
English as Second Language (ESL) I, II, III	1 each

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2353 (November 2003).

§2711. English as a Second Language (ESL)

A. Only students who have limited English proficiency are permitted to enroll in English as a Second Language (ESL) courses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2353 (November 2003).

§2713. Foreign Languages

A. The foreign language course offerings shall be as follows.

Course Title	Unit(s)
Chinese I, II, III, IV	1 each
French I, II, III, IV, V	1 each
German I, II, III, IV, V	1 each
Greek I, II, III, IV	1 each
Hebrew I, II, III, IV	1 each
Italian I, II, III, IV, V	1 each
Latin I, II, III, IV, V	1 each
Russian I, II, III, IV, V	1 each
Spanish I, II, III, IV, V	1 each

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2354 (November 2003).

§2715. Health and Physical Education

A. Two units of Health and Physical Education shall be required for graduation. They shall be Health and Physical Education I and Health and Physical Education II, or Adapted Physical Education for eligible special education students. The Health and Physical Education course offerings shall be as follows.

Course Title	Unit(s)
Adapted Physical	1 each
Health and Physical Education I-IV	1 each

1. It is recommended that Physical Education I and II be taught in the ninth and tenth grades.

2. A minimum of 30 hours of Health Instruction shall be taught in each of the two required Health and Physical Education units.

3. Cardiopulmonary Resuscitation (CPR) is required.

B. No more than four units of Health and Physical Education shall be allowed for meeting high school graduation requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2354 (November 2003).

§2717. Substitute Credit for Health and Physical Education

A. In schools having approved Junior Reserve Officer Training Corps (R.O.T.C.) training, credits may, at the option of the local school board, be substituted for the required credits in Health and Physical Education, including required hours in health instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2354 (November 2003).

§2719. Non-Credit Activities

A. Extra- or co-curricular experiences such as intramural, athletics, band, majorettes, drill team, dance team, cheerleaders, or any other kind of extra activities

cannot be counted for credit toward the required Health and Physical Education units.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2354 (November 2003).

§2721. Exemptions from Health and Physical Education

A. Students shall be exempted from the requirements in Health and Physical Education for medical reasons only; however, the minimum number of credits required for graduation shall remain 23.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2354 (November 2003).

§2723. Journalism

A. Journalism course offerings shall be as follows.

Course Title	Unit(s)
Journalism I, II	1 each
Publications I, II (Yearbook)	1 each
Publications I, II (Newspaper)	1 each

1. Teachers must be qualified in journalism to teach journalism.

2. Teachers qualified in the areas of journalism, English, and/or business education are qualified to teach Publications I and II (Yearbook).

3. Teachers qualified in the areas of journalism, and/or English are qualified to teach Publications I and II (Newspaper).

4. Publications I is a prerequisite to Publications II.

5. A maximum of two Carnegie units within the 23 required for graduation may be earned from the six courses listed under journalism.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2354 (November 2003).

§2725. Mathematics

A. Effective for 1998-99 incoming freshmen and thereafter, three units of Mathematics shall be required for graduation. They shall be selected from the following courses and may include a maximum of 2 entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E); Algebra I-Part 2; Integrated Mathematics 1 (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics.

Course Title	Unit(s)
Advanced Mathematics I	1
Advanced Mathematics II	1
Algebra I	1
Algebra I-Part I	1

Algebra I-Part II	1
Algebra II	1
Applied Mathematics I	1
Applied Mathematics II	1
Applied Mathematics III	1
Calculus	1
Discrete Mathematics	1
Financial Mathematics	1
Geometry	1
Introductory Algebra/Geometry	1
Integrated Mathematics I	1
Integrated Mathematics II	1
Integrated Mathematics III	1
Pre-Calculus	1
Probability and Statistics	1

B. For incoming freshmen prior to 1998-99, three units of Mathematics shall be required for graduation.

1. They shall be Algebra I and one of the following options:

a. Algebra II and either Geometry or Applied Geometry (effective 1996-97 school year); or

b. Algebra II and either Geometry or Applied Geometry (effective 1996-97 school year) and one of the following:

- i. Advanced Mathematics;
- ii. Calculus;
- iii. Consumer Mathematics;
- iv. Business Mathematics; or
- v. Integrated Algebra/Geometry.

2. The Mathematics course offerings shall be as follows.

Course Title	Unit(s)
Advanced Mathematics	1
Algebra I	1
Applied Algebra IA	
Applied Algebra IB	1
Business Mathematics	1
Calculus	1
Consumer Mathematics	1
Geometry	1
Applied Geometry	1
(1996-97 school year)	
Integrated Algebra/Geometry	1
Trigonometry	1/2

3. Business/Financial Mathematics may be taught by the Business Education Department.

4. Students may not earn a unit in both Business Mathematics and Consumer Mathematics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2354 (November 2003).

§2727. Music

A. Music course offerings shall be as follows.

Course Title	Unit(s)
Beginning Band	1
Beginning Choir	1
Beginning Orchestra	1

Composition	1
Conducting	1
General Music	1
Guitar Class	1
Intermediate Band	1
Intermediate Choir	1
Intermediate Orchestra	1
Instrument Technique Class	1
Jazz Ensemble	1
Jazz Improvisation	1
Music Appreciation	1
Music History	1
Music Theory I, II	1 each
Piano class	1
Sectional Rehearsal	1
Studio Piano, I, II, III	1 each
Advanced Band	1
Advanced Choir	1
Advanced Orchestra	1
Applied Music	1
Small Vocal Ensemble	1
Wind Ensemble	1

B. Advanced Choir, Advanced Band, Advanced Orchestra, Small Vocal Ensemble, Wind Ensemble, Applied Music, Jazz Ensemble, and Studio Piano III are performance classes with new literature each year; they may be repeated more than once.

C. Refer to §2741 for credit for private piano and studio strings instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2355 (November 2003).

§2729. Reserve Officer Training

A. Reserve Officer Training course offerings shall be as follows.

Course Title	Unit(s)
JROTC I, II, III, IV	1 each

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2355 (November 2003).

§2731. Science

A. Effective for incoming freshmen 2002-03 and thereafter, graduation requirements shall be as follows.

1. Three units of Science. They shall be the following:

- a. 1 unit of Biology I;
- b. 1 unit of Physical Science or Integrated Science (but not both), Chemistry I, Physics, I, or Physics of Technology I; and
- c. 1 unit of Aerospace Science, Biology II, Chemistry I (may be taken after Physical Science or Integrated Science), Chemistry II, Earth Science, Environmental Science, Physics I (may be taken after Physical Science or Integrated Science), Physics II, Physics of Technology I, Physics of Technology II, or both Agriscience I and II to meet one required unit of science.

Course Title	Unit(s)
Aerospace Science	1.0
Agriscience I and II (Both courses are required for one unit in science; however, two units can be counted as vocational electives when not counted together as a science course.)	1.0
Biology I, II	1.0 each
Chemistry I, II	1.0 each
Earth Science	1.0
Environmental Science	1.0
General Science (Allowed only for incoming freshmen 1998-99 or earlier.)	1.0
Integrated Science	1.0
Physical Science	1.0
Physics I, II	1.0 each
Physics of Technology I, II	1.0 each

2. Effective for incoming freshmen, 1997-98 and prior, three units of science shall be required for graduation. They shall be Biology and two of the following: General Science or Physical Science, but not both; Earth Science, Chemistry, Chemistry II, Physics, Physics II, Aerospace Science, Environmental Science, Physics for Technology, Biology II, or both Vocational Agriculture I and II for one requirement of science. Science course offerings shall be as follows.

Course Title	Unit(s)
Aerospace Science	1
Biology	1
Biology II	1
Chemistry	1
Chemistry II	1
Earth Science	1
Ecology	1
Environmental Science	1
General Science	1
Physical Science	1
Physics	1
Physics II	1
Physics for Technology	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2355 (November 2003).

§2733. Social Studies

A. Three units of Social Studies shall be required for graduation. They shall be American History; Civics or 1/2 unit of Civics and 1/2 unit of Free Enterprise; and one of the following: World History, World Geography, or Western Civilization. Social Studies course offerings shall be as follows.

Course Title	Unit(s)
American Government	1
American History	1
Civics	1 (or 1/2)
Economics	1
Free Enterprise System	1/2
Law Studies	1
Psychology	1
Sociology	1

Western Civilization	1
World Geography	1
World History	1

B. Economics may be taught by a teacher certified in Business Education.

C. Free Enterprise shall be taught by teachers qualified in Social Studies, Business Education, or Distributive Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2356 (November 2003).

§2735. Speech

A. Speech course offerings shall be as follows.

Course Title	Unit(s)
Speech I (Fundamentals)	1
Speech II	1
Speech III	1
Speech IV	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2356 (November 2003).

§2737. Course Credit for Religion

A. A maximum of four units in religion shall be granted to students transferring from state-approved private and sectarian high schools who have completed such course work. Those credits shall be accepted in meeting the requirements for high school graduation.

Course Title	Units
Religion 1	1 Unit
Religion 2	1 Unit
Religion 3	1 Unit
Religion 4	1 Unit

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2356 (November 2003).

§2741. Course Credit for Private Piano and Studio Strings Lessons

A. Approval by the State Department of Education shall be granted before private piano and studio strings instruction can be given for credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2356 (November 2003).

Chapter 29. Vocational Education Course Offerings

§2901. Vocational Agriculture/Agribusiness

A. Vocational Agriscience course offerings shall be as follows.

Course Title	Level	Unit(s)
Exploratory Agriscience	7-8	1
Agriscience/Agribusiness I	9-12	1
Agriscience/Agribusiness II	10-12	1
Agriscience/Agribusiness III	11-12	1
Agriscience/Agribusiness IV	12	1
Agricultural Entrepreneurship	11-12	1/2
Agricultural Construction	11-12	1/2
Agriculture and Environmental Applications	11-12	1/2
Animal Production	11-12	1/2
Crop Production	11-12	1/2
Equine Science	11-12	1/2
Food and Fiber Systems	11-12	1/2
Horticulture	11-12	1/2
Introduction to Aquiculture	11-12	1/2
Introduction to Agribusiness	11-12	1/2
Personal Development	11-12	1/2
Small Engines	11-12	1/2
Welding	11-12	1/2
Ag. Lab III	11-12	1
Ag. Lab IV	12	1
Cooperative Agriscience Education (CAE)	11-12	2

B. Ag. Lab III and Ag. Lab IV are offered only to students who are also enrolled in Agriscience/Agribusiness III or IV for two consecutive semester courses during the year.

C. Semester courses are designed to be offered in the place of or in addition to Agriscience/Agribusiness III and/or IV. Required prerequisites are to be determined by local board policy for course sequencing.

1. Three units of credit in Cooperative Agriscience/Agribusiness Education (CAE) are granted to students who successfully complete both the classroom phase of instruction and the on-the-job training phase. These courses are available only to students who have completed Agriscience/Agribusiness I and Agriscience/Agribusiness II.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2356 (November 2003).

§2903. Business Education

A. Business Education course offerings shall be as follows.

Course Title	Recommended Grade Level	Unit(s)
Accounting I	10-12	1
Computerized Accounting	11-12	1
Administrative Support Occupations	11-12	1
Business Mathematics	9-12	1
Business English	11-12	1
Business Law	11-12	1/2
Cooperative Education (COE)	12	3
Business Computer Applications I	10-12	1/2
Business Computer Applications II	10-12	1/2
Economics	11-12	1
Exploratory Business	7-8	
Introduction to Business	9-12	1
Keyboarding	9-12	1/2
Keyboarding Applications	9-12	1/2
Keyboarding Productions	10-12	1/2
Keyboarding Productions II	10-12	1/2

Office Machines	10-12	1/2
Record keeping	9-12	1
Shorthand/Speedwriting	10-12	1 or 1/2
Word processing	11-12	1 or 1/2

1. Keyboarding and Keyboarding Applications shall be a prerequisite to administrative support occupations and word processing. Keyboarding shall be a prerequisite to Shorthand/Speedwriting.

2. Level I courses shall be prerequisite to Level II courses.

3. Cooperative Office Education shall be limited to seniors. The students shall have successfully completed Keyboarding and have maintained an overall "C" average. The students' attendance records should also be considered. Other prerequisites may be required by the individual school system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2357 (November 2003).

§2905. General Cooperative Education

A. General Cooperative Education course offerings shall be as follows.

Course Title	Grade Level	Unit(s)
General Cooperative Education I	11-12	3
General Cooperative Education II	12	3

1. General Cooperative education courses shall be limited to students who meet the specific prerequisites and requirements of one of the specialized cooperative education programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2357 (November 2003).

§2907. Health Occupations

A. Health Occupations course offerings shall be as follows.

Course Title	Grade Level	Unit(s)
Allied Health	9-12	1/2 or 3
Dental Assistant I	10-12	1, 2, or 3
Dental Assistant II	11-12	2 or 3
Nursing Assistant and Geriatric Aide	9-12	1, 2, or 3
Pre-Nursing (Introd. to Nursing)	9-12	1, 2, or 3
Medical Office Assistant (Physician's Office)	9-12	1, 2, or 3
Home Health Aide	9-12	1, 2, or 3
Hospital Ward Clerk	9-12	1 or 2
Medical Terminology for the Health Professional	9-12	1 or 2
Health Occupations	12	2 or 3
Health Services I	10-12	1, 2, or 3
Health Services II	11-12	1, 2, or 3
Introduction to Health Occupations I	9-12	1, 2, or 3
Introduction to Health Occupations II	9-12	1, 2, or 3
Introduction to Health Science I	9-12	1, 2, or 3

Introduction to Health Science II	10-12	1, 2, or 3
Introduction to Health Science III (Respiratory Therapy Assistant, Occupational Therapy Assistant, Physical Therapy Assistant)	12	1/2 or 3
Introduction to Emergency Medical Technician (CPR)	9-12	1/2, 1
Introduction to Health Insurance as a Career	10-12	1/2, 1, or 2
Psychiatric Aide	9-12	1/2, 1, or 2
Medical Specialties	9-12	1/2 or 3

1. Dental Assistant I shall be prerequisite to Dental Assistant II. Level I courses shall be prerequisite to Level II courses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2357 (November 2003).

§2909. Family and Consumer Sciences Education

A. Family and Consumer Sciences Education course offerings shall be as follows.

Course Title	Recommended Grade Level	Unit(s)	Bulletin
Family and Consumer Sciences I	9-12	1	1810
Family and Consumer Sciences II	10-12	1	
Food Science	9-12	1	1911
Adult Responsibilities	10-12	1/2	1710
Child Development	10-12	1/2	1664
Clothing and Textiles	10-12	1/2	1700
Family Economics	10-12	1/2	1949
Family Life Education	10-12	1/2	1821 1949
Housing	10-12	1/2	1680
Nutrition and Food	10-12	1/2	1595
Parenthood Education	10-12	1/2	1695
Advanced Child Development*	10-12	1/2	1775
Advanced Clothing and Textiles	10-12	1/2	1700
Advanced Nutrition and Food*	10-12	1/2	1595

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2358 (November 2003).

§2911. Family and Consumer Sciences-Related Occupations (HERO)

A. Course offerings for Family and Consumer Sciences-related occupations shall be as follows.

Course Title	Recommended Grade Level	Unit(s)	Bulletin
Child Care I-II	11-12	1-3	1775
Clothing and Textile Services I-II	11-12	1-3	1897
Food Service I-II	11-12	1-3	1897
Housing and Design Services	11-12	1-3	1897
Home/Institutional	11-12	1-3	1897
Support Services	12	3	1897

1. The units of credit for cooperative courses shall be determined by the number of class periods for which the students are scheduled per day for instruction in the service area.

2.a. Family and consumer sciences cooperative education shall be limited to seniors who meet one or more of the following prerequisites:

- i. one unit in a service course;
- ii. two specialized semester courses in the same area; or
- iii. one specialized semester course and the teacher-coordinator's consent.

b. Job placement shall be in the same area of training as the prerequisite.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2358 (November 2003).

§2913. Technology Education

A. Technology education course (formerly industrial arts) offerings shall be as follows.

Course Title	Recommended Grade Level	Unit(s)	Bulletin
General Technology Education	9-12	1	
Basic Wood Technology	9-12	1	1684 1752
Advanced Wood Technology	10-12	1	1752
Communication Technology I**	9-12	1/2	1777
Communication Technology II**	9-12	1/2	1777
Construction Technology	10-12	1	1856
Basic Electricity/Electronics Technology	9-12	1	1724
Advanced Electricity/Electronics Technology	10-12	1	1778 1808
Basic Metal Technology	9-12	1	1685
Advanced Metal Technology	10-12	1	1750
Welding Technology	10-12	1	1859
Power and Energy*	9-12	1/2	1723
Transportation*	9-12	1/2	1723
Power Mechanics	9-12	1	1813
Manufacturing Technology	9-12	1	
Basic Technical Drafting I	9-12	1/2	1686
Basic Technical Drafting II	9-12	1/2	1686
Advanced Technical Drafting	10-12	1	1751
Architectural Drafting	10-12	1	1779
Principles of Technology I	11-12	1	1812
Principles of Technology II	11-12	1	1878
Materials and Processes	10-12	1	

1. The power and energy course and the transportation course may be combined into one course, Power, Energy, and Transportation, for one unit of credit.

Note: Technology education courses must follow the sequences as outlined in the technology education curricular guides.

2. All courses shall be taught in sequence. Safety must be taught in all courses. Refer to *Bulletin 1647* for safety information.

3. The communication courses may be combined into one course for one unit of credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2358 (November 2003).

§2915. Marketing Education

A. Marketing Education course offerings shall be as follows.

Course Title	Recommended Grade Level	Unit(s)	Bulletin
Introduction to Marketing	9-10	1	1669
General Marketing	11-12	1/2, 1 or 3	
Retailing and Merchandising	11-12	1/2, 1 or 3	1740
Advertising and Sales Promotion	11-12	1/2, 1 or 3	
Entrepreneurship	11-12	1/2, 1 or 3	1815
Marketing Management	11-12	1/2, 1 or 3	
Marketing Research	11-12	1/2, 1 or 3	
Insurance Marketing	11-12		1 or 3
Tourism and Lodging	11-12	1/2, 1 or 3	
Speciality Marketing Education	11-12	1/2, 1 or 3	

1. Three units of credit are granted only to cooperative marketing education students who successfully complete both classroom and on-the-job training. One unit of credit is granted to students enrolled in Marketing Education for the classroom phase only.

2. Students may receive a maximum of six cooperative Marketing Education credits and three, one-unit course credits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2359 (November 2003).

§2917. Trade and Industrial Education

A. Trade and Industrial Education course offerings shall be as follows.

Course Title	Recommended Grade Level	Unit(s)	Bulletin
Air Conditioning/Refrigeration I-II	11-12	2 or 3	1916*
Auto Body Repair I-II	11-12	2 or 3	
Automotive Technician I-II	11-12	2 or 3	
Masonry I-II	11-12	2 or 3	
Cabinetmaking I-II	11-12	2 or 3	
Carpentry I-II	11-12	2 or 3	
Culinary Occupations I-II	11-12	2 or 3	
Custom Sewing I-II	11-12	2 or 3	

Computer Electronics I-II	11-12	2 or 3	
Commercial Art I-II	11-12	2 or 3	
Trade and Industrial Cooperative Education (TICE) I-II	11-12	2 or 3	
Cosmetology I-II	11-12	2 or 3	
Diesel Mechanics I-II	11-12	2 or 3	
Drafting and Technology I-II	11-12	2 or 3	
Basic Electricity I-II	11-12	2 or 3	
Electronics I-II	11-12	2 or 3	
Industrial Electronics I-II	11-12	2 or 3	
Electrician I-II	11-12	2 or 3	
Graphic Arts I-II	11-12	2 or 3	
Horticulture I-II	11-12	2 or 3	
Industrial Engines I-II	11-12	2 or 3	
Laboratory Technology I-II	11-12	2 or 3	
Industrial Machine Shop I-II	11-12	2 or 3	
Marine Operations I-II	11-12	2 or 3	
Photography	11-12	2 or 3	
Plumbing I-II	11-12	2 or 3	
Printing I-II	11-12	2 or 3	
Sheet Metal I-II	11-12	2 or 3	
Outdoor Power Equipment Technician I-II	11-12	2 or 3	
Television Production I-II	11-12	2 or 3	
Upholstery I-II	11-12	2 or 3	
Welding I-II	11-12	2 or 3	

1. *Bulletin 1916* contains curricular guides for all trade and industrial courses.

2. All courses shall be taught in sequence.

3. Trade and Industrial Education Programs may be offered in two consecutive class periods, five days per week, for 36 weeks each year for two units of credit, or may be offered with three consecutive class periods for three units of credit in the selected Trade and Industrial Education Program.

4. School systems that operate a vocational career center or comprehensive high school may award 1 1/2 units of credit to students enrolled in a two-hour block for 36 weeks, or 2 1/2 units of credit to students enrolled in a three-hour block for 36 weeks in approved Trade and Industrial Education Programs. This scheduling allows students to be excused from class for one hour each day for one semester to take the required course in Free Enterprise at either the tenth, eleventh, or twelfth grade level.

5. With annual, in-advance, written permission from the Division of Student Standards and Assessment, a school system may offer a one-hour Trade and Industrial Education Program for one unit of credit at the ninth or tenth grade level as a prerequisite to enrollment in a related Trade and Industrial Education Program at the tenth, eleventh, or twelfth grade level. The course shall be in the programmatic area in which the trade and industrial education instructor is certified to teach.

6. Any local education governing authority offering a new Trade and Industrial Education Program shall first have the individual program approved by the Division of Student Standards and Assessment. Teachers in Trade and Industrial Education Programs shall use curricular outlines approved by the Division of Student Standards and Assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2359 (November 2003).

§2919. Credit for Vocational Education Courses

A. Credits for partial completion of two- or three-hour blocks of vocational education courses shall be granted for unusual or extenuating circumstances only.

B. Request for partial credit because of unusual or extenuating circumstances shall be made as follows.

1. Written requests from the local school principal and approved by the local superintendent (if applicable) shall be made to the State Department of Education.

2. A copy of the written responses shall accompany the student's transcript when it is sent to the Department of Education prior to his/her graduation if the request for partial credit has been granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2360 (November 2003).

§2921. Secondary Students Attending Postsecondary Technical College

A. Secondary students attending a postsecondary technical college may receive credit for instruction in any program area offered in the technical college, if time requirements for Carnegie units are met and if an equivalent course is not offered by the local school system.

1. If the course content is equivalent to the content of a vocational education course offering listed under §§2901-2917, the unit(s) of credit shall be reported on the student's transcript by that title.

2. If the course content is not equivalent to a course listed under §§2901-2917, the unit(s) of credit shall be reported by the postsecondary title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2360 (November 2003).

§2923. Adding Electives Course to the Program of Studies

A. A school choosing to add an elective course to its program of studies shall apply to the Director of the Division of Student Standards and Assessment, State Department of Education (SDE) through the local superintendent, (if applicable) at least 30 days prior to the anticipated date of implementation.

B. The application for an elective course shall be signed by the school principal and superintendent (if applicable) and shall contain the following:

1. detailed outline of course content;
2. units of credit to be granted;
3. detailed course objectives and how they shall be measured;
4. qualifications of the instructor;
5. when the course is to begin;
6. approximate number of students;
7. criteria for enrollment.

C. If the course is to be offered for the succeeding school year, an end-of-the-year evaluation shall be sent with the

second and third year application to the Division of Student Standards and Assessments for determining its continuation.

D. After an elective course has been in effect for three successive school years and if the school/s system wants the course to be a permanent part of its curriculum, the school principal through the local superintendent (if applicable) shall apply by letter to the Director of the Division of Student Standards and Assessment for permission to include it.

E. Approved elective courses shall not be used as required courses for meeting graduation requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2360 (November 2003).

§2925. Approval of Experimental Programs

A. Experimental programs are programs which deviate from established standards. Such programs shall be approved by the State Department of Education and carried out under controlled conditions.

B. Approval of experimental programs shall be granted on a yearly basis not to exceed three years, after which time permanent approval shall be considered using the following procedures.

1. A letter of intent containing the following information shall be submitted to the Division of Student Standards and Assessments, State Department of Education, at least 90 days prior to the anticipated date of implementation:

- a. proposed title of program;
- b. name and address of school;
- c. name and address of local school system;
- d. name and signature of principal/superintendent;
- e. name, title, address, and telephone number of the person submitting proposal;
- f. units of credit to be granted;
- g. source of funding.

2. A brief narrative report stating the intent of the program and how the program will be conducted and evaluated, and the following:

- a. a statement documenting support for the intended program;
- b. a statement outlining the exact guideline deviations necessary to implement the program;
- c. a statement outlining specific time lines for the planning implementing phases of the program, including intended procedures;
- d. a statement of the evaluation procedures to be used in determining the program's effectiveness (these procedures should spell out specific objectives to be accomplished);
- e. a statement indicating approximate number of students to be involved in the project;
- f. a statement of qualifications or certification of instructional personnel; and
- g. a statement stipulating that applicable local, state, and federal regulations will be followed.

C. An evaluation by the local governing authority shall be submitted annually at the close of the school year to the Division of Student Standards and Assessments until permanent status is granted.

D. Southern Association of Colleges and Schools member schools should comply with appropriate Southern Association Standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2360 (November 2003).

§2927. Correspondence Study Courses

A. Credit toward high school graduation should be earned through correspondence work from the General Extension Division of Louisiana State University.

B. An application to the General Extension Division for correspondence study courses shall be approved by the local superintendent, (if applicable) and the high school principal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2361 (November 2003).

§2929. High School Credit for College Credit Courses (Applies to Student Attending College Part Time)

A. The principal of the school shall approve the advanced offering to be taken by the student in college.

B. The student shall meet the entrance requirements established by the college.

C. The student shall earn at least two or three college hours of credit per semester. A course consisting of at least two college hours shall be counted as no more than one unit of credit toward high school graduation.

D. The high school administrator shall establish a procedure with the college to receive reports of the student's class attendance and performance at six or nine-week intervals.

E. College courses shall be counted as high school subjects for students to meet eligibility requirements to participate in extracurricular activities governed by voluntary state organizations.

F. Students may participate in college courses and special programs during regular or summer sessions. High school credit for summer courses is subject to §2929.A-E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2361 (November 2003).

§2931. High School Credit for College Courses for Evaluated Gifted Students

A. Secondary students shall be in attendance in at least one high school class while enrolled in college classes.

B. An elementary or secondary student shall have at least a 3.0 cumulative average on a 4.0 scale for all subjects taken during the previous two years.

C. Entry into a college course of credit shall be stated in the student's Individualized Education Program (IEP).

D. The student shall earn at least two or three college hours of credit per semester. A course, consisting of at least two hours, shall be counted as no more than one unit of credit toward high school graduation.

E. The school administrator shall establish a procedure with the college to receive reports of the student's class attendance and performance at six- or nine-week intervals.

F. College courses shall be counted as high school subjects for students to meet eligibility requirements to participate in extracurricular activities governed by voluntary state organizations.

G. After 12 Carnegie units have been earned, students shall follow §2929.A-E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2361 (November 2003).

§2933. High School Credit for College Courses in Vocational Education (Applies to Students Attending College Part Time)

A. The student shall meet the entrance requirements established by the college.

1. The principal of the school shall approve the advanced offering to be taken by the student in college.

2. The high school administrator shall establish a procedure with the college to receive reports of the student's class attendance and performance at six or nine-week intervals.

3. The awarding of the Carnegie units of credit will be in accordance with individual program requirements as stated in Bulletin 741.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2361 (November 2003).

§2935. Early College Admissions Policy (Applies Only to High School Students Attending College Full Time)

A. High school students of high ability may be admitted to a college on a full-time basis.

B. A student shall have maintained a "B" or better average on all work pursued during the preceding three years (six semesters) of high school.

C. The student shall have earned a minimum composite score of 25 on the ACT or a SAT score of 1050; this score must be submitted to the college.

D. A student shall be recommended by his high school principal.

E. Upon earning a minimum of 24 semester hours at the college level, the student shall be eligible to receive a high school diploma.

F. The high school principal shall submit to the State Department of Education the following:

1. forms provided by the State Department of Education and completed by the college registrar, certifying that the student has earned 24 semester hours of college credit; and

2. a certificate of high school credits in duplicate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2361 (November 2003).

Chapter 31. Summer Schools
Subchapter A. Elementary Summer Schools

§3101. General

A. An elementary summer school shall be organized and operated under the administrative and supervisory control of the chief administrative officer of the school system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 2362 (November 2003).

§3103. Administration

A. A summer school with seven or more teachers shall have a principal with at least a master's degree.

B. The principal of the school shall apply to the State Department of Education for approval of each summer school program.

C. An application for approval of the offerings of each summer school shall be filed no later than the end of the first week after the summer session begins.

D. The application forms, provided by the State Department of Education, shall be submitted to the appropriate office.

E. The application shall carry the approval of the chief administrative officer of the school system and the principal of the summer school, if applicable.

F. In order for summer schools to be approved, an on-site visit shall be made by personnel from the SDE to verify information submitted on the report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2362 (November 2003).

§3105. Faculty

A. The eligibility of the faculty shall be equal to that required during the regular session.

B. The teaching load shall not exceed 20 students per class.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2362 (November 2003).

§3107. Instruction

A. A teacher will be allowed to teach only one subject for removal of deficiencies during a single period.

B. A student attending summer school for promotional purposes shall not enroll for more than two subjects.

C. The library or library books as well as all regular teaching aids and equipment shall be available for summer school use.

D. Textbooks, supplementary materials, and supplies adequate for effective instruction shall be provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2362 (November 2003).

§3109. Attendance

A. The minimum attendance for all elementary students to receive credit or pass a subject shall be 60 hours for one subject.

1. The school may impose a more strict minimum attendance policy.

B. Students attending summer school for promotional purposes must have written consent by the principal of the last school they attended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2362 (November 2003).

§3111. Time Requirements

A. Elementary summer schools shall offer a minimum of 70 hours of instruction per subject for removal of deficiencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2362 (November 2003).

§3113. Classification Categories

A. Summer schools shall be given one of the following classification categories:

1. approved? meets all summer school standards;
2. unapproved? deviates from one or more of the summer school standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2362 (November 2003).

§3115. Sanctions

A. Any unapproved summer school cannot operate a summer school the following year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2362 (November 2003).

Subchapter B. Secondary Summer Schools

§3119. General

A. Schools which offer summer school may do so to enable students to schedule courses which tend to enrich their experiences, to take new subjects, and to enable students who have failed in subjects to remove deficiencies. Local school systems which offer summer school shall adhere to the following standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2362 (November 2003).

§3121. Administration

A. A summer school must be organized and operated under the administrative and supervisory control of the chief administrative office of the school system.

B. A summer school with seven or more teachers shall have a principal with at least a master's degree.

C. The summer school administrator shall have written permission from the principal of the student's home school for the student to attend summer school if credit is to be awarded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2362 (November 2003).

§3123. Application

A. All summer schools must apply to the State Department of Education for approval.

B. An application for approval of summer school offerings must be filed no later than the end of the first week after school is in session.

C. The application forms provided by the State Department of Education, shall be submitted to the appropriate office.

D. The application must carry the approval of the chief administrative officer of the school system, principal of the school for the regular session, and the principal of the summer school, if applicable.

E. An on-site visit shall be made by personnel from the State Department of Education to verify information submitted on the report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2363 (November 2003).

§3125. Faculty

A. The eligibility of the faculty shall be equal to that required during the regular session.

B. Teaching load and class size shall not exceed that of the regular session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2363 (November 2003).

§3127. Instruction

A. No teacher shall be allowed to teach more than two subjects during one period.

B. Library, laboratory, and audiovisual aids shall be available in the facilities used for summer school.

C. Textbooks, supplementary materials, and supplies adequate for effective instruction shall be provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2363 (November 2003).

§3129. Attendance

A. In order to be eligible to receive grades, summer school students shall be in attendance a minimum of 70 hours for 1/2 unit of new credit, or 47 hours for 1/2 unit of repeat credit.

B. The school system or independent school may impose a stricter minimum attendance policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2363 (November 2003).

§3131. Time Requirements

A. Summer schools shall offer 90 hours of instruction for 1/2 unit of new credit and 60 hours of instruction for 1/2 unit of repeat credit in all subjects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2363 (November 2003).

§3133. Classification Categories

A. Summer school shall be given one of the following classification categories:

1. approved? meets all summer school standards;
2. unapproved? deviates from one or more of the summer school standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2363 (November 2003).

§3135. Sanctions

A. Any unapproved summer school cannot operate a summer school the following year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2363 (November 2003).

§3137. Instruction by Private Teachers

A. Credit may be allowed for high school work completed under private instructors, subject to the following conditions.

1. The instruction must be under the direction of a private tutor only when the tutor is eligible for regular employment in an approved nonpublic high school.
2. The time requirements for credits in a regular high school will apply.
3. The necessary facilities peculiar to a particular subject must be available for instructional purposes.
4. Prior to enrolling a privately tutored course, a student must obtain written approval from the principal of the high school in which he/she is enrolled.

B. Southern Association of Colleges and Schools members school should comply with Principle D Standard 6. (Member schools shall not give credit for private tutoring.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2363 (November 2003).

Chapter 35. Standards for Approval of Alternative Schools/Programs

Subchapter A. Operation and Administration

§3501. Philosophy and Need for Alternative Schools/Programs

A. If alternative school programs are to be developed and established, they shall respond to particular educational needs within the community.

B. The local educational governing authority shall pass a resolution establishing the need for the alternative school/program and setting forth its goals and objectives.

C. Each alternative school/program shall develop and maintain a written statement of its philosophy and the major purposes to be served by the school/program. The statement shall reflect the individual character of the school/program and the characteristics and needs of the students it serves.

D. The educational school/program shall be designed to implement the stated goals and objectives which shall be directly related to the unique educational requirements of its student body.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2364 (November 2003).

§3503. Approval of Alternative Schools/Programs

A. Alternative schools/programs shall comply with prescribed policies and standards for regular schools, except for those deviations granted by the State Board of Elementary and Secondary Education.

B. Approval shall be obtained from the State Department of Education prior to the establishment of the alternative school/program.

C. A narrative proposal describing the alternative school/program shall be submitted and shall include the following information:

1. purpose;
2. needs assessment;
3. type (alternative within regular education or alternative to regular education placement);
4. list of the Bulletin 741 Louisiana Handbook for School Administrators, policy and standard deviations;
5. anticipated date of implementation;
6. student eligibility;
7. entrance and exit criteria;
8. total number of students;
9. individual class sizes;
10. detailed outline of curriculum;
11. methods of instruction to meet individual student needs;
12. type and number of staff including qualifications/certification;
13. plan for awarding Carnegie units, when applicable;
14. grading and reporting procedures;
15. plan for parental and community involvement;
16. educational support services;
17. in-service (professional development for personnel);
18. type and location of physical facility;
19. procedure for program evaluation.

D. A school system choosing to implement an alternative school/program shall submit the above proposal to the

Division of Family, Career and Technical Education by May 1 for fall semester implementation and November 1 for spring semester implementation

E. Refer to the Alternative Education Handbook.

F. The State Department of Education will provide the SBESE with a listing of approved alternative schools/programs twice annually, in June and December of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2364 (November 2003).

§3505. Final Approval to Operate

A. Prior to final approval, the school shall be visited by State Department of Education (SDE) representatives, who will determine the school's suitability for SDE approval.

B. An annual school report based upon the standards for approval of alternative schools shall be made to the State Department of Education (SDE) on or before the date prescribed by the department. Final approval is contingent upon review and satisfactory compliance with the requirements of the annual school report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2364 (November 2003).

§3507. Special Education

A. Special Education programs within an alternative school shall comply with all applicable State and Federal requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2364 (November 2003).

§3509. The Earning of Carnegie Units for Use in Meeting Graduation Requirements

A. Students enrolled in an alternative school/program shall be allowed to earn Carnegie units when possible.

B. The integrity of the Carnegie unit shall not be diminished by any alternative school/program.

C. The Carnegie units shall be granted by regular or special education teachers certified in the subject matter areas in which they are teaching.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2364 (November 2003).

§3511. Program Evaluation

A. The education program of the alternative school shall be evaluated on the basis of its stated goals and objectives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2364 (November 2003).

§3513. Operation and Administration

A. Each nonpublic school that desires State Board of Elementary and Secondary Education (SBESE) approval and has students receiving special education services shall comply with all applicable federal and state law and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2365 (November 2003).

Chapter 37. Addendum

§3701. Test Security Policy

A. The Board of Elementary and Secondary Education holds the test security policy to be of utmost importance and deems any violation of test security to be serious.

B. Test Security

1. Tests administered by or through the State Board of Elementary and Secondary Education shall include, but not be limited to:

- a. all criterion-referenced tests (CRTs) and norm-referenced tests (NRTs);
- b. all alternate assessments.

2. For purposes of this policy, school districts shall include local education agencies; special school districts; approved special schools such as the Louisiana School for the Visually Impaired and Louisiana School for the Deaf, laboratory schools, charter schools, Louisiana School for Math, Science and the Arts; and participating nonpublic/other schools that utilize tests administered through the State Board of Elementary and Secondary Education or the Louisiana Department of Education.

3. It shall be a violation of test security for any person to do any of the following:

- a. administer tests in a manner that is inconsistent with the administrative instructions provided by the Louisiana Department of Education (LDE) that would give examinees an unfair advantage or disadvantage;
- b. give examinees access to test questions prior to testing;
- c. examine any test item at any time (except for students during the test or test administrators while providing the accommodations "Tests Read Aloud" or "Communication Assistance" for students determined to be eligible for those accommodations);
- d. copy, reproduce, discuss or use at any time in a manner inconsistent with test regulations all or part of any secure test booklet, answer document, or supplementary secure materials (e.g., writing prompts, science tasks);
- e. coach examinees in any manner during testing or alter or interfere with examinees' responses in any manner;
- f. provide answers to students in any manner during the test, including provision of cues, clues, hints, and/or actual answers in any form, written, printed, verbal, or nonverbal;
- g. administer published parallel, previously administered, or current forms of any statewide assessment (e.g., Louisiana Educational Assessment Program for the 21st Century (LEAP 21), Graduation Exit Examination for the 21st Century (GEE 21), Graduation Exit Examination ("old" GEE), LEAP Alternate Assessment (LAA), or Forms

K, L, M, and all new forms of The Iowa Tests) as a practice test or study guide;

h. fail to follow security regulations for distribution and return of secure test booklets, answer documents, supplementary secure materials (e.g., writing prompts, science tasks), as well as overages as directed; or fail to account for and secure test materials before, during, or after testing;

i. conduct testing in environments that differ from the usual classroom environment without prior written permission from the Louisiana Department of Education, Division of Student Standards and Assessments;

j. fail to report any testing irregularities to the district test coordinator (a "testing irregularity" is any incident in test handling or administration that leads to a question regarding the security of the test or the accuracy of the test data), who must report such incidents to the Division of Student Standards and Assessments;

k. participate in, direct, aid, counsel, assist in, encourage, or fail to report any of the acts prohibited in the section.

4. Each school district as described in this policy shall develop and adopt a district test security policy that is in compliance with the state's test security policy. A "Statement of Assurance" regarding the LEA's test security policy must be submitted annually to the Louisiana Department of Education, Division of Student Standards and Assessments. This statement must include the name of the individual designated by the district superintendent or institution to procure test material. The policy shall provide:

a. for the security of the test materials during testing, including test booklets, answer documents, supplementary secure materials (e.g., writing prompts, science tasks), video tapes, and completed observation sheets;

b. for the storage of all tests materials, except district and school test coordinator manuals and test administration manuals, in a predetermined, secure, locked area before, during, and after testing; all secure materials, including any parallel forms of a test, must be kept in locked storage at both the district and school levels; secure materials must never be left in open areas or unattended;

c. a description and record of professional development on test security, test administration, and security procedures for individual student test data provided for all individuals with access to test materials or individual student test data ("access" to test materials by school personnel means any contact with or handling the materials but does not include reviewing tests or analyzing test items, which are prohibited);

d. a list of personnel authorized to have access to the locked, secure storage area;

e. procedures for investigating any testing irregularities, including violations in test security, such as plagiarism and excessive wrong-to-right erasures identified through erasure analysis;

f. procedures for the investigation of employees accused of irregularities or improprieties in the administration of standardized tests, as required by the amended R.S. 17:81.6;

g. procedures for the investigation of any missing test booklets, answer documents, or supplementary secure material (e.g., writing projects, science tasks);

h. procedures for ensuring the security of individual student test data in electronic and paper formats.

5. Procedures for investigating missing secure materials, any testing irregularity (including cheating), and any employees accused of improprieties must, at a minimum, include the following.

a. The district test coordinator shall initiate the investigation upon the district's determination of an irregularity or breach of security or upon notification by the State Department of Education. The investigation shall be conducted by the district test coordinator and other central office staff as designated by the district superintendent.

b. The location of the predetermined, locked, secure area for storage of materials shall be examined, and the individuals with access to secure materials shall be identified.

c. Interviews regarding testing administration and security procedures shall be conducted with the principal, school test coordinator(s), test administrator(s), and proctor(s) at the identified schools. All individuals who had access to the test materials at any time must be interviewed.

d. Interviews shall be conducted with students in the identified classes regarding testing procedures, layout of the classroom, access to test materials before the test, and access to unauthorized materials during testing.

e. After completion of the investigation, the district shall provide a report of the investigation and a written plan of action to the state superintendent within 30 calendar days of the initiation of the investigation. At a minimum, the report shall include the nature of the situation, the time and place of occurrence, and the names of the persons involved in or witness to the occurrence. Officials from the Louisiana Department of Education are authorized to conduct additional investigations.

6. Test materials, including all test booklets, answer documents, and supplementary secure materials (e.g., writing prompts, science tasks) containing secure test questions, shall be kept secure and accounted for in accordance with the procedures specified in the test administration manuals and other communications provided by the Louisiana Department of Education. Secure test materials include test booklets, answer documents, and any supplementary secure materials (e.g., writing prompts, science tasks). Procedures described in the test manuals shall include, but are not limited to, the following.

a. All test booklets, answer documents, and supplementary secure materials (e.g., writing prompts, science tasks) must be kept in a predetermined, secure, locked storage area prior to and after administration of any test; test administrators are to be given access to the tests and any supplementary secure materials only on the day the test is to be administered, and these are to be retrieved immediately after testing is completed for the day and stored in a locked, secure location each day of testing.

b. All test booklets, answer documents, and supplementary secure materials (e.g., writing prompts, science tasks) must be accounted for and written documentation kept by test administrators and proctors for

each point at which test materials are distributed and returned.

c. Any discrepancies noted in the serial numbers of test booklets, answer documents, and any supplementary secure materials (e.g., writing prompts, science tasks), or the quantity received from contractors must be reported to the Division of Student Standards and Assessments (LDE) by the designated institutional or school district personnel prior to the administration of the test.

d. In the event that test booklets, answer documents, or supplementary secure materials (e.g., writing prompts, science tasks) are determined to be missing while in the possession of the institution or school district or in the event of any other testing irregularities or breaches of security, the designated institutional or school district personnel must immediately notify by telephone the Division of Student Standards and Assessments (LDE) and follow the detailed procedures for investigating and reporting specified in this policy.

7. Only personnel trained in test security and administration shall be allowed to have access to or administer any standardized tests.

8. Each district superintendent or institution must annually designate one individual in the district or institution as district test coordinator who is authorized to procure test materials that are utilized in testing programs administered by or through the State Board of Elementary and Secondary Education of the Louisiana Department of Education. The name of the individual designated must be provided in writing to the Division of Student Standards and Assessments (LDE) and included on the statement of assurance.

9. Testing shall be conducted in class-sized groups. *Bulletin 741* (2.038.01–02) states that K-3 classroom enrollment should be no more than 26 students, and in grades 4-12, no more than 33, except in certain activity types of classes in which the teaching approach and the material and equipment are appropriate for large groups. For grades K-8, the maximum class size for Health and Physical Education classes may be no more than 40. Class size for exceptional students is generally smaller (*Bulletin 741*, 2.038.05). Permission for testing in environments that differ from the usual classroom environment must be obtained in writing from the Louisiana Department of Education, Division of Standards and Assessments, at least 30 days prior to testing. If testing outside the usual classroom environment is approved by the Division of Student Standards and Assessments, the LEA must provide at least one proctor for every 30 students.

10. The State Superintendent of Education may disallow test results that may be achieved in a manner that is in violation of test security.

11. The Louisiana Department of Education shall establish procedures to identify:

a. improbable achievement of test score gains in consecutive years;

b. situations in which collaboration between or among individuals may occur during the testing process;

c. a verification of the number of all test distributed and the number of tests returned;

d. excessive wrong-to-right erasures for multiple-choice tests;

e. any violation to written composition or open-ended responses that involves plagiarism;

f. any other situation that may result in invalidation of test results.

12. In cases in which test results are not accepted because of a breach of test security or action by the Louisiana Department of Education, any programmatic, evaluative, or graduation criteria dependent upon the data shall be deemed not to have been met, but individuals will be allowed to retake the test at the next test administration.

13. Individuals shall adhere to all procedures specified in all manuals that govern mandated testing programs.

14. Any individual knowingly engages in any activity during testing that results in invalidation of scores derived from the Louisiana Educational Assessment Program for the 21st Century (LEAP 21), graduation exit examination for the 21st Century (GEE 21), or graduation exit examination ("old" GEE) shall forfeit the test results but will be allowed to retake the test at the next test administration.

15. Anyone known to be involved in the presentation of forged, counterfeit, or altered identification for the purposes of obtaining admission to a test administration site for any test administered by or through the State Board of Elementary and Secondary Education or the Louisiana Department of Education shall have breached test security. Any individual who knowingly causes or allows the presentation of forged, counterfeited, or altered identification for the purpose of obtaining admission to any test administration site must forfeit all test scores but will be allowed to retake the test at the next test administration.

16. School districts must ensure that individual student test data are protected from unauthorized access and disclosure. District test coordinators, principals, school test coordinators and other authorized users of the LEAP^{web} reporting system and LEAP^{data} system must ensure the security of passwords, any disks or CDs with downloaded individual student test data, and student-level test data open on a computer screen. All users must sign a statement guaranteeing they will not share the password with unauthorized individuals and maintain the confidentiality of student data. A copy of the signed statement should be sent to the district test coordinator to be kept on file. Users who have access to these systems and leave their positions at a district or school site must not use or share the password. District test coordinators are responsible for providing training regarding the security and confidentiality of individual student test data (in paper and electronic format) and of aggregated data of fewer than ten students.

17. Louisiana Department of Education staff will conduct site visits during testing to observe test administration procedures and to ensure that appropriate test security procedures are being followed. Schools with prior violations of test security or other testing irregularities will be identified for visits. Other schools will be randomly selected.

18. Any teachers or other school personnel who breach test security or allow breaches in test security shall be disciplined in accordance with the provisions of R.S. 17:416 et seq., R.S. 17:441 et seq., R.S. 17:81.6 et seq., policy and regulations adopted by the Board of Elementary and

Secondary Education, and any and all laws that may be enacted by the Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2365 (November 2003).

Weegie Peabody
Executive Director

0311#022

RULE

Board of Elementary and Secondary Education

Bulletin 741? Louisiana Handbook for School Administrators? Foreign Language Immersion Program (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to *Bulletin 741? Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The State Board of Elementary and Secondary Education (SBESE) at its May 2003 meeting approved as Notice of Intent, the adding of a procedural block to *Bulletin 741? The Louisiana Handbook for School Administrators*, Standard 2.090.07, referencing foreign language immersion program guidelines developed by the Louisiana Consortium of Immersion Schools for students enrolled in foreign language immersion programs in grades kindergarten through 8 which are found in *A Guide for Administrators of Elementary Level Second Language and Immersion Programs in Louisiana Schools* (formerly *Bulletin 1536*) (Revised 2003). The changes will assist districts in implementing foreign language immersion programs as proposed by the Louisiana Consortium of Immersion Schools.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:483 (November 1975), amended LR 28:269 (February 2002), LR 28:272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 29:2367 (November 2003).

Foreign Language Immersion Program

2.090.07 An articulated elementary foreign language program for 30 minutes daily in grades 4 through 6 shall be required for academically able students and shall be optional for all others.

An academically able student is defined as one who is Functioning at grade level as determined by the local school System. For special education students identified in accordance with *The Pupil Appraisal Handbook* (formerly *Bulletin 1508*), the IEP Committee shall determine the student's eligibility to receive foreign language instruction.

Guidelines developed by the Louisiana Consortium of Immersion Schools for students enrolled in foreign language immersion programs in grades kindergarten through 8 are found in *A Guide for Administrators of Elementary Level Second Language and Immersion Programs in Louisiana Schools* (Formerly *Bulletin 1536*) (revised 2003).

Weegie Peabody
Executive Director

0311#020

RULE

Board of Elementary and Secondary Education

Bulletin 741? Louisiana Handbook for School Administrators? High School Diploma and Endorsements (LAC 28:1.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to *Bulletin 741? Louisiana Handbook for School Administrators*, referenced in LAC 28:1.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The State Board of Elementary and Secondary Education (SBESE) at its May 2003 meeting approved revisions to *Bulletin 741? The Louisiana Handbook for School Administrators*, Standard 2.099.02, to add to the graduation requirements a computer related course and an area of concentration as required by Career Options Law, and to add an optional Academic Endorsement and Career/Technical Endorsement to the standard diploma. The purpose of the diploma endorsements is to offer incentives to students to maximize their junior and senior years of high school and to encourage schools to offer more advanced courses as well as school-to-work opportunities to students. Also included in the revised policy are changes in the requirements for a standard diploma that are part of the Career Options Law. These changes require students to take a one-unit computer-related course and complete an area of concentration. These changes will be effective for freshmen in 2003-04 and beyond.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations**

§901. School Approval Standards and Regulations

A. Bulletin 741

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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), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:483 (November 1975), amended LR 28:269-271 (February 2002), LR 28:272-273

(February 2002), LR 28:991-993 (May 2002), LR 28:1187 (June 2002), LR 29:2368 (November 2003).

High School Diploma and Endorsements

2.099.02 Standard Diploma

Incoming freshmen 2003-2004 and thereafter meeting the Minimum Requirements for High School Graduation listed below and the requirements listed in 2.099.00 and 2.099.01, and completing four Carnegie units in an area of concentration, including one course that incorporates computer applications, shall be eligible for a standard diploma. An area of concentration shall be courses selected to prepare students for postsecondary education and/or a career.

The 23 units required for graduation shall include 16 required units and 7 elective units; the elective units can be earned at technical colleges as provided in Standard 2.103.35.

Academic Endorsement

Students meeting the requirements for a standard diploma, and satisfying the following performance indicators shall be eligible for an academic endorsement to a standard diploma.

1. Students shall meet the current course requirements for the Tuition Opportunity Program for Students (TOPS) Opportunity Award.
2. Students shall complete one additional Carnegie unit in mathematics, science, or social studies.
3. Students shall pass all four components of the GEE 21 with a score of Basic or above, or one of the following combinations of scores with the English Language Arts score at Basic or above:
 - ?? One Approaching Basic, 1 Mastery or Advanced, Basic or above in the remaining two;
 - ?? Two Approaching Basic, 2 Mastery or above.
4. Students shall complete one of the following requirements:
 - ?? Senior Project;
 - ?? One Carnegie unit in an AP course with a score of 3 or higher on the AP exam;
 - ?? One Carnegie unit in an IB course with a score of 4 or higher on the IB exam;
 - ?? Three college hours of non-remedial, articulated credit in mathematics, social studies, science, foreign language, or English Language Arts.
5. Students shall meet the current minimum grade-point average requirement for the TOPS Opportunity Award.
6. Students shall achieve an ACT Composite Score of 23.

Career/Technical Endorsement

Students meeting the requirements for a standard diploma, and satisfying the following performance indicators shall be eligible for a career/technical endorsement to a standard diploma.

1. Students shall meet the current course requirements for the Tuition Opportunity Program for Students (TOPS) Opportunity Award or the TOPS Tech Award.
2. Students shall pass the English Language Arts, mathematics, science, and social studies components of the GEE 21 at the Approaching Basic level or above.
3. Students shall complete a minimum of ninety work hours of work-based learning experience (as defined in the SDE Diploma Endorsement Guidebook) and complete one of the following requirements:

- ?? Industry-based certification from the list of industry-based certifications approved by BESE;
- ?? Three Carnegie credits in a Career/Technical area that articulate to a postsecondary institution, either by actually obtaining the credits and/or being waved from having to take such hours.

Industry-based certification is a portable, recognized credential (tangible evidence) that an individual has successfully demonstrated skill competencies on a core set of content and performance standards in a specific set of work-related tasks, single occupational area, or a cluster of related occupational areas.

Articulated credit/dual enrollment is a program of study allowing high school students to earn credits toward a high school diploma and a postsecondary degree or certification simultaneously. Written agreements formalize programs of study, the transfer of academic and vocational credits among institutions, and the role of secondary and postsecondary instructors.

4. Students shall meet the current minimum grade-point average requirement for the TOPS Opportunity Award or the TOPS Tech Award.

5. Students shall achieve the current minimum ACT Composite Score (or SAT Equivalent) for the TOPS Opportunity Award or the TOPS Tech Award.

Minimum Requirements for High School Graduation
(Effective for Incoming Freshmen 2003-2004 and thereafter)

ENGLISH 4 units
Shall be English I, II, and III, in consecutive order; and English IV or Business English.

MATHEMATICS 3 units
Shall be selected from the following courses and may include a maximum of 2 entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus.

SCIENCE 3 units
Shall be 1 unit of Biology I:
1 unit of Physical Science or Integrated Science (but not both), or Chemistry I, Physics I, or Physics of Technology I;

1 unit from Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience I, Agriscience II, or any other course not already taken from the Physical Science cluster, or a locally designed elective.

?? If a student takes Physical Science or Integrated Science, s/he may then take Chemistry I, Physics I, or Physics of Technology I as the required science course. If a student takes Chemistry I, Physics I, or Physics of Technology I to fulfill the Physical Science requirement, s/he may not then take Physical Science or Integrated Science as the third required science course but may take such courses as one of the eight allowed elective graduation requirements.

?? Both Agriscience I and II must be completed for one unit of science credit.

All Advanced Placement Science Courses will be accepted for credit.

SOCIAL STUDIES 3 units
Shall be American History, one-half unit of Civics, one-half unit of Free Enterprise; and one of the following: World History, World Geography, or Western Civilization.

HEALTH EDUCATION 1/2 unit

PHYSICAL EDUCATION 1 1/2 units
Shall be Physical Education I and Physical Education II, or Adaptive Physical Education for eligible special education students.

NOTE: The substitution of JROTC is permissible. A maximum of four units may be used toward graduation.

COMPUTER TECHNOLOGY 1 unit
Shall be taken from the following:
Computer/Technology Literacy (1/2 credit)
Computer Applications or Business Computer Applications (1 credit)
Computer Architecture (1 credit)
Computer Science I, II (1 credit each)
Computer Systems and Networking I, II (1 credit each)
Desktop Publishing (1/2 credit)
Digital Graphics & Animation (1/2 credit)
Multimedia Presentations (1 credit)
Web Mastering or Web Design (1/2 credit)
Independent Study in Technology Applications (1 credit)
Word Processing (1 credit)
Telecommunications (1/2 credit)
Introduction to Business Computer Applications (1 credit)
Technology Education Computer Applications (1 credit)
Advanced Technical Drafting (1 credit)

ELECTIVES 8 units
TOTAL 23 units
Refer to Standards 2.037.02 and 2.058.02 relative to appropriate student scheduling and counseling.

Weegie Peabody
Executive Director

0311#021

RULE

Board of Elementary and Secondary Education

Bulletin 746? Louisiana Standards for State Certification of School Personnel? Certificate Renewal Requirements and Validity Terms for Those Called to Active Military Duty (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, Board of Elementary and Secondary Education adopted an amendment to *Bulletin 746? Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy specifies certificate renewal guidelines and validity term adjustments for those who are employed on renewable certificates and who are called to active military duty. Temporary certificates have strict annual renewal guidelines specifying successful completion of coursework and/or Praxis exams. Renewable regular certificates require completion of Continuing Learning Units (CLUs) of professional development for renewal. This policy suspends certificate renewal guidelines and does not count elapsed

time for certificate holders during periods of active military duty.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations**

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 28:763 (April 2002), LR 28:765 (April 2002), LR 28:990 (May 2002), LR 29:2370 (November 2003).

**Certificate Renewal Requirements and Validity Terms
for Those Called to Active Military Duty**

A teacher employed on a temporary or a regular certificate, and who is called to active military duty, will not be penalized for the time spent in active service. He or she must present copies of official documents indicating beginning and ending dates of active military duty when applying for renewal or extension of the certificate.

For the period of military service:

1. renewal guidelines specifying required coursework and/or Praxis exams for temporary certificates will be waived;
2. renewal guidelines specifying Continuing Learning Units (CLUs) for Level 2 and Level 3 certificates will be waived; and
3. additional time commensurate with the amount of time spent in active duty will be allowed on the temporary or regular certificate, in terms of the school year(s) or portion thereof spent in active military service.

Once the time spent has been restored to an individual who was called to active duty, the renewal guidelines for temporary and/or regular certificates will be effective.

Weegie Peabody
Executive Director

0311#024

RULE

Board of Elementary and Secondary Education

**Bulletin 746? Louisiana Standards for State
Certification of School Personnel? Policy for
One-Year Authorization on a Certificate
(LAC 28:I.903)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to *Bulletin 746? Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This Rule

abolishes the Bulletin 746 policy allowing a one-year authorization on a certificate. This Rule works to align Bulletin 746 policy for temporary certification under the state's new licensure structure.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations**

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 28:763-765 (April 2002), LR 28:765 (April 2002), LR 28:990-991 (May 2002), LR 29:2370 (November 2003).

* * *

Repeal the "One Year Authorization on a Certificate" policy from Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, as follows:

One-Year Authorization on a Certificate

Authorization to teach one or two subjects in addition to the major subject on the secondary level may be added to a valid certificate if the applicant lacks not more than six semester hours to meet the minimal requirements in the teaching field or fields, provided that this authorization is good for one year only. The applicant is given one year in which to meet the requirements in full.

Weegie Peabody
Executive Director

0311#023

RULE

Board of Elementary and Secondary Education

**Bulletin 746? Louisiana Standards for State
Certification of School Personnel
Practitioner Teacher Licensure Policy
(LAC 28:I.903)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to *Bulletin 746? Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy adds the Practitioner License 4 category to the current Practitioner License policy, allowing individuals other than those in the new alternate teacher certification programs to pursue full teacher credentialing under a licensure type that does not penalize schools and districts for Annual School Report and accountability reporting purposes. This policy outlines

regulations for those who are not in the new alternate teacher education programs to qualify for a Practitioner License (category 4).

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations**

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 28:763 (April 2002), LR 28:765 (April 2002), LR 28:990 (May 2002), LR 29:2371 (November 2003).

Practitioner Teacher Licensure Policy

Adopted by SBESE October 2002

Individuals with PL1, PL2, PL3, or PL4 credentialing who are actively enrolled in the Practitioner Teacher Program, the Master's Degree Program, or the Non-Master's/Certification-Only Program, or are otherwise in the process of completing all requirements for full certification will be granted special employment status so that districts will not have these individuals count for or against the district on the Annual School Report or for District accountability purposes.

**Practitioner License 1, Practitioner License 2,
Practitioner License 3**

A Practitioner Teacher license (PL), renewable yearly for a maximum of three years, will be granted to those candidates who meet all entrance requirements and who are accepted into and enrolled in a State-approved Practitioner Teacher Program (PL1), Master's Degree Program (PL3), or Non-Master's/Certification-Only Program (PL2). Issuance of Practitioner Teacher licenses will require verification from the program provider and the employing system/school. Minimum admission requirements for the Practitioner Teacher Program and the Non-Master's/Certification-Only Program stipulate that the candidate hold an undergraduate degree from a regionally accredited university, possess a minimum of a 2.2 grade point average (GPA), and pass the Pre-Professional Skills Test and Content Specialty Exam of the PRAXIS. The same admission standards apply to the Master's Degree Program, with one exception, that the undergraduate GPA requirement is 2.50 for admission. Additionally, Practitioner Teacher Program participants must have a teaching assignment in a state-approved Louisiana school in the area of certification being studied.

Practitioner Teacher Program candidates will complete an intensive summer training experience prior to assuming a full-time teaching position in a Louisiana classroom. To allow for the summer training experience, employing systems/schools may offer contracts to Practitioner Teacher candidates as early as the spring preceding the school year in which the practitioner will assume a full-time position. It is a responsibility of the employing system/school, working in close collaboration with the program provider, to facilitate

and coordinate the placement of practitioner teachers in State-approved schools in teaching areas in which there is an identified need. The participant signs a one-year renewable contract with the school system and/or approved school. The practitioner teacher would be placed, at a minimum, on the same salary schedule as a regularly certified, salaried teacher.

Practitioner Teacher Program (PL1), Master's Degree Program (PL3), and Non-Master/Certification-Only Program (PL2). Practitioner teachers are issued a one-year Practitioner Teacher license, renewable yearly for a maximum of three years. If a candidate withdraws or is dropped from the new alternate program, the Practitioner Teacher license is no longer valid. A practitioner teacher must remain enrolled in the alternate program and fulfill all coursework, teaching assignments (if applicable), and prescribed activities as identified by the program provider. All program requirements must be completed within the three-year period of the license. A practitioner teacher may complete all requirements of the alternate program in fewer than three years.

Once a practitioner teacher has completed all requirements of the alternate program and has been recommended by the program provider, he may apply for a Level 1 Teaching Certificate. A practitioner teacher's teaching experience, while holding a Practitioner Teacher license, will count toward the three years of teaching experience requirement that is needed to move from a Level 1 certificate to a Level 2 certificate.

Practitioner License 4

A Practitioner License (PL4) may be issued to a teacher who is not in one of the three new alternate certification programs, has an undergraduate grade point average of at least 2.50, has passed the Praxis Pre-professional Skills Tests (PPSTs), has passed the specialty area content exam or has completed 31 semester hours in the specific content area of certification, and still lacks full requirements for certification.

Weegie Peabody
Executive Director

0311#025

RULE

Board of Elementary and Secondary Education

Bulletin 1536? A Guide for Administrators of Elementary
Level Second Language Programs in Louisiana Schools
(LAC 28:I.Chapter 9)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted the following revision to Title 28, Education. The revision will change the status of *Bulletin 1536? A Guide for Administrators of Elementary Level Second Language Programs in Louisiana Schools*, from a regulatory bulletin to non-regulatory program guidelines.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations**

List of Bulletins to be Removed from the Louisiana
Administrative Code

Bulletin Number	Bulletin Name
1536	A Guide for Administrators of Elementary Level Second Language Programs in Louisiana Schools

Weegie Peabody
Executive Director

0311#026

RULE

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Scholarship/Grant Programs
(LAC 28:IV.701, 703, 705, 805, and 2103)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended the Rules of the Scholarship/Grant Programs (R.S. 17:3021-3026, R.S. 3041.10-15, R.S. 17:3042.1, and R.S. 17:3048.1).

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance? Higher
Education Scholarship and Grant Programs
Chapter 7. Tuition Opportunity Program for
Students (TOPS) Opportunity,
Performance, and Honors Awards**

§701. General Provisions

A. - D.3. ...

E. Award Amounts. The specific award amounts for each component of TOPS are as follows.

1.a. The TOPS Opportunity Award provides an amount equal to undergraduate tuition for full-time attendance at an Eligible College or University for a period not to exceed eight semesters, including Qualified Summer Sessions, twelve quarters, including Qualified Summer Sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1.H, §503.D, §509.C, or §701.E.1.b. Attending a Qualified Summer Session for which tuition is paid will count toward the eight semester limit for TOPS.

b. The semester or term count for a student shall not be increased for any semester or term a student is unable to complete because of orders to active duty in the United States Armed Forces or National Guard, whether or not a full refund for the TOPS payment for that semester or term is received by LOSFA.

2.a. The TOPS Performance Award provides a \$400 annual stipend, prorated by two semesters, three quarters, or equivalent units in each Academic Year (College) and

Program Year (Non-Academic Program), in addition to an amount equal to tuition for full-time attendance at an Eligible College or University, for a period not to exceed eight semesters, including Qualified Summer Sessions, twelve quarters, including Qualified Summer Sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1.H, §503.D, §509.C, or §701.E.2.b. The stipend will be paid for each Qualified Summer Session, semester, quarter, term, or equivalent unit for which tuition is paid. Attending a Qualified Summer Session for which tuition is paid will count toward the eight semester limit for TOPS.

b. The semester or term count for a student shall not be increased for any semester or term a student is unable to complete because of orders to active duty in the United States Armed Forces or National Guard, whether or not a full refund for the TOPS payment for that semester or term is received by LOSFA, provided that any amount of a stipend paid and not refunded shall be counted toward the total stipends allowed by law.

3.a. The TOPS Honors Award provides an \$800 annual stipend, prorated by two semesters, three quarters, or equivalent units in each Academic Year (College) and each Program Year (Non-Academic Program), in addition to an amount equal to tuition for full-time attendance at an Eligible College or University, for a period not to exceed eight semesters, including Qualified Summer Sessions, twelve quarters, including Qualified Summer Sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1.H, §503.D, §509.C or §701.E.3.b. The stipend will be paid for each Qualified Summer Session, semester, quarter, term, or equivalent unit for which tuition is paid. Attending a Qualified Summer Session for which tuition is paid will count toward the eight semester limit for TOPS.

b. The semester or term count for a student shall not be increased for any semester or term a student is unable to complete because of orders to active duty in the United States Armed Forces or National Guard, whether or not a full refund for the TOPS payment for that semester or term is received by LOSFA, provided that any amount of a stipend paid and not refunded shall be counted toward the total stipends allowed by law.

E.4. - G.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25: 256 (February 1999), LR 26:67 (January 2000), LR 26:1262 (June 2000), LR 26:1995, 2000 (September 2000), repromulgated LR 27:1848 (November 2001), amended LR 28:447 (March 2002), LR 28:2331 (November 2002), LR 29:2372 (November 2003).

§703. Establishing Eligibility

A. - A.5.a.i. ...

ii. for purposes of satisfying the requirements of 703.A.5.a.i, above, or 803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	General Science, Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics I
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Algebra II Geometry Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Integrated Mathematics II Integrated Mathematics III Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*, Advanced Mathematics I, Advanced Mathematics II
Chemistry	Chemistry Com
Fine Arts Survey	Speech Debate (2 units)
Western Civilization	European History
	*Applied Mathematics III was formerly referred to as Applied Geometry

A.5.a.iii. - G.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602, 1998 (August 2000), LR 26:1996, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), LR 27:1850 (November 2001), LR 28:772 (April 2002), LR 28:1760 (August 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003).

§705. Maintaining Eligibility

A. To continue receiving the TOPS Opportunity, Performance or Honors Awards, the recipient must meet all of the following criteria:

1. have received less than four years or eight semesters of TOPS Award funds, except as provided in §701.E.1.b, §701.E.2.b, and §701.E.3.b, provided that each two terms or equivalent units of enrollment in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree shall be the equivalent of a semester; and

A.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999), LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26, 1996, 2001 (September 2000), LR 27:1853 (November 2001), LR 28:447 (March 2002), LR 28:772 (April 2002), LR 28:2332 (November 2002), LR 29:2373 (November 2003).

Chapter 8. TOPS-TECH Award

§805. Maintaining Eligibility

A. To continue receiving the TOPS-TECH Award, the recipient must meet all of the following criteria:

1. have received the TECH Award for less than two years, except as provided by §805.C, unless reduced as required by §503.D; and

A.2. - B. ...

C. The semester or term count for a student shall not be increased for any semester or term a student is unable to

complete because of orders to active duty in the United States Armed Forces or National Guard, whether or not a full refund for the TOPS Tech payment for that semester or term is received by LOSFA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998) amended LR 25:1091 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), LR 26:1997, 2002 (September 2000), LR 27:1856 (November 2001), LR 28:774 (April 2002), LR 28:2332 (November 2002), LR 29:2373 (November 2003).

Chapter 21. Miscellaneous Provisions and Exceptions §2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - E.11.c. ...

F. Students who are granted an exception based on military service in accordance with Paragraph 2103.E.9 above and who desire to enroll as a part time student in an eligible postsecondary institution while on active duty shall be eligible on request for TOPS payment for such enrollment. Any payment for part time attendance under this subsection shall count towards the student's maximum eligibility for up to the equivalent of eight full time semesters of postsecondary education in part time and full time semesters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1017 (May 2000), LR 26:2004 (September 2000), LR 27:37 (January 2001), LR 27:1875 (October 2001), LR 27:1866 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330, 2333 (November 2002), LR 29:126 (February 2003), LR 29:2373 (November 2003).

George Badge Eldredge
General Counsel

0311#041

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs? Military Service
(LAC 28:IV.2103)

The Louisiana Student Financial Assistance Commission (LASFAC) amends the Rules of the Scholarship/Grant programs.

Title 28 EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs Chapter 21. Miscellaneous Provisions and Exceptions §2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - E.8. ...

9. Military Service

a. Definition. The student/recipient is in the United States Armed Forces Reserves or National Guard and is called on active duty status or is performing emergency state service with the National Guard or voluntarily enlists and enters on active duty as a member of the regular United States Armed Forces during a National Emergency declared by the President of the United States or when the United States is engaged in armed conflict.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts, the dates of the required leave of absence, necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, and the length of duty (beginning and ending dates); and

ii. a written certification from the commanding officer or regional supervisor including the dates and location of active duty; or

iii. a certified copy of the military orders.

c. Maximum Length of Exception. Up to the length of the required active duty service period, not to exceed four years.

E.10. - 11.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1648 (December 1997), repromulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2002 (September 2000), LR 27:36 (January 2001), repromulgated LR 27:1866 (November 2001), amended LR 27:1875 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330, 2333 (November 2002), LR 29:126 (February 2003), LR 29:2373 (November 2003).

George Badge Eldredge
General Counsel

0311#043

RULE

Tuition Trust Authority Office of Student Financial Assistance

Student Tuition and Revenue Trust
(START Saving) Program
(LAC 28:VI.315)

The Louisiana Tuition Trust Authority (LATTA) is amending its Rules of the Student Tuition and Revenue Trust (START Savings) Program (R.S. 3091-3099.2).

Title 28

EDUCATION

Part VI. Student Financial Assistance? Higher Education Savings

Chapter 3. Education Savings Account

Subchapter A. Student Tuition Trust Authority

§315. Miscellaneous Provisions

A. - B.6. ...

7. For the year ending December 31, 2002, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.82 percent.

8. For the year ending December 31, 2002, the Earnings Enhancements Fund earned an interest rate of 5.91 percent.

C. - R. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), amended LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2374 (November 2003).

George Badge Eldredge
General Counsel

0311#040

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Cooling Water Intake Structures for New Facilities
(LAC 33:IX.2522, 2523, and 2524)(WQ051*)

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 has amended the Water Quality regulations, LAC 33:IX.2522, 2523, and 2524 (Log #WQ051*).

This Rule is identical to federal regulations found in 40 CFR 125.83; 125.84(b)(4)(ii)-(iii), (b)(5)(ii), (c)(3)(ii)-(iii), and (d)(1); and 125.85(a)(2)-(3), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4314, Baton Rouge, LA 70821-4314. No fiscal or economic impact will result from the Rule; therefore, the Rule is promulgated in accordance with R.S. 49:953(F)(3) and (4).

This amendment deletes the definition of Minimum Ambient Source Water Surface Elevation and provides owners and operators of new facilities with clarified and additional requirements for addressing various stressors and other adverse impacts on species passing through the hydraulic zone of influence of cooling water intake structures. The amendments are required to maintain currency with federal regulations for state program authorization. The basis and rationale for this Rule are to mirror the federal regulations, to ensure the application of relevant information, and to protect species integrity.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY

Part IX. Water Quality

Chapter 23. The LPDES Program

Subchapter M. Criteria Applicable to Cooling Water

**Intake Structures Under Section 316(b) of
the Act**

**§2522. What Special Definitions Apply to this
Subchapter?**

*Minimum Ambient Source Water Surface
Elevation?* repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:1768 (August 2002), amended LR 29:2375 (November 2003).

**§2523. As an Owner or Operator of a New Facility,
What Must I Do to Comply with this
Subchapter?**

A. - B.4.a. ...

b. based on information submitted by any fishery management agency(ies) or other relevant information, there are migratory and/or sport or commercial species of impingement concern to the state administrative authority that pass through the hydraulic zone of influence of the cooling water intake structure; or

c. it is determined by the state administrative authority, based on information submitted by any fishery management agency(ies) or other relevant information, that the proposed facility, after meeting the technology-based performance requirements in Paragraphs B.1, 2, and 3 of this Section, would still contribute unacceptable stress to the protected species, critical habitat of those species, or species of concern.

5. - 5.a. ...

b. based on information submitted by any fishery management agency(ies) or other relevant information, there are, or would be, undesirable cumulative stressors affecting entrainable life stages of species of concern to the state administrative authority, and it is determined by the state administrative authority that the proposed facility, after meeting the technology-based performance requirements in Paragraphs B.1, 2, and 3 of this Section, would still contribute unacceptable stress to the protected species, critical habitat of those species, or species of concern.

B.6. - C.3.a. ...

b. based on information submitted by any fishery management agency(ies) or other relevant information, there are migratory and/or sport or commercial species of impingement concern to the state administrative authority that pass through the hydraulic zone of influence of the cooling water intake structure; or

c. it is determined by the state administrative authority, based on information submitted by any fishery management agency(ies) or other relevant information, that

the proposed facility, after meeting the technology-based performance requirements in Paragraphs C.1 and 2 of this Section, would still contribute unacceptable stress to the protected species, critical habitat of those species, or species of concern.

C.4. - D.1. ...

a. Except as specified in Subparagraph D.1.b of this Section, this demonstration must include a showing that the impacts to fish and shellfish, including important forage and predator species, within the watershed will be comparable to those that would result if you were to implement the requirements of Paragraphs B.1 and 2 of this Section. This showing may include consideration of impacts other than impingement mortality and entrainment, including measures that will result in increases in fish and shellfish, but it must demonstrate comparable performance for species that the state administrative authority, in consultation with national, state, or tribal fishery management agencies with responsibility for fisheries potentially affected by your cooling water intake structure, identifies as species of concern. In identifying such species, the state administrative authority may consider information provided by any fishery management agency(ies) along with data and information from other sources.

D.1.b. - E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:1769 (August 2002), amended LR 29:2375 (November 2003).

§2524. May Alternative Requirements Be Authorized?

A. - A.1. ...

2. the state administrative authority determines that data specific to the facility indicate that compliance with the requirement at issue would result in compliance costs wholly out of proportion to those EPA considered in establishing the requirement at issue or would result in significant adverse impacts on local air quality, significant adverse impacts on local water resources other than impingement or entrainment, or significant adverse impacts on local energy markets;

3. the alternative requirement requested is no less stringent than justified by the wholly out of proportion cost or the significant adverse impacts on local air quality, significant adverse impacts on local water resources other than impingement or entrainment, or significant adverse impacts on local energy markets; and

A.4. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:1771 (August 2002), amended LR 29:2375 (November 2003).

James H. Brent, Ph.D.
Assistant Secretary

0311#016

RULE

**Office of the Governor
Board of River Port Pilot Commissioners
and Examiners
and
Board of River Port Pilot Commissioners
and
Board of Examiners for the New Orleans
and Baton Rouge Steamship Pilots
and
Board of Examiners of Bar Pilots for the
Port of New Orleans**

River Pilot Rules Restructure (LAC 46:LXXV)

Editor's Note: River Pilot Rules have been moved from Part LXXVI to Part LXX for topical placement. The Rules have also been restructured to allow room for expansion.

The following table shows the restructuring of the River Pilot Rules. Each Chapter is listed, showing the former placement and the current placement.

Former Placement	Current Placement
Part LXXXVI	Part LXXV
Chapters 11-6	Chapters 1-6
Chapters 31-36	Chapters 31-36
Chapters 1-2	Chapters 61-62
Chapter 6	Chapter 91

0311#004

RULE

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

Crime Victim Assistance (LAC 22:III.4901, 4903, and 4905)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 15:1207 and 1207, the Louisiana Commission on Law Enforcement and Administration of Criminal Justice hereby gives notice that the Rule regarding the administration of the Crime Victim Assistance Fund has been amended.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

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

Subpart 5. Crime Victim Assistance

Chapter 49. Policies and Procedures

§4901. Introduction

A. The issues of services to victims of crime, underserved victims and an increased awareness of the prevalence and severity of domestic violence and violence against women coupled with the increased availability of federal funds to address these issues at the state, regional and local levels, have led to federal grant programs designed to focus on these topics. The Louisiana Commission on Law Enforcement has been named as the cognizant state agency

for the federal programs and will make available to appropriate non-profit and public agencies grant funds, to be spent in accordance with federal program guidelines and the guidelines of the Victim Services Advisory Board and the Louisiana Commission on Law Enforcement.

B. The Victims of Crime Act of 1984 (VOCA) established within the U.S. Treasury an account funded by federal fines, penalties and forfeited bail bonds to be used for the purpose of funding victim assistance grants to the states. These grants are to be used for programs that provide direct services to victims of crime, with priority given to programs that have as their principal mission direct assistance to victims of sexual assault, spouse abuse, child abuse and previously underserved victims of crime. VOCA funds in the state are administered by the Louisiana Commission on Law Enforcement in consultation with the Victim Services Advisory Board to the Commission. The VOCA program in Louisiana is administered pursuant to the federal regulations in effect for the program.

C. For more information, interested persons may contact the Victim Services Section of the Louisiana Commission on Law Enforcement.

D. The Violence Against Women Act (VAWA) of 1994 is enabling legislation that has as its intent the reduction of violence to encourage states and localities to restructure and strengthen their criminal justice response to this issue and to be proactive in dealing with the problem of domestic violence. The STOP (Services-Training-Officers-Prosecution) Program is the implementation aspect of VAWA and seeks to develop and strengthen effective law enforcement and prosecution strategies to combat violent crime against women and to develop and strengthen victim services in cases involving violent crimes against women. Unlike VOCA, monies are appropriated by Congress for this program. These funds are divided equally between law enforcement, prosecution and non-profit service providers and are administered by the Louisiana Commission on Law Enforcement in consultation with Victim Services Advisory Board. The VAWA program in Louisiana is administered pursuant to the federal regulations in effect for the program.

E. For more information, interested persons may contact the Victim Services Section of the Louisiana Commission on Law Enforcement.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 15:1071 (December 1989), amended LR 29:2376 (November 2003).

§4903. Application Requirements

Repealed.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 15:1072 (December 1989), repealed LR 29:2376 (November 2003).

§4905. Application Requirements

Repealed.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 15:1074 (December 1989), repealed LR 29:2377 (November 2003).

Michael A. Ranatza
Executive Director

0311#035

RULE

**Office of the Governor
Division of Administration
Office of Group Benefits**

Participant Employer Responsibilities
Group Benefits Coordinator (LAC 32:I.1501)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate Rules with respect thereto, OGB finds that it is necessary to require each participant employer to designate an individual as Group Benefits Coordinator and point of contact for any notice, demand, communication, or payment between the participant employer and OGB, including notice and communication from OGB to plan participants. The reason for this action is to improve communications between OGB and participating employer agencies and to facilitate the administration of benefits for all OGB plan participants.

Accordingly, OGB adopts the following Rule to become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part I. General Provisions

Chapter 15. Participant Employer Responsibilities

§1501. Group Benefits Coordinator

A. Each *participant employer* shall designate an individual as Group Benefits Coordinator and point of contact for any notice, demand, communication, or payment between the *participant employer* and the Office of Group Benefits (OGB), including notice and communication from the OGB to plan participants. Such designation shall be made on a form provided by the OGB, signed by the head of the *participant employer*, providing essential contact information, including, but not limited to, name, job title, physical address, mailing address, telephone number, facsimile transmission number, and electronic mail address, and shall be submitted to the OGB between January 1 and January 15 of each year. It shall be the responsibility of the *participant employer* to notify the OGB of a change in Group Benefits Coordinator during the year within 10 working days of a change in the designation of the Group Benefits Coordinator. Failure to appoint a Group Benefits Coordinator, notify the OGB of a change of Group Benefits

Coordinator, or submit the required Group Benefits Coordinator appointment timely shall result in a fine of not more than \$100 per day.

B. As used in this Section, the term *participant employer* means a state entity, school board, or a state political subdivision authorized by law to participate in the OGB program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 29:2377 (November 2003).

A. Kip Wall
Chief Executive Officer

0311#034

RULE

**Office of the Governor
Division of Administration
Office of State Purchasing**

Procurement of Computer Equipment and Services
(LAC 34:I.Chapter 55)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 39:199.C and D, the Office of the Governor, Division of Administration, Office of State Purchasing hereby amends the Rules relative to the purchase and lease of computer hardware and software; the procurement of hardware maintenance, software maintenance, and software support services; and the procedures for Procurement Support Team operations.

Further, the Office of State Purchasing repeals the Rules relative to Emergency Procurement of Data Processing Equipment; Guidelines for Justification of Multi-Year Data Processing Leases; Unscheduled Maintenance of Data Processing Equipment; Procedures for Disposing of Leased, Rented or Purchased Data Processing Equipment; and Equipment Specifications in Solicitations, LAC 34:I.Appendix A.1-9:5, 1-9:6 and 1-9:7, 1-9:9, and 1-9:12, respectively.

The Office of the State Register has renumbered LAC 34:I.Appendix A to meet the APA mandate of prescribing "a uniform system of indexing, numbering, arrangement of text and citation of authority and history notes for the Louisiana Administrative Code." The following table should clarify the renumbering effort.

Former Section Number under Appendix A	New Section Number
New Material	5501
1-9:3	5503
1-9:4	5505, 5507, 5509, 5511
1-9:5	Repealed
1-9:6	Repealed
1-9:7	Repealed
1-9:8	5513
1-9:9	Repealed
1-9:12	Repealed

Title 34
GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY CONTROL

Part I. Purchasing

Chapter 55. Procedures for Information Technology Hardware, Software, Software Maintenance and Support Services, and Hardware Maintenance

§5501. General

A. This Chapter describes the procedures that all agencies in the Executive Branch must follow for the procurement of Information Technology Hardware, Software, Software Maintenance and Support Services, and Hardware Maintenance. Situations not covered by these rules may be found in the general statutes and rules and regulations of the Procurement Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:199.C and D.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 29:2378 (November 2003).

§5503. Procedures for Procurement of Information Technology Hardware

A. This Section describes the information that all agencies in the Executive Branch must furnish when seeking approval of the Office of State Purchasing for the procurement of information technology hardware including installation with a cost exceeding the agency's delegated purchasing authority. Information technology hardware, for the purpose of this Section, is defined as any electronic data processing device including but not limited to central processing units, memory, peripheral devices, unit record equipment, data communications equipment, mini-computers and peripherals, graphics equipment including digitizers and plotters, optical scanning equipment, and shared logic word processing equipment, printers, multifunctional devices, and scanners. Equipment that does not fit into any of the above categories will be handled on a case-by-case basis and the agency must contact the Office of State Purchasing for a ruling on the justification required.

B. This Section does not apply to acquisitions from State Brand Name Contracts. Terms and conditions for Brand Name Contracts may contain additional procedures that an agency must follow. However, an approved IT-10 is needed for all IT procurements in excess of \$100,000.

C.1. For requests not covered by an existing contract, the following should be provided to the Office of State Purchasing to avoid delays in approval:

- a. a general description of the mission to be accomplished using the requested equipment;
- b. a detailed list of the proposed equipment, including quantities and estimated costs for lease, purchase, rental, maintenance, etc;
- c. an approved IT-10 form with all requests for procurements in excess of \$100,000.

2. The Office of State Purchasing may require additional information or justification, as it deems appropriate for any particular procurement request.

D. Each agency contemplating a procurement greater than the agency's delegated purchasing authority shall, upon definition of the preliminary functional requirements, submit a draft solicitation to the Office of State Purchasing. If the procurement exceeds \$100,000, the Office of State

Purchasing shall schedule a Procurement Support Team (PST) meeting. The Procurement Support Team participation may include assistance in finalizing the solicitation. The Procurement Support Team participation must include, as a minimum, assistance in evaluation of bids or proposals and negotiations of contract terms (if applicable).

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:199.C and D.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:77 (February 1984), amended by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 21:566 (June 1995), LR 29:2378 (November 2003).

§5505. Procedures for the Procurement of Information Technology Software

A. This Section will describe the procedures that all agencies in the Executive Branch must follow when seeking to acquire information technology software.

B. Information technology software, for the purpose of this Section is defined as any program or series of programs offered commercially to computer installations.

C. If the cost of the information technology software including modifications, installation integration, training for the total project plus maintenance and support services, for a 12 month period to be acquired is under \$100,000, it is deemed to have the advance approval of the Office of State Purchasing and shall not be for a price greater than the vendor's published price.

1. The agency must include in the procurement file a list of all known information technology software packages investigated which claim to accomplish the required task. Name each investigated, its total cost, and the rationale for selection or rejection.

2. The Office of State Purchasing will assist any agency in the negotiation of contract agreements and any other procurement related functions.

D. It is the state's intent to compete information technology software (including modifications, installation integration, training, etc.), with a total cost greater than \$100,000 whenever possible.

1. Any agency or entity that does not use the competitive process or an established standard or statewide agreement for procurement of information technology software with a total cost in excess of \$100,000 must fully justify its request to the Office of Information Technology and obtain concurrence prior to submission to the Office of State Purchasing for further processing.

2. Information technology software procurements of \$100,000 or greater will be competitively obtained through and ITB, RFP or through an OIT pricing agreement administered by the Office of State Purchasing.

3. Information technology software procurements of \$100,000 or greater must have been included in an approved IT-10 from the Office of Information Technology.

4. Procurements shall not be artificially divided to circumvent the \$100,000 threshold.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:199.C and D.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:77 (February 1984), amended by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 21:566 (June 1995), LR 29:2378 (November 2003).

§5507. Procedures for the Procurement of Information Technology Hardware Maintenance

A. This Section will describe the procedures that all agencies in the Executive Branch must follow when seeking to acquire information technology hardware maintenance.

B. For purposes of this Section, information technology hardware maintenance consists of remedial maintenance, preventative maintenance, replacement parts, labor and engineering changes necessary to keep information technology hardware in good working condition.

C. Procurements for information technology hardware maintenance under \$100,000 may be handled non-competitively and are deemed to have the advance approval from the Office of State Purchasing and shall not be for a price greater than the vendor's published price. The Office of State Purchasing will assist any agency in the negotiation of contract agreements and any other procurement related functions.

D. It is the state's intent to compete information technology hardware maintenance with a total cost greater than \$100,000 whenever possible.

1. Information technology hardware maintenance over \$100,000 may be procured non-competitively from the original equipment manufacturer (OEM) if the maintenance is for mission critical equipment (such as mainframes, mainframe peripherals, enterprise servers, or network backbone components). The agency must submit a letter of justification signed by the head of the agency or his designee to the Office of State Purchasing.

2. Any agency or entity that does not use the competitive process or an established standard or statewide agreement for procurement of information technology hardware maintenance with a total cost in excess of \$100,000 must fully justify its request to the Office of Information Technology and obtain concurrence prior to submission to the Office of State Purchasing for further processing.

3. Information technology hardware maintenance not covered in Paragraph D.1 must be competitively procured through the Consulting and Support Services Agreement (CSSA), Invitation to Bid (ITB), or Request for Proposal (RFP) process.

4. Information technology hardware maintenance of \$100,000 or greater must have been included in an approved IT-10 from the Office of Information Technology.

5. Procurements shall not be artificially divided to circumvent the \$100,000 threshold.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:199.C and D.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:77 (February 1984), amended by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 21:566 (June 1995), LR 29:2379 (November 2003).

§5509. Procedures for the Procurement of Information Technology Software Maintenance

A. This Section will describe the procedures that all agencies in the Executive Branch must follow when seeking to acquire information technology software maintenance.

B. For the purposes of this Section, information technology software maintenance includes on-site, telephone and/or on-line troubleshooting, installation assistance, basic usability assistance, etc. Information technology software

products and technologies to be covered include operating systems, application software and systems, application software, and systems and network management software, tools and utilities.

C. Procurements for information technology software maintenance under \$100,000 may be handled non-competitively and are deemed to have the advance approval from the Office of State Purchasing and shall not be for a price greater than the vendor's published price. The Office of State Purchasing will assist any agency in the negotiation of contract agreements and any other procurement related functions.

D. It is the state's intent to compete information technology software maintenance with a total cost greater than \$100,000 whenever possible.

1. Any agency or entity that does not use the competitive process or an established standard or statewide agreement for procurement of information technology software maintenance with a total cost in excess of \$100,000 must fully justify its request to the Office of Information Technology and obtain concurrence prior to submission to the Office of State Purchasing for further processing.

2. Information technology software maintenance in which the software vendor is the only authorized entity to provide product fixes, patches, updates, or upgrades can continue to be handled non-competitively in accordance with R.S. 39:199.D. A letter from the information technology software vendor substantiating the above information is required.

3. Any other type of information technology software maintenance not covered in Paragraphs D.1 or D.2 must be competitively procured through the Consulting and Support Services Agreement (CSSA), Invitation to Bid (ITB) or Request for Proposal (RFP) process.

4. Information technology software maintenance with a cost of \$100,000 or greater must have been included in an approved IT-10 from the Office of Information Technology.

5. Procurements shall not be artificially divided to circumvent the \$100,000 threshold.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:199.C and D.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:77 (February 1984), amended by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 21:566 (June 1995), LR 29:2379 (November 2003).

§5511. Procedures for the Procurement of Information Technology Software Support Services

A. This Section will describe the procedures that all agencies in the Executive Branch must follow when seeking to acquire information technology software support services.

B. For purposes of this Section, information technology software support services include capacity planning, performance analysis, on-site troubleshooting, custom modifications, etc.

C. Procurements for information technology software support services under \$50,000 may be handled non-competitively and are deemed to have the advance approval of the Office of State Purchasing. The Office of State Purchasing will assist any agency in the negotiation of contract agreements and any other procurement related functions.

D. Procurements shall not be artificially divided to circumvent the \$50,000 threshold.

E. Information technology software support services of \$50,000 or greater must be procured using the Consulting and Support Services Agreement (CSSA) or the Request for Proposal (RFP) process in accordance with R.S. 39:1481 et seq. (Office of Contractual Review).

F. Information technology software support services of \$100,000 or greater must have been included in an approved IT-10 from the Office of Information Technology.

G. It is the state's intent to compete information technology software support services with a total cost of \$50,000 or greater whenever possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:199D.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:77 (February, 1984), amended by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 21:566 (June 1995), LR 29:2379 (November 2003).

§5513. Procurement Support Team Operations

A. Procurement Support Team Composition

1. A Procurement Support Team (PST) shall be formed in accordance with the procedures defined herein for every information technology contract in an amount \$100,000 or greater for the procurement of information technology hardware, hardware maintenance, software, software maintenance, and software support services. All contracts shall be subject to the review and approval of other agencies as required by statute or regulations. Purchase release orders issued pursuant to a Direct Order Contract or a Brand Name Contract shall not constitute a contract for purposes of these procedures. The formation of a Procurement Support Team shall be accomplished by the Office of State Purchasing and shall include one or more representatives from each of the following: the Office of State Purchasing; the Legislative Legal Staff; the using agency initiating the procurement action; and the Legislative Fiscal Office. The Office of Information Technology will provide technical staff to assist the Office of State Purchasing and the Procurement Support Team.

2. At least two members of each Procurement Support Team shall have formal training in contract negotiations. The Legislative Fiscal Officer, the speaker of the House of Representatives and the president of the Senate (jointly), and the head of the Purchasing Agency (or his designee), shall each designate in writing to the Office of State Purchasing the names of a primary and an alternate team member. It shall be the responsibility of each named agency to keep the Office of State Purchasing advised of any changes in designated individuals.

3. The individual agencies represented on procurement support teams will have the following primary responsibilities. These responsibilities may be enlarged or modified as appropriate to each given situation by the procurement support team leader with the concurrence of the Office of State Purchasing.

a. Legislative Fiscal Office. The Legislative Fiscal Office shall have the primary responsibility for the analysis of solicitations and review of funding procedures and certification of specific appropriation for the purpose prior to the final contract award.

b. Legislative Legal Staff. The Legislative Legal Staff shall have the primary responsibility for developing the legal terms and conditions of draft contracts, evaluating the legal impact of substantive terms and conditions, review to ensure compliance with statutes and regulations, and legal negotiations.

c. Office of State Purchasing. The Office of State Purchasing shall have primary responsibility for insuring compliance with procurement procedures and regulations, the drafting of solicitations, and the evaluation of bids and proposals.

d. The Procuring Agency. The procuring agency shall have primary responsibility for the determination of compliance of bids or proposals with the functional requirements, and for all management decisions at each phase of the procurement process.

4. The Office of Information Technology shall provide technical staff to assist the Office of State Purchasing and the Procurement Support Team. They shall provide advice and support in the area of information technology techniques, negotiation techniques, developing the structure and content of solicitations, and evaluation of bids or proposals, as requested by the Office of State Purchasing.

B. Procurement Support Team Involvement. The Procurement Support Team participation may include assistance in finalizing the solicitation. Procurement Support Team participation must include, as a minimum, assistance in evaluation of bids and proposals, and negotiations of contract terms (if applicable). Assistance shall consist of reviewing the evaluation process and recommendation of award. Procurements requiring this level of support will involve the active participation of all of the members of the Procurement Support Team as a unit.

1. The Office of State Purchasing, pursuant to the guidelines established therein, shall be responsible for convening a Procurement Support Team if the procurement is \$100,000 or greater. The Office of State Purchasing will designate the team leader.

2. At least four members, one from each office designated, must be present to constitute a quorum.

3. There will be at least one meeting during the procurement process. Each member of the Procurement Support Team must assist in the evaluation of bids or proposals, and negotiation of contracts (if applicable). The Procurement Support Team will make written evaluations and recommendations as a group; these will not supplant written individual agency approvals as required by statute or regulations. This review must be indicated by the signature of each team member on the Procurement Support Team review form, which is maintained by the Office of State Purchasing. In the event a team member indicates acceptance or concurrence of any activity, and the team member's agency subsequently refuses to approve the process pursuant to its statutorily required review, the reviewing agency and the individual team member must submit to the team leader written reasons for their actions. The team leader shall file these documents in the final activity file.

4. In situations where formal negotiations with prospective vendors or a successful bidder or proposer are appropriate, such negotiations will be conducted by a negotiation team appointed by the Procurement Support

Team leader. One member of the negotiating team will be designated as lead negotiator. The results of such negotiations will, of course, be subject to all statutorily required reviews. The lead negotiator and at least one other member of the negotiating team should have formal training in contract negotiations.

5. After the procurement process has been completed, one copy of the documentation related to the procurement will be retained on file by the Office of State Purchasing.

6. The Office of State Purchasing shall have final statutory approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:199.C and D.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:77 (February 1984), amended by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 21:566 (June 1995), LR 29:2380 (November 2003).

Denise Lea
Director

0311#049

RULE

**Office of the Governor
Division of Administration
Office of State Purchasing**

**LaMAS (Louisiana Multiple Award Schedule)
State Contracts Based on GSA Prices
(LAC 34:I.2506)**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and under the authority of R.S. 39:1581 and R.S. 39:1702.A.(2), Office of the Governor, Division of Administration, Office of State Purchasing has adopted additional Rules to Chapter 25 on Intergovernmental Regulations with the following Section on establishment of state contracts based on GSA prices to be known as LaMAS (Louisiana Multiple Award Schedules).

Title 34

**GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY CONTROL**

Part I. Purchasing

Subpart 1. Central Purchasing Procedures

Chapter 25. Intergovernmental Regulations

§2506. LaMAS (Louisiana Multiple Award Schedule)

State Contracts Based on GSA Prices

A. The State Central Purchasing Agency of the Division of Administration may establish state contracts based on GSA (General Service Administration) pricing when it has been determined in writing by the director of State Purchasing that certain conditions are met, which shall become part of the procurement file.

B. Materials, supplies, or equipment shall not be purchased on a state contract based on GSA pricing at a price higher than the price of the same item listed on any available state purchasing contract.

C. Establishment of a state contract based on GSA pricing will only be considered when there is a valid business case.

D. State agencies shall not procure materials, supplies or equipment directly under a GSA contract. The State Central Purchasing Agency of the Division of Administration will:

1. be responsible for analyzing and determining the feasibility of establishing a LaMAS state contract based on GSA prices; and

2. issue procedures for establishment and utilization of this type of contract.

E. No use shall be made of a LaMAS contract without the participation of a Louisiana licensed dealer or distributor. Louisiana licensed dealers or distributors must meet the requirement of a resident business defined in R.S. 39:1591(6). Louisiana licensed dealers or distributors shall agree to:

1. Louisiana terms and conditions; and

2. provide written consent from the GSA contractor to extend current GSA pricing to the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581 and R.S. 39:1702.A.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 29:2381 (November 2003).

Denise Lea
Director

0311#050

RULE

**Department of Health and Hospitals
Board of Certified Social Work Examiners**

Social Work (LAC 46:XXV.Chapters 1-9)

The Louisiana Board of Social Work Examiners has amended its Rules, which implement the Louisiana Social Work Practice Act, R.S. 37:2701-2721. These amendments will apply to all credentialed social workers and amend §113.Social Work Relationships, §117.Conduct, §303.Practice, §305.Qualifications for Registration, Certification Licensure, §307.Administration of Examination, §309.Application Procedure, §311. Renewals and Cancellations, §313.Fees, §315.Board Members, §317.Continuing Education Requirements, §505.GSWs Seeking the LCSW Credential, §701.Impaired Professional Program, and Chapter 9. Procedural Rules.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXV. Certified Social Workers

Chapter 1. Standards of Practice

§113. Social Work Relationships

A. - A.2. ...

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;

4. - 7. ...

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 a risk of exploitation. 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 runs a risk of exploitation.

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.

2. Personal Relationships with Former Clinical/Therapeutic Clients. A social worker may engage in a personal relationship, except as prohibited by §113.B.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.B.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 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.B.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.B.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. 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.B.1-8.

C. - C.9. Repealed.

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 26:297 (February 2000), amended LR 29:2381 (November 2003).

§117. Conduct

A. - C. ...

D. Responsibility to the Public. A social worker shall not knowingly participate in any activity or practice (including hiring, supervising, or concealing) by which activity or practice an individual engages or continues to engage in a practice of social work which is prohibited by R.S. 37:2709 or which activity or practice aids or abets any violation of R.S. 37:2720. A social worker who becomes aware of an activity or practice as described herein or of conduct prohibited by R.S. 37:2709 or R.S. 37:2720 shall report such information to the board at the earliest opportunity.

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 26:299 (February 2000), amended LR 29:2382 (November 2003).

Chapter 3. General Provisions

§303. Practice

A. - E. ...

F. An applicant who meets all the requirements of R.S. 37:2706, 2707, or 2708 and who has worked more than 120 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, shall be offered the following in the form of a consent order and agreement in order to process the application:

1. completion of five pre-approved continuing education hours in ethics to be completed within 90 days 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; and

2. passing score on an open book examination on the Louisiana Social Work Practice Act and the *Rules, Regulations and Procedures*, which include the Standards of Practice for Social workers within 90 days of the date the Consent Order and Agreement is signed;

F.3. - G ...

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 26:301 (February 2000), amended LR 29:2383 (November 2003).

§305. Qualifications for Registration, Certification, Licensure

A. - A.1. ...

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, or a master's degree of social work from a graduate social work program, accredited by the Council on Social Work Education.

B. - C.3. ...

4. The Provisional Graduate Social Worker who does not pass the credentialing examination for the GSW certification within three years from the date of issuance of the original certification may apply for the registered social work.

D. - E. ...

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 26:301 (February 2000), amended LR 29:2383 (November 2003).

§307. Administration of Examination

A. - A.1. ...

2. The Louisiana State Board of Social Work Examiners recognizes the examinations of the Association of Social Work Boards as the national examination for social workers.

A.3. - B.4. ...

C. Examination Review Policy. The board may allow candidates to review failing examinations, at applicant's expense, in accordance with the rules of the Association of Social Work Boards.

D. - D.2. ...

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 26:302 (February 2000), amended LR 29:2384 (November 2003).

§309. Application Procedure

A. ...

B. A new application must be submitted for any change in social work credentials.

C. Applications for license, certification or registration are reviewed and approved by the board at regularly scheduled board meetings.

D. Applications must be submitted to the board office at least seven days prior to the board's meeting to be eligible for consideration.

E. 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.

F. The application fee for licensure, certification, provisional certification, or registration must be submitted in the form of a money order or certified check.

G Applicants for the LCSW license must submit an employer verification affidavit for each place of employment in Louisiana after receipt of the MSW degree.

H. Applicants for the LCSW license must submit proof of 24 months of accumulated supervised experience on the forms provided by the board.

I. Non-resident applicants may submit proof of 24 months of accumulated supervised experience completed out-of-state on the forms provided by the board and given by a social worker licensed at a level equivalent to the LCSW license.

J. Non-resident applicants may submit verification of out-of-state accumulated social work employment to qualify for the LCSW license.

K. The application for licensure, certification, provisional certification and registration requests the applicant's social security number for identification purposes; however, submission is optional.

L. 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.

M. An applicant shall be deemed to have abandoned the application if the requirements for the credential are not completed within one year of the date on which the application was received. An application submitted subsequent to the abandoned application shall be treated as a new application.

N. Initial social work credentials issued during the last quarter of the fiscal year, (i.e., April, May or June) will not be required to renew for the next fiscal year.

O. 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 30 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.

P. Additional Requirements for International Applicants/Speakers of English as a Second Language

1. Any document required to be submitted to the board with an application for license, certification or registration shall be in the English language, or accompanied by a certified translation thereof into the English language.

2. As a condition of the board's consideration of the application of a graduate of a foreign college or university, the applicant shall provide the board with a statement from the Council on Social Work Education that the applicant's degree is equivalent to an accredited social work degree in the United States.

3. Applicants moving into the United States from out of the country may have 120 days to complete the application process to allow time to complete the additional requirements for foreign graduates/speakers of English as a second language.

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 26:302 (February 2000), amended LR 29:2383 (November 2003).

§311. Renewals and Cancellation

A. Renewal notices are mailed on June 20 of each year. The renewal fee must be postmarked on or before November 30, to avoid late renewal fee.

B. ...

C. Twenty clock hours of continuing education in programs approved by the board shall be obtained prior to June 30 of each year. See §317 for rules on acceptable continuing education.

D. ...

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. Payment must be postmarked on or before February 28.

F. It is the social worker's responsibility to keep the board informed of his/her current mailing address.

G - I. Repealed.

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 26:304 (February 2000), amended LR 29:2384 (November 2003).

§313. Fees

A. ...

* * *	
Late Renewal Fee for LCSW (postmarked after November 30)	\$150
Late Renewal Fee for GSW (postmarked after November 30)	100
Late Renewal Fee for RSW (postmarked after November 30)	50

Fee for mailing lists per label plus postage and handling	\$0.05

Fee for Open Book Examination on Social Work Practice Act and Rules, Standards and Procedures	\$25 per administration

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 26:304 (February 2000), amended LR 29:2384 (November 2003).

§315. Board Members

A. Board Member Appointments

1. Whenever possible the board office shall notify all social workers of vacancies that occur on the board at least 45 days prior to the vacancy.

a. The notice to all social workers shall state the requirements for the vacant board position(s) and the date by which social workers or members of the public must submit a letter of interest and resume.

b. The notice to all social workers shall also include the names and addresses of all qualified social work membership organizations who meet the legal requirements to submit names for service on the board.

B. 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.

C. 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 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.

D. 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.

E. 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 26:304 (February 2000), amended LR 29:2385 (November 2003).

§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. 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. For audit purposes, only certificates of attendance, sign-in sheets signed by a representative of the sponsoring organization, or an original letter from the sponsoring organization will be accepted as proof of attendance for continuing education events.

F. The collection period for continuing education hours is July 1, through June 30 of each fiscal year.

G. 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

H. 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.

I. 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.

J. 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 clock hours in social work ethics once every two years.

K. 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 clock hours in social work ethics once every two years.

L. 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 clock hours in social work ethics once every two years;

b. ten clock hours in social work supervision, once every five years to maintain the board approved supervisor status, and

c. ten 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 20 clock hours of continuing education in programs approved by the board to include:

a. three clock hours in social work ethics once every two years;

b. ten clock hours in social work supervision, once every five years to maintain the board approved clinical supervisor status; and

c. five clock hours of clinical content, including diagnosis and treatment.

M. The following learning forums are approved for continuing education and must contain content applicable to social work practice.

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, Clinical Social Work Federation, Council on Social Work Education, American Medical Association, American Psychiatric Association, American Psychological Association, American Hospital Association and Association of Social Work Boards or other appropriate professional entities. Workshops with content applicable to social work practice which are offered by appropriate professional entities or individuals and approved by one of the approval organizations for continuing education credits are also acceptable.

a. Should the individual social worker make the determination that an education offering which is not pre-approved by one of the approval organizations has content applicable to social work practice, the social worker may complete and submit the *Guide for Assessment of Continuing Education* (§317.P) to the board for consideration.

2. Distance learning (teleconferences, telecourses, and Internet courses sponsored by entities listed in §317.L.1, or an accredited university) cannot exceed a total of 10 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 content applicable to social work practice at professional conferences, staff development meetings, and other appropriate forums in which you are the primary presenter. These presentations count 1 1/2 times the actual time of the presentation, in order to give credit for preparation time. (Example: You prepare a presentation on Holiday Stress that lasts one hour. You will receive 1 1/2 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 which deal with content applicable to social work practice, are presented by a creditable and knowledgeable presenter, and are aimed at a professional audience.

6. Attendance at staff development presentations with content applicable to social work practice (such as staff meeting with a formal and in-depth presentation on working with clients who present borderline symptoms, etc.). 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, Association of Social Work Boards (ASWB) item writing workshops, symposiums, panel discussions, or conferences sponsored by the professional associations suggested in §317.L.1. Please be prepared to provide the dates and nature of content or consultation covered.

8. Formal study groups of three or more participants. Must submit name, address, telephone number and credentials of group members to the board office. Study groups should maintain records of topics, attendance, meeting times, and presenters for audit purposes.

9. Contracted professional consultation which the credentialed social worker receives. Must provide the paid consultants name, address, telephone number, credentials, and the dates and focus of consultation.

10. Preparation of substantial written material with content applicable to social work practice 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 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.

N. 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.

O. 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.

P. Guide for Assessment of Continuing Education. As continuing education events vary across the categories listed below, the appropriateness of considering them as acceptable continuing education also varies. An event must receive a total score (combination of all three sections) of 10 to be "clearly acceptable" for continuing education to renew your social work credential.

PROGRAM CONTENT

(Clearly Acceptable)

____6) Mainstream social work knowledge, skills and values

____6) Specialized social work knowledge, skills and values

____4) Information from related fields that is useful for social work practice

____2) Developing areas that may lack strong research, support or clear application

____0) Content that is specifically not acceptable or not related to social work practice
(Clearly Not Acceptable)

PROGRAM PRESENTER

(Clearly Acceptable)

____5) Social worker with appropriate expertise in content area

____4) Related professional with ability to connect content to social work practice

____2) Lay-person (e.g., client) on the impact of needing/receiving services

____0) Presenter with no apparent professional qualifications nor link to social work practice
(Clearly Not Acceptable)

PROGRAM AUDIENCE

(Clearly Acceptable)

____4) Social work practitioners/students

____4) Interdisciplinary professional audience that may include social workers

____3) Audience presumed to be primarily from another profession (e.g., nursing)

____1) Audience open to the general public

____0) Audience presumed to be primarily the general public
(Clearly Not Acceptable)

Total Score ____ (add score from each section to get Total Score)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.(C) and (G) and 37:2714.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:305 (February 2000), amended LR 29:2386 (November 2003).

Chapter 5. Minimum Supervision Requirements

§503. GSWs Seeking the LCSW Credential

A. Supervision for the LCSW license can begin after the MSW obtains Graduate Social Work or Provisional Graduate Social Work certification.

B. 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).

C. MSW applicants who began their supervised experience on or before December 31, 1999 and filed a Contract for Supervision at the board office postmarked on or before December 31, 1999, shall be required to submit only 24 accumulated months of supervised post graduate social work experience in accordance with the board's supervision rules and on the forms provided by the board to qualify for the LCSW examination and license.

D. 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.

E. Face-to-face supervision for licensure must total at least 96 hours.

F. Supervision segments of no fewer than 30 minutes will be counted toward meeting the supervision requirement.

G. The requirement for supervision is at least four hours per calendar month with at least two different supervision contacts per month.

H. One-half (48 hours maximum) of the supervision requirement may be met through group supervision, occurring in increments of no more than two hours per group. No more than five supervisees may be involved in supervision groups.

I. 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*.

J. 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.

K. School social workers may only count supervision that occurs during the full months in which they are employed in a social work position.

L. The original plan of supervision must be submitted to the board office within 60 days of the first supervision session. A plan of supervision shall be submitted on each supervision experience.

M. The individual completing supervision toward the LCSW supervised experience requirement must use the following forms to submit their supervision to the board office:

1. registration of supervision;
2. employer verification affidavit;
3. plan of supervision;
4. record of supervision;
5. evaluation of supervision;
6. termination of supervision;
7. professional experience verification affidavit.

N. Form must be legible. Preferably, material on forms should be typed, but if not typed, the forms must be printed neatly and legibly. Forms which are not legible will be returned.

O. Only original, unaltered supervision forms may be submitted to the board office. Copies, faxes, or forms with any alterations (such as white-out or mark-outs) will not be accepted.

P. To register her/his intent to initiate supervision, the GSW must submit the completed Registration of Supervision, with the registration fee of \$35.

Q. The plan for supervision will be reviewed and revisions may be required. Revisions shall be submitted to the board office within 30 days of receipt by the supervisee/supervisor.

R. The supervisee shall submit an employer verification affidavit form from each place of social work employment after she/he receives the MSW degree. The form shall be completed by the employer, not the supervisor (unless the employer and the supervisor are one and the same).

S. Termination and evaluation forms shall be submitted to the board office at the end of the supervisory period, and must clearly designate the beginning and ending dates of supervision.

T. Sometimes it is necessary for a supervisor to discontinue supervising a GSW for licensure. When this occurs, no matter what length of time the supervisor actually supervised the supervisee, the supervisor must submit an Evaluation and Termination form.

U. The professional experience verification affidavit shall be submitted to the board office at the end of the 36 accumulated months of work experience from each place of employment.

V. The supervisor has a professional responsibility to honor his/her commitment to supervise responsibly, which includes submitting forms on a timely basis. Should the supervisor fail to submit forms appropriately, legibly, and on a timely basis, the board reserves the right to withdraw the BACS designation from the supervisor.

W. When supervision is provided to a GSW by an LCSW-BACS supervisor, not an agency employee, social work ethics require that the LCSW-BACS take responsibility for securing agency agreement to the Plan of Supervision,

whether the fee for supervision is paid by the agency or the supervisee.

1. The LCSW-BACS is responsible for clarifying with the agency administration, the supervisory role responsibilities and the content of supervision.

2. Under such a plan the supervisee's written evaluation is made available to the agency if the agency is paying for the supervision. If the supervisee is paying the fee, the evaluation is the supervisee's property.

X. If the GSW receives supervision outside of the state of Louisiana, that supervision will be accepted if:

1. the supervisor has completed the authorized forms of the Louisiana State Board of Social Work Examiners;

2. the supervisor was licensed at the time of supervision in the other state and submits the license verification of out-of-state supervisor form (available from board office);

3. the supervisor was certified by the Academy of Certified Social Workers (ACSW) at the time of supervision, which the supervisor must verify.

Y. A supervisory record shall include:

1. plan for supervision;

2. learning assessment of supervisee;

3. record of all supervisory sessions, and any canceled or missed appointments;

4. overview of cases discussed, as well as significant decisions made;

5. any ethical concerns;

6. significant problems arising in supervision, and how they were resolved;

7. memos and correspondence;

8. for all above data, dates completed and person completing the item.

Z. The board's publication, *Supervision for Professional Development and Public Protection: A Guide*, provides more information relative to supervision.

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 26:307 (February 2000), amended LR 29:2387 (November 2003).

§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 as well as procedures used in supervision toward licensure 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 §503. Failure to comply with all regulations may result in the board lifting the BACS designation from the LCSW License;

3. participate in a board pre-approved workshop on the theory and techniques of supervision as well as procedures used toward licensure of at least 10 hours duration once every five years effective July 1, 1995. This means those BACS supervisors who achieved their BACS status before July 1, 1995 must attend another supervision workshop before June 30, 2000 and every five year period thereafter.

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 26:308 (February 2000), amended LR 29:2388 (November 2003).

Chapter 7. Impaired Professional Program Authority

§701. Authority

A. The Louisiana State Board of Social Work Examiners recognizes that impairments in the functioning of persons licensed, credentialed or registered to practice under the auspices of the Louisiana Social Work Practice Act can affect competent delivery of social work services and impair professional judgment.

B. Therefore, in order to safeguard the public health, safety, and welfare of the people of this state, as mandated by R.S. 37:2701, the Louisiana State Board of Social Work Examiners establishes the Social Work Impaired Professional Program.

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 29:2389 (November 2003).

§703. Purpose and Scope

A. The goal of the Social Work Impaired Professional Program is to provide for public protection through monitoring and a remediative course of action applicable to social workers who are functionally impaired in their ability to safely practice social work. Impairments include, but are not limited to mental, physical, and addictive disorders or other conditions. The program also supports recovery through preventive measures and allows entrance into the program before harm occurs.

B. A social worker who meets the requirements of R.S. 37:2706, 2707 or 2708 may enter the program subsequent to voluntary disclosure of impairment via an initial or renewal application for a credential. Entrance into the program may also occur by determination of the board, following involuntary disclosure of impairment in accordance with R.S. 37:2717(A)(2) or R.S. 37:2717(B)(4), or by other circumstances deemed appropriate by the board. Participation in the program may hence be required as a prerequisite to continued social work practice in accordance with the conditions of any consent order, compliance or adjudication hearing. A social worker who enters the program will be allowed to maintain his/her social work credentials while in compliance with the requirements of his/her program.

C. Professionals who participate in evaluation, monitoring or treatment and who are approved or designated

by the board to render these services are afforded the immunity provisions of the Social Work Practice Act, R.S. 37:2723. The social worker will be responsible for executing all required releases of information and authorizations required for the board or its designees to obtain information, from any monitor, treatment or service provider concerning the social workers progress and participation in the program.

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 29:2389 (November 2003).

§705. Program Implementation

A. The board may utilize its discretionary authority to require or exclude specific components of this program for participants based upon determination of the nature and severity of the impairment. Participation in the Social Work Impaired Professional Program may consist of all or part of the following components.

1. The program participant may be required to submit to an assessment relative to the impairment.

a. This assessment will be completed by a licensed professional who is pre-approved by the board.

b. The format and content of this assessment will meet the requirements designated by the board, but will at a minimum contain information concerning:

i. previous inpatient/outpatient treatment episodes;

ii. relapse history;

iii. an assessment of the participant's psychosocial, physical and other needs relative to the impairment; and

iv. recommendations for future treatment.

c. The assessment will be forwarded to the board by the professional completing the assessment, and received by the board no later than 30 days following the board's determination of the participant's eligibility or requirement to participate in the program.

2. The participant may be required to submit to ongoing monitoring for a period of up to five years.

a. The beginning date of the monitoring period will be the date upon which a consent order is formally signed by the social worker and the board, or the date of the board's official decision to require program participation in the event of an adjudication hearing.

3. During the monitoring period the social worker may be required to submit to random bi-monthly drug and/or alcohol screenings as determined appropriate by the board, or other monitoring requirements which are pertinent and relative to the documented impairment.

a. The interval and timing of the required screening will be directed by a monitor who is pre-approved by the board. This monitor will be considered to have been duly selected by the board as its agent for the purposes of directing the required screens.

b. The results and reports of the results of all screens will be submitted to the board before the final business day of the month following the date of the screen.

4. Receipt by the board of any positive, unexplained substance abuse/drug screen or reports of non-compliance or complications relative to the impairment during the monitoring period may result in suspension, or other appropriate action pertaining to the social workers credential as determined appropriate by the board.

5. When the impairment is substance related, the social worker may be required to attend Twelve Step meetings on a regular basis as determined appropriate by the designated licensed substance abuse professional, and as approved or required by the board, but should be no less than four times monthly.

a. A pre-approved monthly log must be submitted to and received by the board before the final business day of the month following completion of the required meetings. It is the social worker's responsibility to ensure that these logs are properly completed and received by the board by the designated date.

b. The log requires documentation of the name of the sponsor, and meeting dates and times.

c. Submission of logs will be required for at least one year of program participation, but may be required for any period of time up to and including the entire term of monitoring as determined by the designated licensed substance abuse professional and as approved or required by the board.

6. During the monitoring period the social worker may be required to participate in professional supervision with a board approved and designated LCSW at a frequency determined by the board for a period of time up to and including the entire five year period of monitoring.

7. In the event that a social worker relocates to another jurisdiction, the social worker will within five days of relocating be required to either enroll in the other jurisdiction's impaired professional program and have the reports required under that agreement sent to the Louisiana State Board of Social Work Examiners, or if the other jurisdiction has no impaired professional program, the social worker will notify the licensing board of that jurisdiction that the social worker is impaired and enrolled in the Louisiana Social Work Impaired Professional Program. Should the social worker fail to adhere to this requirement, in addition to being deemed in violation of the program requirements and corresponding consent order or adjudication, the social worker's social work credential will be suspended.

8. The social worker shall notify the board office by telephone within 48 hours and in writing within five working days of any changes of the social worker's home or work address, telephone number, employment status, employer and/or change in scope or nature of practice. The social worker may satisfy the notice by telephone requirement by leaving a voice message at the board office at times when the office is closed.

9. Other requirements for participation in the program may include but are not limited to limitations of social work practice.

10. The board, in addition to other conditions, may require that the social worker obtain regularly scheduled therapy (at a prescribed interval).

a. The type and interval of therapy may be recommended by the designated pre-approved licensed professional responsible for program monitoring, as approved by the board.

b. The type and interval of therapy may be required by the board.

c. The social worker may choose the licensed substance abuse professional, or other qualified professional

to provide this therapy, subject to board approval and designation.

11. Notification of a violation of the terms or conditions of this agreement, consent order or adjudication order may result in the immediate suspension of the individual's social work credential to practice in the state of Louisiana.

12. The social worker shall be responsible for all costs incurred in complying with the terms of this agreement, including but not limited to therapy, assessments, supervision, drug/alcohol screens and reproduction of treatment or other records.

13. The social worker must submit to the board an appropriately notarized statement indicating acceptance of the required conditions of participation in the Social Work Impaired Professional Program as mandated by the board, along with all initial (or updated) releases or authorizations for the board or its designees to obtain information concerning the social worker's participation and progress in the program. This statement and the required releases and authorizations must be submitted prior to the issuance of any initial credential or re-issuance of a renewal of a credential.

14. The board will, to the full extent permissible under R.S. 44:4(26), maintain an agreement or consent order relating to the social worker's participation in the Social Work Impaired Professional Program as a confidential matter. The board retains the discretion to share information it deems necessary with those persons providing evaluation/assessment, therapy, treatment, supervision, monitoring or drug/alcohol testing or reports. Violation of any terms, conditions or requirements contained in any consent order, or board decision can result in a loss of the confidential status.

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 29:2389 (November 2003).

Chapter 9. Procedural Rules

§901. Authority

A. Consistent with the legislative purpose specified in 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 R.S. 37:2705(C), 37:2717(C)(E) and 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 29:2390 (November 2003).

§903. 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 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 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 29:2390 (November 2003).

§905. 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 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 §711.B and §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 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 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 29:2391 (November 2003).

§907. 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 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 Subsection A above, 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 §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 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 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 §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 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 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 29:2391 (November 2003).

§909. 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 Procedures 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 29:2392 (November 2003).

§911. 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 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 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 29:2393 (November 2003).

§913. 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 29:2393 (November 2003).

§915. Pleadings, Motions; 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 (8 1/2" 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 29:2393 (November 2003).

§917. 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 29:2393 (November 2003).

§919. Motions for Continuance of Hearing

A. A motion for continuance of hearing shall be filed within the delay prescribed by §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 29:2394 (November 2003).

§921. 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 29:2394 (November 2003).

§923. 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 R.S. 49:956, or as may be modified by R.S. 13:3715.1(J) and R.S. 44:4(25).

B. To the extent applicable, the testimonial privileges set out in the Social Work Practice Act, 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 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 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 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 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 29:2394 (November 2003).

§925. 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. In the event that a board member is disqualified or recused from a complaint or hearing, the board should immediately contact the governor to appoint a board member pro tem to replace the disqualified member for the complaint or hearing in progress only.

C. 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 §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.

D. 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 R.S. 49:957.

E. At least one member of the hearing panel including the panel members of a compliance hearing specified under §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 29:2395 (November 2003).

§927. 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 29:2395 (November 2003).

§929. 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 29:2395 (November 2003).

§931. 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 29:2395 (November 2003).

§933. 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 R.S. 37:2717 and 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 29:2396 (November 2003).

§935. 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 29:2396 (November 2003).

§937. 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 29:2396 (November 2003).

§939. 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 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 29:2397 (November 2003).

§941. 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 R.S. 37:2720 or prior to bringing any injunctive proceedings under 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 29:2397 (November 2003).

§943. Compliance Hearing

A. Any applicant whose application is rejected may seek a compliance hearing as provided for in 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 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 R.S. 49:959, subject to further judicial review pursuant to 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 29:2397 (November 2003).

§945. Declaratory Ruling

A. Any person or entity deemed to be governed by or under the jurisdiction of 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 30 days of the request.

B. 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 60 days of the request. Any judicial review of the validity or applicability of any of these rules shall be in conformity with 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 29:2398 (November 2003).

E. Taylor Aultman, Jr., LCSW
Chairperson

0311#032

RULE

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

Durable Medical Equipment Program Nebulizers? Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2002-2003 General Appropriation Act, which states: "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement for nebulizers to the lower of \$60 or the provider's usual and customary charge.

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

David W. Hood
Secretary

0311#085

RULE

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

Eligibility? Medicaid Purchase Plan for Workers with Disabilities (LAC 50:III.763 and 765)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby adopts LAC 50:III.763-765 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in

accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH? MEDICAL ASSISTANCE

Part III. Eligibility

Chapter 7. Medicaid Programs

§763. Workers with Disabilities

A. Effective January 1, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implements the Medicaid purchase plan for workers with disabilities under the Title XIX of the Social Security Act. The Medicaid Purchase plan allows persons who meet the Social Security disability criteria to seek the employment services, vocational rehabilitation services and other support services needed to obtain, regain or maintain employment and reduce their dependence on cash benefit programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2399 (November 2003).

§765. Recipient Eligibility

A. The Medicaid purchase plan shall cover workers with disabilities who meet the following criteria:

1. are employed;
2. are age 16 through age 64;
3. meet the Social Security Administration criteria for disability;
4. have net income less than 250 percent of the federal poverty level;
5. have countable assets less than \$25,000; and
6. are enrolled in no-cost health insurance.

B. The following buy-in criteria shall be utilized by the Medicaid purchase plan.

1. If the worker has a net income less than 150 percent of the federal poverty level, there shall be no cost to the worker.

2. If the worker has a net income equal to or less than 200 percent of the federal poverty level, there shall be a buy-in premium of \$80 per month.

3. If the worker has a net income equal to or less than 250 percent of the federal poverty level, there shall be a buy-in premium of \$110 per month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2399 (November 2003).

Implementation of this Rule shall be contingent upon approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

David W. Hood
Secretary

0311#089

RULE

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

Hospital Licensing Standards
(LAC 48:I.Chapter 93)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 48:I.Chapter 93 under the Medical Assistance Program as authorized by R.S. 40:2100-2115 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH? GENERAL

Part I. General Administration

Subpart 3. Licensing

Chapter 93. Hospitals

Subchapter A. General Provisions

§9301. Purpose

A. The purpose of the hospital laws and standards is to provide for the development, establishment and enforcement of standards for the care of individuals in hospitals and for the construction, maintenance and operation of hospitals which shall promote safe and adequate treatment of individuals in hospitals.

1. Except as otherwise provided herein, hospitals shall provide directly or under arrangements the following professional departments, services, facilities and functions:

- a. organization and general services;
- b. nursing services;
- c. pharmaceutical services;
- d. radiological services;
- e. laboratory services;
- f. food and dietetic services;
- g. medical record services;
- h. quality assessment and improvement;
- i. physical environment;
- j. infection control;
- k. respiratory care services.

2. Except as otherwise provided herein, hospitals may provide the following optional services directly or under arrangements:

- a. surgical services;
- b. anesthesia services;
- c. nuclear medicine services;
- d. outpatient services;
- e. rehabilitation services;
- f. psychiatric services;
- g. obstetrical and newborn services;
- h. pediatric services;
- i. emergency services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2399 (November 2003).

§9302. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), repealed LR 29:2400 (November 2003).

§9303. Definitions

A. The following definitions of selected terminology are used in connection with Chapter 93.

Accredited? the approval by the Joint Commission on Accreditation of Healthcare Organizations or American Osteopathic Association.

Administrator? (see *Chief Executive Officer*).

Anesthesiologist? a physician, dentist, or osteopath physician, who has successfully completed an *approved* residency program in anesthesiology, or who is a diplomat of either the American Board of Anesthesiology or the American Osteopathic Board of Anesthesiology, or who was made a Fellow of the American College of Anesthesiology before 1972.

Approved? acceptable to the *authority having jurisdiction*.

Authority Having Jurisdiction? an organization, office, or individual responsible for approving equipment, an installation, or a procedure.

Certified Nurse Midwife? an advanced practice registered nurse as defined by R.S. 37:913.

Certified Registered Nurse Anesthetist? an advanced practice registered nurse as defined by R.S. 37:913.

Cessation of Business? when a hospital stops providing services to the community.

Chief Executive Officer (CEO)/Administrator? the person responsible for the operation of the hospital commensurate with the authority conferred by the governing body.

Clinical Nurse Specialist? an advanced practice registered nurse as defined by R.S. 37:913.

Department? Louisiana Department of Health and Hospitals.

Governing Body? the board of trustees, owner or person(s) designated by the owner with ultimate authority and responsibility (both moral and legal) for the management, control, conduct and functioning of the hospital.

Hospital? any institution, place, building, or agency, public or private, whether for profit or not, maintaining and operating facilities, 24 hours a day, seven days a week, having 10 licensed beds or more, properly staffed and equipped for the diagnosis, treatment and care of persons admitted for overnight stay or longer who are suffering from illness, injury, infirmity or deformity or other physical or mental condition for which medical, surgical and/or obstetrical services would be available and appropriate. This term hospital does not include the following:

a. physicians' offices, clinics or programs where patients are not kept as bed patients for 24 hours or more;

b. nursing homes providing intermediate and/or skilled care as defined by and regulated under the provisions of R.S. 40:2009-2009.23;

c. persons, schools, institutions or organizations engaged in the care and treatment of the mentally retarded and which are required to be licensed by the provisions of R.S. 28:421-427;

d. hospitalization or care facilities maintained by the state at any of its penal or correctional institutions;

e. hospitalization or care facilities maintained by the federal government or agencies thereof;

f. infirmaries or clinics maintained solely by any college or university exclusively for treatment of faculty, students and employees.

Note: Facilities under 10 beds shall not be licensed as a hospital and shall not care for patients overnight unless authorized to do so under another state law.

Hospital Record? a compilation of the reports of the various clinical *departments* within a hospital, as well as reports from health care providers, as are customarily catalogued and maintained by the hospital medical records department. *Hospital records* include reports of procedures such as X-rays and electrocardiograms, but they do not include the image or graphic matter produced by such procedures, according to state law.

Immediate and Serious Threat? a crisis situation in which the health and safety of patients is at risk. It is a deficient practice which indicates the operator's inability to furnish safe care and services, although it may not have resulted in actual harm. The threat of probable harm is real and important and could be perceived as something which will result in potentially severe temporary or permanent injury, disability or death.

Licensed Bed? an adult and/or pediatric bed set up or capable of being set up within 24 hours in a hospital for the use of patients, based upon bedroom criteria expressed in these standards. Labor, delivery, newborn bassinets, emergency and recovery room beds are excluded.

Licensed Independent Practitioner? a person who is *approved* by his board for independent practice and who is *approved* by the medical staff and credentialed and *approved* by the Governing Board.

Licensed Nuclear Medicine Technologist? any person licensed to practice nuclear medicine technology by the Louisiana State Radiologic Technology Board of Examiners.

Licensed Practical Nurse? any person licensed to practice practical nursing and who is licensed to practice by the Louisiana State Board of Practical Nurse Examiners.

Licensed Radiation Therapy Technologist? any person licensed to practice radiation therapy technology by the Louisiana State Radiologic Technology Board of Examiners.

Licensed Radiographer? any person licensed to practice general radiography by the Louisiana State Radiologic Technology Board of Examiners.

Minor Alteration? repair or replacement of building materials and equipment with materials and equipment of a similar type that does not diminish the level of construction beyond that which existed prior to the alteration. This does not include any alteration to the "functionality" or original design of the construction. (For example, normal

maintenance, re-roofing, painting, wallpapering, asbestos removal, and changes to the electrical and mechanical systems.)

Monolithic Ceiling Construction? a continuous membrane ceiling composed of plaster or gypsum wallboard, but not moveable or "lay-in" ceiling tiles.

Neonatal? newborn immediately succeeding birth and continuing through the first 28 days of life.

New Construction? any of the following started after March 1, 1995:

- a. new buildings to be used as a hospital;
- b. additions to existing buildings to be used as a hospital;
- c. conversions of existing buildings or portions thereof for use as a hospital;
- d. alterations other than *minor alterations* to an existing hospital;

Nurse Practitioner? an advanced practice registered nurse as defined by R.S. 37:913.

Nurses Call System? a system that audibly transmits calls electronically from its place of origin (the patient's bed) to the place of receipt (the nurses' station).

Observation Bed/Unit? outpatient service in which patients are admitted for a period of no longer than 24 hours for observation. After 24 hours, the patient must be admitted, transferred or discharged. This outpatient unit must not provide acute care nursing. A registered nurse must be on site while there are patients in this unit.

Office of the Secretary? office of the person serving as the Secretary of the Department of Health and Hospitals.

Off-Site Campus? all premises on which hospital services (inpatient and/or outpatient) are provided and that are not adjoining to the main hospital buildings or grounds. An *off-site campus* must be located within 50 miles of the main hospital campus.

Organ? a human kidney, liver, heart, lung or pancreas.

Radiologist? a doctor of medicine or osteopathy who is qualified by education and experience in radiology.

Registered Dietitian? a dietitian who is qualified based on registration by the Commission on Dietetic Registration of the American Dietetic Association and licensing by the Louisiana Board of Examiners in Dietetics and Nutrition.

Registered Nurse? any person licensed to practice nursing by the Louisiana State Board of Nursing.

Unit Definition? a licensed patient room.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2400 (November 2003).

§9305. Licensing Process

A. Procedures for Initial Licensing. The Department of Health and Hospitals is the only authority for hospitals in the state of Louisiana.

1. Any person, organization or corporation desiring to operate a hospital shall make application to the Department of Health and Hospitals (DHH) on forms prescribed by the department. Such forms may be obtained from: Hospital Program Manager, Department of Health and Hospitals, Health Standards Section (HSS), Post Office Box 3767, Baton Rouge, LA 70821.

2. An initial applicant shall as a condition of licensing:

a. submit a completed initial hospital packet and other required documents;

b. submit the required nonrefundable licensing fees by certified check or money order. No application will be reviewed until payment of the application fee. Except for good cause shown, the applicant must complete all requirements of the application process within 90 days of initial submission of the application material. Upon 10 days prior notice, any incomplete or inactive applications shall be closed. A new application will be accepted only when accompanied by a nonrefundable application fee.

3. When the required documentation for licensing is approved and the building is approved for occupancy, a survey of the facility by representatives of HSS shall be conducted at the department's discretion to determine if the facility meets the standards set forth in this Chapter 93.

4. Representatives of the HSS shall discuss the findings of the survey, including any deficiencies found, with representatives of the hospital facility.

5. The hospital shall notify the HSS in writing when the deficiencies, if any, have been corrected. Following review of the hospital's Plan of Correction (POC), HSS may schedule a survey of the facility prior to occupancy.

6. No new hospital facility shall accept patients until the hospital has written approval and/or a license issued by HSS.

7. No licensed bed shall be placed in a room that does not meet all patient room licensing criteria and which has not been previously approved by HSS.

8. The hospital shall accept only that number of inpatients for which it is licensed unless prior written approval has been secured from the department.

B. Issuance of a License

1. The agency shall have authority to issue two licenses as described below:

a. full license-issued only to those hospitals that are in substantial compliance with the rules, the standards governing hospitals and the hospital law. The license shall be issued by the department for a period of not more than 12 months for the premises named in the application, as determined by the department;

b. if a hospital is not in substantial compliance with the rules, the standards governing hospitals and the hospital law, the department may issue a provisional license up to a period of six months if there is no immediate and serious threat to the health and safety of patients.

2. The department also has discretion in denying, suspending or revoking a license where there has been substantial noncompliance with these requirements in accordance with the hospital law. If a license is denied, suspended or revoked, an appeal may be made as outlined in the hospital law.

3. The hospital license is not assignable or transferable and shall be immediately void if a hospital ceases to operate or if its ownership changes.

4. Licenses issued to hospitals with off-site locations shall be inclusive of the licensed off-site beds. In no case may the total number of inpatient beds at the off-site location exceed the number of inpatient beds at the primary campus.

C. Licensing Renewal. Licenses must be renewed at least annually. The renewal packet shall be sent by the Department to the hospital 45 days prior to the expiration of its license. The packet shall contain all forms required for renewal of the license. A hospital seeking renewal of its license shall:

1. complete all forms and return them to the department at least 15 days prior to the expiration date of its current license;

2. submit the annual fees or the amounts so specified by state law. All fees shall be submitted by certified check or money order and are nonrefundable. All state-owned facilities are exempt from fees.

D. Display of License. The current license shall be displayed in a conspicuous place in the hospital at all times.

E. Bed Increases

1. The hospital will notify the department in writing 14 days prior to the bed increase.

2. The hospital will complete the required paperwork and submit the appropriate documents.

3. A fee of \$25 plus \$5 per licensed unit being added or the amounts so specified by state law in the future shall be submitted to the department. This shall be a certified check or money order.

4. At the discretion of the department, signed and dated attestations to compliance with these standards may be accepted in lieu of an on-site survey.

5. Written approval of the bed increase must be obtained before patients can be admitted to these additions.

6. No licensed bed shall be placed in a room that does not meet all patient room licensing criteria and which has not been previously approved by HSS.

F. Eliminating and/or Relocating Beds

1. The hospital will notify the department in writing 14 days prior to the bed decrease or relocation.

2. The hospital will complete the required paperwork and submit the appropriate documents.

3. A fee of \$25 or the amounts so specified by state law in the future shall be submitted to the Department. This remittance shall be a certified check or money order.

4. No licensed bed shall be placed in a room that does not meet all patient room licensing criteria and which has not been previously approved by HSS.

G. Adding or Eliminating Services

1. Prior to the addition or deletion of a service or services, the hospital shall notify the department in writing 45 days prior to implementation, if plan review is required, and 15 days prior to implementation if no plan review is necessary.

2. The department will determine the required documents, if any, to be provided for a new service.

3. No service shall be instituted that does not meet all licensing criteria and which has not been previously approved by the department.

H. Adding Off-Site Campuses

1. Individual licenses shall not be required for separate buildings and services located on the same or adjoining grounds or attached to the main hospital if they are operated as an integrated service of the hospital. An applicant shall as a condition of licensing:

a. submit a completed off-site campus packet and other required documents;

b. submit the required nonrefundable licensing fees by certified check or money order.

2. Except for good cause shown, all incomplete and inactive applications shall be closed 90 days after receipt of the initial off-site campus application. A new application will be accepted only when accompanied by a nonrefundable application fee.

3. At the discretion of the department, signed and dated attestations to the compliance with these standards may be accepted in lieu of an on-site survey.

4. The off-site campus will be issued a license which is a subset of the hospital's main license.

I. Closing Off-Site Campuses. The hospital is to notify the HSS in writing within 14 days of the closure of an off-site campus with the effective date of closure. The original license of the off-site campus is to be returned to HSS.

J. Duplicate and Replacement Licenses. A \$5 processing fee or the amount so specified by state law in the future shall be submitted by the hospital for issuing a duplicate facility license with no change.

K. Changes to the License. When changes to the license, such as a name change, address change or bed reduction are requested in writing by the hospital, a fee of \$25 or the amounts so specified by state law in the future, shall be submitted.

L. Facility within a Facility

1. If more than one health care provider occupies the same building, premises or physical location, all treatment facilities and administrative offices for each health care provider shall be clearly separated from each other by a clearly delineated and recognizable boundary.

a. Treatment facilities shall include, but not be limited to consumer beds, wings and operating rooms.

b. Administrative offices shall include, but not be limited to record rooms and personnel offices.

c. There shall be clearly identifiable and distinguishable signs.

2. If more than one health care provider occupies the same building, premises or physical location, each such health care provider shall have its own entrance. The separate entrance shall have appropriate signs and shall be clearly identifiable as belonging to a particular health care provider. Nothing prohibits a health care provider occupying the same building, premises or physical location as another health care provider from utilizing the entrance, hallway, stairs, elevators or escalators of another health care provider to provide access to its separate entrance.

3. Staff of the hospital within a hospital shall not be co-mingled with the staff of the host hospital for the delivery of services within any given shift.

4. The provisions and requirements of §9305.L are in addition to and not excluding any other statutes, laws and/or rules that regulate hospitals, as set forth in R.S. 40:2007.

M. Change of Ownership

1. Definition. *Change of Ownership (CHOW)*—the sale or transfer whether by purchase, lease, gift or otherwise of a hospital by a person/corporation of controlling interest that results in a change of ownership or control of 30 percent or greater of either the voting rights or assets of a hospital or that results in the acquiring person/corporation holding a 50 percent or greater interest in the ownership or control of the

hospital. Examples of actions which constitute a change of ownership (R.S. 40:2115.11 et seq.).

a. Unincorporated Sole Proprietorship. Transfer of title and property to another party constitutes a change of ownership.

b. Corporation. The merger of the provider corporation into another corporation, or the consolidation of two or more corporations, resulting in the creation of a new corporation constitutes a change of ownership. Transfer of corporate stock or the merger of another corporation into the provider corporation does not constitute a change of ownership.

c. Partnership. In the case of a partnership, the removal, addition or substitution of a partner, unless the partners expressly agree otherwise, as permitted by applicable state law, constitutes a change of ownership.

d. Leasing. The lease of all or part of a provider facility constitutes a change of ownership of the leased portion.

2. No later than 15 days after the effective date of the CHOW, the prospective owner(s) or provider representative shall submit to the department a completed application for hospital licensing, the bill of sale, and a licensing fee consistent with state law. Hospital licensing is not transferable from one entity or owner(s) to another.

N. Plan Review. A letter to the Department of Health and Hospitals, Division of Engineering and Architectural Services, shall accompany the floor plans with a request for a review of the hospital plans. The letter shall include the types of services offered, number of licensed beds and licensed patient rooms, geographical location, and whether it is a relocation, renovation, and/or new construction. A copy of this letter is to be sent to the Hospital Program Manager.

1. Submission of Plans

a. New Construction. All new construction shall be done in accordance with the specific requirements of the Office of State Fire Marshal and the Department of Health and Hospitals, Division of Engineering and Architectural Services. The requirements cover new construction in hospitals, including submission of preliminary plans and the final work drawings and specifications to each of these agencies. Plans and specifications for new construction shall be prepared by or under the direction of a licensed architect and/or a qualified licensed engineer and shall include scaled architectural plans stamped by an architect.

b. New Hospitals. No new hospital shall hereafter be licensed without the prior written approval of, and unless in accordance with plans and specifications approved in advance by the DHH, Division of Engineering and Architectural Services and the Office of State Fire Marshal. This includes any change in hospital type (e.g., acute care hospital to psychiatric hospital) or the establishment of a hospital in any healthcare facility or former healthcare facility. The applicant must furnish one complete set of plans and specifications to the Division of Engineering and Architectural Services and one complete set of plans and specifications to the Office of State Fire Marshal, together with fees and other information as required. Plans and specifications shall be prepared by or under the direction of a licensed architect and/or a qualified licensed engineer and shall include scaled architectural plans stamped by an architect. The review and approval of plans and

specifications shall be made in accordance with the publication entitled *Guidelines for Construction and Equipment of Hospital and Medical Facilities*, Current Edition, published by the American Institute of Architects Press and the *Standard Plumbing Code*.

c. Change(s) in Service(s)/Hospital Type. Preliminary plans, final work drawings and specifications shall be submitted prior to any change in hospital type (e.g., acute care hospital to psychiatric hospital). The review and approval of plans and specifications shall be made in accordance with the publication entitled *Guidelines for Construction and Equipment of Hospital and Medical Facilities*, Current Edition, published by the American Institute of Architects Press and the *Standard Plumbing Code*. The applicant must furnish one complete set of plans and specifications to the Department of Health and Hospitals, Division of Engineering and Architectural Services and one complete set of plans and specifications to the Office of State Fire Marshal, together with fees and other information as required.

d. Major Alterations. No major alterations shall be made to existing hospitals without the prior written approval of, and unless in accordance with plans and specifications approved in advance by DHH, Division of Engineering and Architectural Services and the Office of State Fire Marshal. The applicant must furnish one complete set of plans and specifications to the Division of Engineering and Architectural Services and one complete set of plans and specifications to the Office of State Fire Marshal, together with fees and other information as required. Plans and specifications shall be prepared by or under the direction of a licensed architect and/or a qualified licensed engineer and shall include scaled architectural plans stamped by an architect. The review and approval of plans and specifications shall be made in accordance with the publication entitled *Guidelines for Construction and Equipment of Hospital and Medical Facilities*, Current Edition, published by the American Institute of Architects Press and the *Standard Plumbing Code*.

2. Approval of Plans

a. Notice of satisfactory review from the Division of Engineering and Architectural Services and the Office of State Fire Marshal constitutes compliance with this requirement if construction begins within 180 days of the date of such notice. This approval shall in no way permit and/or authorize any omission or deviation from the requirements of any restrictions, laws, ordinances, codes or rules of any responsible agency.

b. In the event that submitted materials do not appear to satisfactorily comply with the *Guidelines for Construction and Equipment of Hospital and Medical Facilities*, Current Edition, and the *Standard Plumbing Code*, the Division of Engineering and Architectural Services shall furnish a letter to the party submitting the plans which shall list the particular items in question and request further explanation and/or confirmation of necessary modifications.

3. Waivers

a. The secretary of the department may, within his sole discretion, grant waivers to building and construction guidelines. The facility must submit a waiver request in writing to the Division of Engineering and Architectural

Services. The facility shall demonstrate how patient safety and the quality of care offered is not compromised by the waiver. The facility must demonstrate their ability to completely fulfill all other requirements of the service. The Department will make a written determination of the request. Waivers are not transferable in an ownership change and are subject to review or revocation upon any change in circumstances related to the waiver.

b. The secretary, in exercising his discretion, must at a minimum, require the applicant to comply with the edition of the building and construction guidelines which immediately preceded the most current edition of the *Guidelines for Construction and Equipment of Hospital and Medical Facilities*.

O. Fire Protection. All hospitals required to be licensed by the law shall comply with the rules, established fire protection standards and enforcement policies as promulgated by the Office of State Fire Marshal. It shall be the primary responsibility of the Office of State Fire Marshal to determine if applicants are complying with those requirements. No license shall be issued or renewed without the applicant furnishing a certificate from the Office of State Fire Marshal stating that the applicant is complying with their provisions. A provisional license may be issued to the applicant if the Office of State Fire Marshal issues the applicant a conditional certificate.

P. Sanitation and Patient Safety. All hospitals required to be licensed by the law shall comply with the Rules, Sanitary Code and enforcement policies as promulgated by the Office of Public Health. It shall be the primary responsibility of the Office of Public Health to determine if applicants are complying with those requirements. No initial license shall be issued without the applicant furnishing a certificate from the Office of Public Health stating that the applicant is complying with their provisions. A provisional license may be issued to the applicant if the Office of Public Health issues the applicant a conditional certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 16:971 (November 1990), LR 21:177 (February 1995), LR 29:2401 (November 2003).

§9307. Hospital Closure

A. A cessation of business is deemed to be effective with the date on which the hospital stopped providing services to the community.

1. The hospital must notify the department in writing 30 days prior to the effective date of closure.

2. The hospital shall submit a written plan for the disposition of patient medical records for approval by the department. The plan shall include the following:

a. provisions that comply with state laws on storage, maintenance, access and confidentiality of the closed hospital's patient medical records;

b. an appointed custodian who shall provide physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss and destruction;

c. public notice on access in the newspaper, with the largest circulation, in close proximity of the closing hospital, at least 15 days before the effective date of closure;

d. the effective date of closure.

3. The hospital must return the original license to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2404 (November 2003).

§9309. Exceptions

A. Exceptions to these Rules and standards governing hospitals are as follows.

1. If a hospital does not provide an optional service or department, those relating requirements shall not be applicable.

2. If a hospital is accredited by the Joint Commission on Accreditation of Healthcare Organizations or the American Osteopathic Association, the Department shall accept such accreditation in lieu of its annual on-site re-survey. This accreditation will be accepted as evidence of satisfactory compliance with all provisions except those expressed in §9305.O and P.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2404 (November 2003).

§9311. Enforcement

A. The department shall have the authority to interpret and enforce this Chapter 93 as authorized by and in accordance with the Health Care Facilities and Services Enforcement Act, R.S. 40:2199.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2404 (November 2003).

§9313. Staff Orientation, Training, Education and Evaluation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), repealed LR 29:2404 (November 2003).

§9315. Emergency Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), repealed LR 29:2404 (November 2003).

Subchapter B. Hospital Organization and Services

§9317. Governing Body

A. The hospital must have either an effective governing body or individual(s) legally responsible for the conduct of the hospital operations. No contracts/arrangements or other agreements may limit or diminish the responsibility of the governing body.

B. The governing body shall:

1. establish hospital-wide policy;
2. adopt bylaws;
3. appoint a chief executive officer or administrator;
4. maintain quality of care;
5. determine, in accordance with state law, which categories of practitioners are eligible candidates for appointment to the medical staff; and
6. provide an overall institutional plan and budget.

C. The governing body and/or their designee(s) shall develop and approve policies and procedures which define and describe the scope of services offered. They shall be revised as necessary and reviewed at least annually.

D. There shall be an organizational chart that delineates lines of authority and responsibility for all hospital personnel.

E. In addition to requirements stated herein, all licensed hospitals shall comply with applicable local, state, and federal laws and regulations.

F. All off-site campuses operating under the license of a single provider institution (i.e., a hospital with a main facility and off-site campuses) are subject to the control and direction of one common governing body that is responsible for the operational decisions of the entire hospital enterprise.

1. The off-site campus is subject to the bylaws and operating decisions of the provider's governing body.

2. The provider has final responsibility for administrative decisions, final approval for personnel actions and final approval for medical staff appointments at the off-site campus.

3. The off-site campus functions as a department of the provider.

4. The off-site campus is included under the accreditation of the provider, if the provider is accredited by a national accrediting body, and the accrediting body recognizes the off-site campus as part of the provider.

5. The off-site campus director is under the day-to-day supervision of the provider, as evidenced by:

a. patients treated at the off-site campus are considered patients of the provider and shall have full access to all appropriate provider services;

b. the off-site campus is held out to the public as part of the hospital, i.e., patients know they are entering the provider and will be billed accordingly;

c. the off-site campus director or the individual responsible for the day-to-day operations at the site maintains a daily reporting relationship and is accountable to the provider's chief executive officer and reports through that individual to the provider's governing body; and

d. the administrative functions of the off-site campus, (i.e., QI, infection control, dietary, medical records, billing, laundry, housekeeping and purchasing) are integrated with those of the provider, as appropriate to that off-site campus.

6. All components of a single provider institution must comply with applicable state licensing laws.

G. If emergency services are not provided at the hospital, the governing body shall assure that the medical staff has written policies and procedures for appraisal of emergencies, initial treatment and transfer as appropriate.

1. These policies and procedures shall address at a minimum the following:

a. needed emergency equipment and drugs to include but not limited to, suction, oxygen and ambu bag;

b. competence of staff appropriate to the approved use of emergency equipment and drugs;

c. determining when an emergency exists;

d. rendering life saving first aid;

e. making appropriate referrals to hospitals that are capable of providing needed services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2405 (November 2003).

§9319. Patient Rights and Privacy

A. Every patient shall have the following rights, none of which shall be abridged by the hospital or any of its staff. The hospital administrator shall be responsible for developing and implementing policies to protect patient rights and to respond to questions and grievances pertaining to patient rights. These rights shall include at least the following:

1. every patient, or his/her designated representative, shall whenever possible, be informed of the patient's rights and responsibilities in advance of furnishing or discontinuing patient care;

2. the right to have a family member, chosen representative and/or his or her own physician notified promptly of admission to the hospital;

3. the right to receive treatment and medical services without discrimination based on race, age, religion, national origin, sex, sexual preferences, handicap, diagnosis, ability to pay or source of payment;

4. the right to be treated with consideration, respect and recognition of their individuality, including the need for privacy in treatment;

5. the right to be informed of the names and functions of all physicians and other health care professionals who are providing direct care to the patient. These people shall identify themselves by introduction and/or by wearing a name tag;

6. the right to receive, as soon as possible, the services of a translator or interpreter to facilitate communication between the patient and the hospital's health care personnel;

7. the right to participate in the development and implementation of his/her plan of care;

8. every patient or his or her representative (as allowed by state law) has the right to make informed decisions regarding his or her care;

9. the patient's rights include being informed of his/her health status, being involved in care planning and treatment, and being able to request or refuse treatment. This right must not be construed as a mechanism to demand the

provision of treatment or services deemed medically unnecessary or inappropriate;

10. the right to be included in experimental research only when he or she gives informed, written consent to such participation, or when a guardian provides such consent for an incompetent patient in accordance with appropriate laws and regulations. The patient may refuse to participate in experimental research, including the investigations of new drugs and medical devices;

11. the right to be informed if the hospital has authorized other health care and/or educational institutions to participate in the patient's treatment. The patient shall also have a right to know the identity and function of these institutions, and may refuse to allow their participation in his/her treatment;

12. the right to formulate advance directives and have hospital staff and practitioners who provide care in the hospital comply with these directives;

13. the right to be informed by the attending physician and other providers of health care services about any continuing health care requirements after his/her discharge from the hospital. The patient shall also have the right to receive assistance from the physician and appropriate hospital staff in arranging for required follow-up care after discharge;

14. the right to have his/her medical records, including all computerized medical information, kept confidential;

15. the right to access information contained in his/her medical records within a reasonable time frame;

16. the right to be free from restraints of any form that are not medically necessary or are used as a means of coercion, discipline, convenience or retaliation by staff;

17. the right to be free from all forms of abuse and harassment;

18. the right to receive care in a safe setting;

19. the right to examine and receive an explanation of the patient's hospital bill regardless of source of payment, and may receive upon request, information relating to financial assistance available through the hospital;

20. the right to be informed in writing about the hospital's policies and procedures for initiation, review and resolution of patient complaints, including the address and telephone number of where complaints may be filed with the department;

21. the right to be informed of his/her responsibility to comply with hospital rules, cooperate in the patient's own treatment, provide a complete and accurate medical history, be respectful of other patients, staff and property, and provide required information regarding payment of charges;

22. except in emergencies, the patient may be transferred to another facility only with a full explanation of the reason for transfer, provisions for continuing care and acceptance by the receiving institution.

B. The policies on patient rights and responsibilities shall also provide that patients who receive treatment for mental illness or developmental disability, in addition to the rights listed herein, have the rights provided in the Louisiana Mental Health Law.

C. Hospital staff assigned to provide direct patient care shall be informed of and demonstrate their understanding of the policies on patient rights and responsibilities through orientation and appropriate in service training activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2405 (November 2003).

§9321. Medical Staff

A. The medical staff develops and adopts bylaws and rules for self-governance of professional activity and accountability to the governing body. In addition to physicians and dentists, the medical staff membership shall include licensed independent practitioners as appropriate to adequately meet the needs of the patients served by the hospital. The bylaws and rules shall contain provisions for at least the following.

1. The medical executive committee shall:

a. develop the structure of the medical staff and categories of membership;

b. develop and implement a mechanism to review credentials, at least every two years, and delineate individual privileges;

c. develop and implement a mechanism for determining that all medical staff hold current Louisiana licenses;

d. make recommendations for membership to medical staff, for approval by the governing body, with initial appointments and reappointments not to exceed two years;

e. develop and implement a mechanism for suspension and/or termination of membership to the medical staff;

f. develop and implement a mechanism for fair hearings and appellate reviews for both potential (new) applicants and current members of the medical staff;

g. define the required functions of the medical staff to include:

i. basic medical record review, drug usage review, pharmacy and therapeutics review, infection control and utilization review;

ii. if applicable, surgical and other invasive procedures and blood usage.

2. The medical staff shall provide a mechanism to monitor and evaluate the quality of patient care and the clinical performance of individuals with delineated clinical privileges.

3. Each person admitted to the hospital shall be under the care of a member of the medical staff and shall not be admitted except on the recommendation of a medical staff member.

4. There shall be a member of the medical staff on call at all times for emergency medical care of hospital patients.

5. The medical staff bylaws shall include specifications for orders for the care or treatment of patients which are given to the hospital verbally or transmitted to the hospital electronically, whether by telephone, facsimile transmission or otherwise. Such bylaws may grant the medical staff up to 10 days following the date an order is transmitted verbally or electronically to provide the signature or countersignature for such orders.

6. There shall be a single chief medical officer who reports directly to the governing body and who is

responsible for all medical staff activities of all the offsite facilities operating under the license of the hospital.

7. There shall be total integration of the organized medical staff as evidenced by these factors:

a. all medical staff members have privileges at all off-site campuses;

b. all medical staff committees are responsible for their respective areas of responsibility at all off-site campuses of the hospital; and

c. the medical director of the off-site campus (if the off-site campus has a medical director) maintains a day-to-day reporting relationship to the chief medical officer or other similar official of the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2406 (November 2003).

§9323. Administration

A. There shall be a chief executive officer or administrator who is responsible for the operation of the hospital commensurate with the authority conferred by the governing body. All administrative authority shall flow through the chief executive officer who exercises control and surveillance over the administrative activities of the hospital and of all off-site campuses. (This does not preclude the establishment of assistant executive officer positions in any off-site campus as long as the individuals are under the authority of and report to the chief executive officer.)

B. The chief executive officer or administrator of the hospital shall have at least one of the following qualifications:

1. a master's degree and at least three years of full-time experience in progressively responsible management positions in healthcare;

2. a baccalaureate degree and at least five years of full-time experience in progressively responsible management positions in healthcare; or

3. at least 10 years of full-time experience in hospital administration;

a. hospital chief executive officers and administrators employed in Louisiana licensed hospitals at the time the final regulations are adopted and become effective shall be deemed to meet the qualifications as long as the individual holds their current position. If the individual leaves their current position as hospital administrator/chief executive officer, they must meet one of the qualifications above to be re-employed into such a position.

C. There shall be sufficient qualified personnel to properly operate each department of the hospital and provide quality patient care and related services.

D. All new employees, including volunteer workers, prior to or at the time of employment and annually thereafter shall be verified to be free of tuberculosis in a communicable state.

E. The hospital shall have policies and procedures that define how the facility will comply with current regulations regarding healthcare screenings of hospital personnel.

F. The hospital shall have policies and procedures and require all personnel to immediately report any signs or

symptoms of a communicable disease or personal illness to their supervisor or administrator as appropriate for possible reassignment or other appropriate action to prevent the disease or illness from spreading to other patients or personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2407 (November 2003).

§9325. Staff Orientation, Training, Education and Evaluation

A. New employees, including contract employees, shall have an orientation program of sufficient scope and duration to inform the individual about his/her responsibilities and how to fulfill them.

B. The orientation program shall include, at least, a review of policies and procedures, job descriptions, competency evaluation and performance expectations prior to the employee performing his/her responsibilities.

C. A staff development program shall be conducted by educationally competent staff and/or consultants and planned based upon annual employee performance appraisals, patient population served by the hospital, information from quality assessment and improvement activities, and/or as determined by facility staff.

D. The hospital shall document appropriate training and orientation prior to reassignment of currently employed staff.

E. Records shall be maintained that indicate the training content, time, names of employees in attendance and the name of the presenter.

F. At least annually the performance of all hospital and contract employees shall be evaluated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2407 (November 2003).

§9327. Emergency Services

A. If emergency services are provided, the emergency services shall be on a 24-hour/seven-day basis in an emergency care area. The hospital shall have at least 1 physician available to the emergency care area within 30 minutes through a medical call roster.

B. Organization

1. Emergency services shall have written policies and procedures which:

a. define and describe the scope of services offered;

b. assures the integration of emergency services with other hospital services, delineating when the hospital shall divert emergency patients, the criteria for the diversion, and the notification of local emergency medical services and hospitals of the diversion; and

c. governs referrals if a clinical specialty service is not provided.

2. The emergency services shall be organized under the direction of a qualified member of the medical staff and a roster of on-call medical staff with service specialties shall be maintained. The services shall be integrated with other departments of the hospital. Ancillary services routinely

available at the hospital for inpatients shall be available to patients presenting with emergency medical conditions.

3. The emergency service area shall be supplied with:
 - a. basic trauma equipment and drugs;
 - b. suction and oxygen equipment; and
 - c. cardiopulmonary resuscitation equipment.

C. All licensed hospitals shall comply with current provisions of the Emergency Medical Treatment and Active Labor Act (EMTALA).

D. In accordance with R.S. 40:2113.6, no officer or member of the medical staff of a hospital licensed by the department shall deny emergency services available at the hospital to a person diagnosed by a licensed physician as requiring emergency services because the person is unable to establish his ability to pay for the services or his race, religion or national ancestry. In addition, the person needing the services shall not be subjected to arbitrary, capricious or unreasonable discrimination based on age, sex, physical condition or economic status. Emergency services are services that are usually and customarily available at the hospital and that must be provided immediately to stabilize a medical condition which if not stabilized could reasonably be expected to result in the loss of life, serious permanent disfigurement or loss or impairment of the function of a bodily member or organ, or for the care of a woman in active labor if the hospital is so equipped. If not so equipped, the hospital must provide treatment to allow the patient to travel to a more appropriate facility without undue risk of serious harm.

E. Personnel

1. The emergency services shall make provisions for physician coverage at all hours and a qualified member of the medical staff shall be designated to supervise emergency services. There shall be a registered nurse and other nursing service personnel qualified in emergency care to meet written emergency procedures and needs anticipated by the hospital. All registered nurses working in emergency services shall be trained in advanced cardiac life support, pediatric trauma and pediatric advanced life support.

2. There are specific assigned duties for emergency care personnel with a clear chain of command.

F. The hospital shall maintain an emergency service register on every individual seeking care. At a minimum, the register shall contain the following data:

1. name, age and sex of patient;
2. date, time and means of arrival;
3. nature of complaint;
4. disposition;
5. time of departure;
6. name of the on-call or treating physician.

G Trauma Center. In addition to the requirements above, all hospitals that request official designation by the Department as a "Trauma Center" must meet the requirements provided under state law (R.S. 40:2171).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2407 (November 2003).

§9329. After Life Care

A. The hospital shall establish and implement written policies and procedures governing after life care that are reviewed annually and revised as needed. These policies shall delineate the responsibilities of the medical staff, nursing and morgue staff, and shall include procedures for at least the following:

1. identifying the body;
2. safe and proper handling to prevent damage to the body;
3. safeguarding the personal effects of the deceased and release of personal effects to the appropriate individual;
4. handling of toxic chemicals by morgue and housekeeping staff;
5. infection control, including disinfecting of equipment;
6. identifying and handling high-risk and/or infectious bodies in accordance with Centers for Disease Control guidelines and in compliance with Louisiana law;
7. release of the body to the funeral director;
8. release of the body to the coroner upon his request for autopsy;
9. policy for autopsy requests by the physician or family and physician communication to family members regarding the autopsy requests/results;
10. availability of autopsy reports, including reports of microscopic autopsy findings, to physicians and in the medical records within specified time frames; and
11. completion of the autopsy, including microscopic and other procedures, within specified time frames.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2408 (November 2003).

§9331. Organ or Tissue Donation

A. The hospital shall have policies and procedures for organ and tissue donation and requests for donation, approved by the governing body.

B. The hospital shall have an agreement with the designated organ procurement agency for the state and at least one tissue bank and one eye bank, if the organ procurement agency does not include these services.

C. When death is imminent or has occurred in a hospital, to a person determined to be a suitable candidate for organ or tissue donation, based on accepted medical standards, the hospital administrator or designated representative shall request the appropriate person described herein to consent to the gift of any part of the decedent's body as an anatomical gift.

D. No request shall be required when the requesting person has actual notice of contrary intention by the decedent or those persons described in this regulation according to the priority stated therein, or reason to believe that an anatomical gift is contrary to the decedent's religious beliefs.

E. Upon approval of the donation, the OPO or retrieval organization shall be notified and shall cooperate in the procurement of the anatomical gift. When a request is made, the person making the request shall complete a certificate of

request for an anatomical gift on a form approved by the Department of Health and Hospitals.

F. The certificate shall include the following:

1. a statement indicating that a request for an anatomical gift was made;
2. the name and affiliation of the person making the request;
3. an indication of whether consent was granted and, if so, what organs and tissues were donated;
4. the name of the person granting or refusing the request, and his relationship to the decedent.

G. A copy of the certificate of request shall be included in the decedent's medical records.

H. The following persons shall be requested to consent to a gift, in the order of priority stated:

1. the spouse if one survives; if not:
 - a. an adult son or daughter;
 - b. either parent;
 - c. an adult brother or sister;
 - d. the curator or tutor of the decedent at the time of death;
 - e. any other person authorized or under obligation to dispose of the body.

I. Upon the arrival of a person who is dead or near death, a reasonable search for a document of gift or other information which may indicate that a person is a donor or has refused to make such a donation shall be made by the hospital.

J. If a person at or near death has been admitted or is in transit to a hospital and has been identified as a donor of his body, organs, tissue or any part thereof, the hospital shall immediately notify the named recipient if one is named and known, and if not, the OPO federally approved organ procurement agency.

K. The hospital shall cooperate in the implementation of the anatomical gift, including the removal and release of organs and tissue, or any parts thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2408 (November 2003).

§9333. Specialty Units

A. Specialty units are designated areas in a hospital organized and dedicated to providing a specific, concentrated service to a targeted group of patients.

B. Each unit shall be organized and function as a physically identifiable section with beds that are not commingled with other hospital beds.

C. Each unit shall be staffed with professional and support personnel, appropriate to the scope of services provided. Central support services such as dietary, housekeeping, maintenance, administration and therapeutic services may be shared with the rest of the hospital.

D. There shall be written policies and procedures that define and describe the scope of services offered, including admission criteria. The policies and procedures shall be developed and approved by the governing body. They shall be reviewed at least annually and revised as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2409 (November 2003).

§9335. Emergency Preparedness

A. The hospital shall have an emergency preparedness plan designed to manage the consequences of natural disasters or other emergencies that disrupt the hospital's ability to provide care and treatment or threatens the lives or safety of the hospital patients and/or the community it serves. The emergency preparedness plan shall be made available, upon request or if mandated to do so, to local, parish, regional and/or state emergency planning organizations, DHH and the Office of the State Fire Marshal.

B. As a minimum, the plan shall include the following:

1. identification of potential hazards that could necessitate an evacuation, including internal and external disasters such as a natural disaster, acts of bio-terrorism, weapons of mass destruction, labor work stoppage, or industrial or nuclear accidents;

2. emergency procedures for evacuation of the hospital;

3. comprehensive measures for receiving and managing care for a large influx of emergency patients. At a minimum, these measures shall include the following roles:

- a. the emergency department/services;
- b. surgical suite; and
- c. patient care units;

4. comprehensive plans for receiving patients who are being relocated from another facility due to a disaster. This plan shall include at least an estimate of the number and type of patients the facility would accommodate;

5. procedures in the case of interruption of utility services in a way that affects the health and safety of patients;

6. identification of the facility and an alternate facility to which evacuated patients would be relocated;

7. the estimated number of patients and staff that would require relocation in the event of an evacuation;

8. the system or procedure to ensure that medical charts accompany patients in the event of a patient evacuation and that supplies, equipment, records and medications would be transported as part of an evacuation; and

9. the roles and responsibilities of staff members in implementing the disaster plan.

C. The hospital shall assure that patients receive nursing care throughout the period of evacuation and while being returned to the original hospital.

D. The hospital shall ensure that evacuated patients, who are not discharged, are returned to the hospital after the emergency is over, unless the patient prefers to remain at the receiving facility or be discharged instead of being returned to the original hospital.

E. Any staff member who is designated as the acting administrator shall be knowledgeable about, and authorized to implement the hospital's plans in the event of an emergency.

F. The hospital administrator shall appoint an individual who shall be responsible for disaster planning for the hospital.

G. While developing the hospital's plan for evacuating patients, the disaster planner shall communicate with the facility or facilities designated to receive relocated patients.

H. The hospital shall conduct at least one evacuation drill each year, either simulated or using selected patients. An actual evacuation shall be considered a drill, if it is documented.

I. The hospital shall conduct at least one drill each year, in which a large influx of emergency patients is simulated. An actual emergency of this type shall be considered a drill, if it is documented.

J. In case of an emergency, the hospital shall have a policy for supply of food and water.

K. The hospital shall have a policy for the provision of emergency sources of critical utilities such as electricity, natural gas, water and fuel during any period in which the normal supply is temporarily disrupted.

L. The hospital's plan shall be developed in coordination with the local/parish office of emergency preparedness, utilizing community wide resources.

M. A hospital may temporarily exceed its licensed capacity in emergency situations, such as natural disasters or disease related emergencies. Such hospitals shall notify DHH in writing of the situation within 24 hours or as soon as practical thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2409 (November 2003).

§9337. Smoking Prohibition

A. Smoking shall be prohibited in all areas of the hospital that are heated and air-conditioned. At the discretion of the hospital's governing body, smoking may be permitted in patient rooms, but only:

1. upon the consent of the patient's primary treating physician;

2. with the consent of all patients in the room;

3. in accordance with all standards established by the Joint Commission on Accreditation of Health Care Organizations and all other applicable state and federal laws.

B. Notwithstanding the provisions of the above, the hospital's governing body may designate a well-ventilated area for smokers. Additionally, the governing body of a psychiatric hospital shall establish policies to reasonably accommodate inpatients that smoke.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2410 (November 2003).

§9339. Safety

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), repealed LR 29:2410 (November 2003).

§9341. Personnel

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), repealed LR 29:2410 (November 2003).

Subchapter C. Nursing Services

§9343. Organization and Staffing

A. There shall be an organized nursing service that provides 24-hour nursing services. The nursing services shall be under the direction and supervision of a registered nurse licensed to practice in Louisiana, employed full time, 40 hours per week. There shall be a similarly qualified registered nurse to act in the absence of the director of nursing services.

B. Written nursing policies and procedures shall define and describe the patient care provided. There shall be a written procedure to ensure that all licensed nurses providing care in the hospital have a valid and current Louisiana license to practice, prior to providing any care.

C. Nursing services are either furnished or supervised and evaluated by a registered nurse.

D. There shall be at least one registered nurse on duty at all times, assigned to each inpatient nurse's station.

E. A registered nurse shall assign the nursing service staff for each patient in the hospital. Staffing shall be planned in accordance with the nursing needs of the patients, as demonstrated by a specific assessment process, specialized qualifications and competence of the nursing staff available.

F. The nursing staff shall be assigned clinical and/or management responsibilities according to education, experience and assessment of current competency and applicable laws.

G. There shall be at least two hospital employees, one of whom shall be a registered nurse, physically present in the hospital when there is one or more hospitalized patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2410 (November 2003).

§9345. Delivery of Services

A. A registered nurse shall perform an initial assessment of the patient upon admission and identify problems for each patient. The registered nurse may delegate part(s) of the data collection to other nursing personnel, however the registered nurse shall by signature validate the assessment.

B. A nursing plan of care shall be developed based on identified nursing diagnoses and/or patient care needs and patient care standards, implemented in accordance with the Louisiana Nurse Practice Act, and shall be consistent with the plan of all other health care disciplines.

C. Isolation precautions shall be instituted when appropriate to prevent the spread of communicable diseases within the hospital.

D. All drugs and biologicals shall be administered in accordance with the orders of the practitioner(s) responsible for the patient's care and accepted standards of practice.

E. Blood transfusions and intravenous medications shall be handled, labeled and administered according to state law and approved medical staff and nursing service policies and procedures.

F. Blood and blood products shall be refrigerated separately from food, beverages and laboratory specimens.

G. An appropriate patient consent form shall be signed prior to blood transfusion administration.

H. There shall be policies and procedures for reporting transfusion reactions, adverse drug reactions and errors in the administration of drugs. It shall include immediate oral reporting to the treating physician, a written report to the director of pharmacy and the appropriate hospital committee, and an appropriate entry in the patient's record.

I. Safety policies and procedures shall be established for the care of patients, who because of their condition, are not responsible for their acts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2410 (November 2003).

§9347. Equipment and Records

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), repealed LR 29:2411 (November 2003).

Subchapter D. Pharmaceutical Services

§9349. General Provisions

A. The hospital shall provide pharmaceutical services that meet the needs of the patients. The hospital shall have a pharmacy directed by a registered pharmacist or a drug storage area supervised by a registered pharmacist. The hospital pharmacy shall have a permit, issued by the Louisiana Board of Pharmacy, allowing the ordering, storage, dispensing and delivering of legend prescription orders. The hospital shall have a current controlled dangerous substance (CDS) license to dispense controlled substances to patients in the hospital.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2411 (November 2003).

§9351. Organization and Staffing

A. Pharmaceutical services shall be directed by a registered pharmacist, licensed to practice in Louisiana on either a full-time, part-time or consulting basis. The director of pharmacy shall be responsible for the procurement, storage, dispensing, supervision and management of all legend and non-legend drugs for the hospital, and shall maintain complete and accurate records of all drug transactions by the pharmacy. There shall be an adequate number of personnel to ensure quality services, including emergency services, 24 hours per day, seven days per week.

A pharmacist shall be on call after hours, whenever the pharmacy does not provide 24-hour service.

B. Hospital pharmacies that are not staffed on a 24-hour basis shall have an adequate security detection device.

C. Hospital pharmacies that are not open after regular working hours shall make drugs available for the staff by use of a night drug cabinet. The hospital pharmacy shall maintain an inventory and a list of these drugs, which are approved by the pharmacy director and the appropriate hospital committee.

D. Each off-site campus shall have a site specific controlled dangerous substance (CDS) license if they will be dispensing controlled dangerous substances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2411 (November 2003).

§9353. Delivery of Services

A. All compounding, packaging, and dispensing of drugs, biologicals, legend and controlled substances shall be accomplished in accordance with Louisiana law and Board of Pharmacy regulations and be performed by or under the direct supervision of a registered pharmacist currently licensed to practice in Louisiana.

B. Dispensing of prescription legend or controlled substance drugs direct to the public or patient by vending machines is prohibited.

C. Current and accurate records shall be maintained on the receipt, distribution and dispensing of all scheduled drugs in such a manner as to facilitate complete accounting for the handling of these controlled substances. An annual inventory, at the same time each year, shall be conducted for all schedule I, II, III, IV and V drugs.

D. A hospital outpatient pharmacy shall maintain all records and inventory separate and apart from that of the inpatient pharmacy, and shall require a separate pharmacy permit to operate.

E. Medications are to be dispensed only upon written orders, electromechanical facsimile, or oral orders from a physician or other legally authorized prescriber, and be taken by a qualified professional.

F. All inpatient drug containers shall be labeled to show at least the patient's full name, room number, the chemical or generic drug's name, strength, quantity and date dispensed unless a unit dose system is utilized. Appropriate accessory and cautionary statements as well as the expiration date shall be included. Floor stock containers shall contain the name and strength of the drug, lot and control number or equivalent, and the expiration date. In unit dose systems, each single unit dose package shall contain the name and strength of the drug, lot and control number or equivalent, and expiration date. Outpatient drug containers shall be labeled to show at least the patient's full name, the prescriber's name, the chemical or generic drug's name, directions, name of the pharmacy and pharmacist, prescription number, and appropriate accessory and cautionary statements. Outdated, mislabeled or otherwise unusable drugs and biologicals shall be separated from useable stock, shall not be available for patient or other use

and shall be returned to an authorized agency for credit or destroyed according to current state or federal laws as applicable.

G. Drugs and biologicals not specifically prescribed as to time or number of doses shall automatically be stopped after a reasonable time that is predetermined by the medical staff.

H. The director of pharmacy shall develop and implement a procedure that in the event of a drug recall, all employees involved with the procurement, storage, prescribing, dispensing and administering of recalled drugs in the facility will be notified to return these drugs to the pharmacy for proper disposition.

I. Drug administration errors, adverse drug reactions, and incompatibilities shall be immediately reported to the attending physician, pharmacist and, if appropriate, to the hospital-wide quality assessment and improvement program. An entry shall be made in the patient's record.

J. Abuses and losses of controlled substances shall be reported to the individual responsible for pharmaceutical services, the chief executive officer, the Louisiana Board of Pharmacy, and to the Regional Drug Enforcement Administration (DEA) office, as appropriate.

K. Information relating to drug interactions, drug therapy, side effects, toxicology, dosage, indications for use and routes of administration shall be available to the staff.

L. A formulary system shall be established by the appropriate hospital committee to assure quality pharmaceuticals at reasonable costs, subject only to the restrictions of R.S. 37:1226.1 and LAC 46:LIII.1109.B.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2411 (November 2003).

§9355. Environment

A. All drugs and biologicals shall be kept in a locked, well illuminated clean medicine cupboard, closet, cabinet, or room under proper temperature controls and accessible only to individuals authorized to administer or dispense drugs. A list of authorized individuals shall be developed in cooperation with the medical, nursing, administrative and pharmaceutical staff. Compartments appropriately marked shall be provided for the storage of poisons and external use drugs and biologicals, separate from internal and injectable medications.

B. All controlled substances shall be kept separately from other non-controlled substances in a locked cabinet or compartment. Exceptions may be made, if listed in the pharmacy policy and procedures manual and deemed necessary by the director of pharmacy, to allow some abusable nonscheduled drugs to be maintained in the same locked compartment.

C. Drugs and biologicals that require refrigeration shall be stored separately from food, beverages, blood and laboratory specimens.

D. The area within the pharmacy used for the compounding of sterile parenteral preparations shall be separate and apart, shall meet the requirements of the Board of Pharmacy regulation §2541 and be designed and equipped to facilitate controlled aseptic conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2412 (November 2003).

§9357. Organization and Staffing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), repealed LR 29:2412 (November 2003).

§9359. Content

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), repealed LR 29:2412 (November 2003).

Subchapter E. Radiologic Services

§9361. General Provisions

A. The hospital shall maintain, or have available through written contract, radiologic services according to the needs of the patients. If therapeutic services are also provided, they, as well as the diagnostic services, shall meet professionally approved standards for safety and personnel qualifications. The hospital shall comply with periodic inspections by the Department of Environmental Quality, Radiation Protection Division and shall promptly correct any identified hazards.

B. Radiologic services shall be supervised by a qualified radiologist on either a full-time, part-time or consulting basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2412 (November 2003).

§9363. Safety

A. The radiologic services, particularly ionizing radiology, shall adopt written policies and procedures to provide for the safety and health of patients and hospital personnel. The policies and procedures shall be available to all staff in the radiology department. At a minimum, the policies and procedures shall cover the following:

1. shielding for patients, personnel and facilities;
2. storage, use and disposal of radioactive materials;
3. periodic inspection of equipment and handling of identified hazards;
4. periodic checks by exposure meters or test badges on radiation workers;
5. radiologic services provided on the orders of practitioners with clinical privileges or other practitioners authorized by the medical staff and the governing body to order the service; and
6. managing medical emergencies in the radiologic department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2413 (November 2003).

§9365. Personnel

A. A qualified full-time, part-time, or consulting radiologist must supervise the ionizing radiology services and must interpret only those radiologic tests that are determined by the medical staff to require a radiologist's specialized knowledge. The radiologist shall have clinical privileges delineated by the medical staff.

B. Only personnel who are registered and/or licensed in the appropriate radiologic technology modality or category by the Louisiana State Radiologic Technology Board of Examiners and designated as qualified by the medical staff may use the radiologic equipment and administer procedures under the direction of a physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2413 (November 2003).

§9367. Records

A. Radiologic reports shall be signed by the practitioner who reads and interprets them.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 13:246 (April 1987), amended LR 21:177 (February 1995), LR 29:2413 (November 2003).

§9369. Clinical Plan

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), repealed LR 29:2413 (November 2003).

Subchapter F. Laboratory Services

§9371. Organization and Staffing

A. The hospital shall provide laboratory services or make contractual arrangements with a laboratory certified in accordance with the Clinical Laboratory Improvement Amendments (CLIA) of 1988 to perform services commensurate with patient needs as determined by the medical staff on a 24-hour basis. Laboratory services shall be directed by an individual who meets appropriate qualifications of a director and is credentialed by the medical staff.

B. There shall be sufficient licensed qualified clinical laboratory scientists with documented training and experience to supervise the testing and sufficient numbers of licensed clinical laboratory scientists and supportive technical staff to perform the tests required of the clinical laboratory services.

C. The hospital shall have policies and procedures that address the administration of potentially HIV infectious blood or blood products, and the notification of patient, legal representative or relative within a specified time frame.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health

Services Financing LR 21:177 (February 1995), amended LR 29:2413 (November 2003).

§9373. Equipment and Records

A. There shall be sufficient supplies, equipment and space to perform the required volume of work with optimal accuracy, precision, efficiency, timeliness and safety.

B. The laboratory shall ensure that satisfactory provisions are maintained for an instrumentation preventive maintenance program, an acceptable quality control program and an approved proficiency testing program covering all types of analysis performed by the laboratory services. Records and reports shall be maintained, retrievable, and as appropriate, filed in the patient's medical record.

C. The hospital shall make adequate provisions for the immediate pathological examination of tissue specimens by a pathologist.

D. The hospital shall make provisions for the procurement, storage and transfusion of blood and blood products.

E. The administration of blood shall be monitored to detect any adverse reaction as soon as it occurs. Prompt investigation of the cause of an adverse reaction shall be instituted. The results of all tests performed in the evaluation of an actual or suspected blood transfusion reaction shall be a permanent part of the patient's medical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2413 (November 2003).

§9375. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), repealed LR 29:2413 (November 2003).

Subchapter G. Food and Dietetic Services

§9377. General Provisions

A. There shall be an organized dietary service that provides nutritional care to patients. All hospital contracts or arrangements for off-site food preparation shall be with a provider who is licensed by the department's healthcare division or operating under the authority of the federal government.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2413 (November 2003).

§9379. Organization and Staffing

A. Food and dietetic services shall be under the supervision of a registered dietitian, licensed to practice in Louisiana, who is employed either full time, part time or on a consulting basis. If the registered dietitian is not full time, there shall be a full time dietary manager.

B. The dietary manager shall:

1. be a qualified dietitian; or
2. be a graduate of a dietetic technician program, correspondence program or otherwise approved by the American Dietetics Association; or

3. have successfully completed a course of study, by correspondence or classroom, which meets the eligibility requirements for certification by the Dietary Manager's Association; or

4. have successfully completed a training course at a state approved school, vocational or university, which includes course work in foods and food service, supervision and diet therapy. Documentation of an eight-hour course of formalized instruction in diet therapy conducted by the employing facility's qualified dietitian is permissible if the course meets only the foods, food service and supervision requirements.

a. Exception. Hospitals with 25 or fewer beds that do not have on site food preparation for patient meals and contract for food services, another full-time employee, i.e., RN or LPN, will be allowed to carry out the responsibilities of the dietary manager. The RN or LPN must be qualified by training and experience and employed full time. The director of nursing shall not hold this position.

C. The registered dietitian shall be responsible for assuring that quality nutritional care is provided to patients. This shall be accomplished by providing and supervising the nutritional aspects of patient care including nutritional screening, nutritional assessments of patients at nutritional risk, patient education related to nutritional intake and diet therapy, and recording information in the medical record regarding the nutritional status and care of the patient and the patient's response to the therapeutic diet.

D. The hospital shall employ sufficient support personnel, competent in their respective duties, to carry out the function of the dietary service.

E. For hospitals that provide dietary services in accordance with §9377 above, a registered dietician shall be employed or under contract to assure proper dietary services are being provided in accordance with §9379.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2413 (November 2003).

§9381. Menus and Therapeutic Diets

A. Menus shall be prepared in advance, meet the nutritional needs of the patients in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences, or as modified in accordance with the orders of the practitioner(s) responsible for the care of the patient, and followed as planned.

B. Therapeutic diets shall be prescribed by the practitioner(s) responsible for the care of the patient. Each patient's diet shall be documented in the patient's medical record. There shall be a procedure for the accurate transmittal of dietary orders to the dietary service and for informing the dietary service when the patient does not receive the ordered diet or is unable to consume the diet.

C. There shall be a current therapeutic diet manual, which shall be the guide used for ordering and serving diets. The manual shall be approved by the dietitian and medical staff and be readily available to all medical, nursing and food service personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2414 (November 2003).

§9383. Sanitary Conditions

A. Food shall be in good condition, free from spoilage, filth, or other contamination and shall be safe for human consumption. All food shall be procured from sources that comply with all laws and regulations related to food and food labeling. The use of food in hermetically sealed containers that was not prepared in a food processing establishment is prohibited.

B. All food shall be stored, prepared, distributed and served under sanitary conditions to prevent food borne illness. This includes keeping all readily perishable food and drink at or below 41°F, except when being prepared and served. Refrigerator temperatures shall be maintained at 41°F or below, freezers at 0°F or below.

C. Hot foods shall leave the kitchen or steam table at or above 140°F, and cold foods at or below 41°F. In-room delivery temperatures shall be maintained at 120°F or above for hot foods and 50°F or below for cold items, except for milk which shall be stored at 41°F. Food shall be transported to the patients' rooms in a manner that protects it from contamination, while maintaining required temperatures.

D. All equipment and utensils used in the preparation and serving of food shall be properly cleansed, sanitized and stored. This includes maintaining a water temperature in dish washing machines at 140°F during the wash cycle (or according to the manufacturer's specifications or instructions) and 180°F for the final rinse. Low temperature machines shall maintain a water temperature of 120°F with 50 parts per million (ppm) of hypochlorite (household bleach) on dish surfaces. For manual washing in a 3 compartment sink, a wash water temperature of 75°F with 50 ppm of hypochlorite or equivalent, or 12.5 ppm of iodine; or a hot water immersion at 170°F for at least 30 seconds shall be maintained. An approved lavatory shall be convenient and equipped with hot and cold water tempered by means of a mixing valve or combination faucet for dietary services staff use. Any self-closing, slow-closing, or metering faucet shall be designed to provide a flow of water for at least 15 seconds without the need to reactivate the faucet. Effective with the promulgation of these requirements, an additional lavatory shall be provided in the dishwasher area in newly constructed hospitals or in existing hospitals undergoing major dietary alterations.

E. Dietary staff shall not store personal items within the food preparation and storage areas.

F. Dietary staff shall use good hygienic practices. Staff with communicable diseases or infected skin lesions shall not have contact with food, if that contact will transmit the disease.

G. Toxic items such as insecticides, detergents, polishes and the like shall be properly stored, labeled and used.

H. Garbage and refuse shall be kept in durable, easily cleanable, insect and rodent-proof containers that do not leak and do not absorb liquids. Containers used in food preparation and utensil washing areas shall be kept covered after they are filled.

I. The physical environment in which all food preparation takes place shall be kept clean and in good repair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2414 (November 2003).

§9385. Equipment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), repealed LR 29:2415 (November 2003).

Subchapter H. Medical Record Services

§9387. Organization and Staffing

A. There shall be a medical records department that has administrative responsibility for maintaining medical records for every person evaluated or treated as an inpatient, outpatient or emergency patient. Medical records for patients at off-site campuses shall be integrated into the unified records system of the provider.

B. Medical records shall be under the supervision of a medical records practitioner (i.e., registered record administrator or accredited record technician) on either a full-time, part-time or consulting basis.

C. Medical records shall be legibly and accurately written in ink, dated and signed by the recording person or, if a computerized medical records system is used, authenticated, complete, properly filed and retained, and accessible.

D. If a facsimile communications system (fax) is used, the hospital shall take precautions when thermal paper is used to ensure that a legible copy is retained as long as the medical record is retained.

E. Written orders signed by a member of the medical staff shall be required for all medications and treatments administered to patients. There shall be a reliable method for personal identification of each patient. The medical staff bylaws shall include specifications for orders for the care or treatment of patients which are given to the hospital verbally or transmitted to the hospital electronically, whether by telephone, facsimile transmission or otherwise. The bylaws may grant the medical staff up to ten days following the date an order is transmitted verbally or electronically to provide the signature or countersignature for such order.

F. If rubber stamp signatures are authorized for physician use, the administrative office shall have on file a signed statement from the medical staff member whose stamp is involved that ensures that he/she is the only one who has the stamp and uses it. The delegation of their use by others is prohibited.

G. If electronic signatures are used, the hospital shall develop a procedure to assure the confidentiality of each electronic signature and to prohibit the improper or unauthorized use of any computer generated signature.

H. There shall be adequate medical record personnel to ensure prompt completion, filing and retrieval of records.

I. The hospital shall have a system of coding and indexing medical records. The system shall allow for timely

retrieval by diagnosis and procedure, in order to support quality assessment and improvement evaluations.

J. The hospital shall ensure that all medical records are completed within 30 days following discharge.

K. A patient or his/her personal representative shall be given reasonable access to the information contained in his/her hospital record. The hospital shall, upon request in writing signed and dated by either the patient or personal representative initiating the request, furnish a copy of the hospital record as soon as practicable, not to exceed 15 days following the receipt of the request and written authorization and upon payment of the reasonable cost of reproduction in accordance with Louisiana R.S. 40:1299.96. However, the hospital may deny the patient access if a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the patient or another person.

L. A hospital record may be kept in any written, photographic, microfilm, or other similar method or may be kept by any magnetic, electronic, optical or similar form of data compilation which is approved for such use by the department. No magnetic, electronic, optical or similar method shall be approved unless it provides reasonable safeguards against erasure or alteration.

M. A hospital may at its discretion, cause any hospital record or part to be microfilmed, or similarly reproduced, in order to accomplish efficient storage and preservation of hospital records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2415 (November 2003).

§9389. Content

A. The medical record shall contain the following minimum data:

1. unique patient identification data;
2. admission and discharge dates;
3. complete history and physical examination, in accordance with medical staff policies and procedures;
4. provisional admitting diagnosis and final diagnosis;
5. medical staff orders;
6. progress notes;
7. nursing documentation and care plans;
8. record of all medical care or treatments; and
9. discharge summary.

B. The medical record shall contain the following when applicable:

1. clinical laboratory, pathological, nuclear medicine, radiological and/or diagnostic reports;
2. consultation reports;
3. pre-anesthesia note, anesthesia record, and post-anesthesia notes;
4. operative reports;
5. obstetrical records, including:
 - a. record of mother's labor, delivery, and postpartum period;
 - b. separate infant record containing date and time of birth, condition at birth, sex, weight at birth if condition permits weighing, and condition of infant at time of discharge;

- c. autopsy reports; and/or
- d. any other reports pertinent to the patient's care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2415 (November 2003).

§9391. Registers and Reports

A. The hospital shall have the following registers and reports, where applicable, which may be computer generated:

- 1. patients' register;
- 2. emergency room register;
- 3. birth register;
- 4. delivery room register;
- 5. operating room register;
- 6. death register;
- 7. analysis of hospital service via the quality assessment and improvement program, based on patient statistics; and
- 8. daily census report of admissions, births, discharges and deaths.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2416 (November 2003).

§9393. Confidentiality

A. The hospital shall ensure the confidentiality of patient records, including information in a computerized medical record system, in accordance with the HIPAA Privacy Regulations (Title 45, Part 164, Subpart E of the Code of Federal Regulations) and any Louisiana state laws and regulations which provide a more stringent standard of confidentiality than the HIPAA Privacy Regulations. Information from or copies of records may be released only to authorized individuals, and the hospital must ensure that unauthorized individuals cannot gain access to or alter patient records. Original medical records shall not be released outside the hospital unless under court order or subpoena or in order to safeguard the record in the event of a physical plant emergency or natural disaster. Psychiatric medical records shall be segregated to ensure confidentiality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2416 (November 2003).

§9395. Retention

A. Hospital records shall be retained by the hospital in their original, microfilmed or similarly reproduced form for a minimum period of 10 years from the date a patient is discharged.

B. Graphic matter, images, x-ray films, nuclear medicine reports and like matter that were necessary to produce a diagnostic or therapeutic report shall be retained, preserved and properly stored by the hospital in their original, microfilmed or similarly reproduced form for a minimum period of three years from the date a patient is discharged. (Note: Medicare and/or Medicaid participating hospitals must maintain copies of reports and printouts, films, scans

and other image records for at least five years). Such graphic matter, images, x-ray film and like matter shall be retained for longer periods when requested in writing by any one of the following:

- 1. an attending or consulting physician of the patient;
- 2. the patient or someone acting legally in his/her behalf;
- 3. legal counsel for a party having an interest affected by the patient's medical records.

C. A hospital that is closing shall notify the department in writing at least 30 days prior to cessation of operation for approval of their plan for the disposition of patients' medical records. The plan shall contain provisions that comply with state laws on the storage, maintenance, access and confidentiality of the closed hospital's patient medical records. It shall consist of an appointed custodian who shall provide physical and environmental security that protects against fire, water, intrusion, unauthorized access, loss and destruction. The plan shall also provide public notice on access in the newspaper, with the largest circulation, in close proximity of the closing hospital.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2416 (November 2003).

§9397. Waste and Hazardous Materials Management

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), repealed LR 29:2416 (November 2003).

Subchapter I. Quality Assessment and Improvement

§9399. General Provisions

A. The governing body shall ensure that there is an effective, written, ongoing, hospital-wide program designed to assess and improve the quality of patient care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2416 (November 2003).

§9401. Clinical Plan

A. There is a written plan for assessing and improving quality that describes the objectives, organization, scope and mechanisms for overseeing the effectiveness of monitoring, evaluation, and improvement activities. All organized services related to patient care, including services furnished by a contractor, shall be evaluated. Nosocomial infections and medication therapy shall be evaluated. All medical and surgical services and other invasive procedures performed in the hospital shall be evaluated as they relate to appropriateness of diagnosis and treatment. The services provided by each practitioner with hospital privileges shall be periodically evaluated to determine whether they are of an acceptable level of quality and appropriateness.

B. Each department or service of the hospital shall address:

- 1. patient care problems;
- 2. cause of problems;

3. documented corrective actions; and
4. monitoring or follow-up to determine effectiveness of corrective actions taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2416 (November 2003).

§9403. Implementation

A. Each department or service of the hospital, through its governing body, shall take and document appropriate remedial action to address deficiencies found through the quality assessment and improvement program. The hospital shall document the outcome of all remedial actions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2417 (November 2003).

§9405. Patient Care Services

A. The hospital shall have an on-going plan, consistent with available community and hospital resources, to provide or make available social work, psychological and educational services to meet the medically related needs of its patients.

B. The hospital shall also have an effective, on-going discharge planning program that facilitates the provision of follow-up care. Each patient's record shall be annotated with a note regarding the nature of post hospital care arrangements. Discharge planning shall be initiated in a timely manner. Patients, along with necessary medical information (e.g., the patient's functional capacity, nursing and other care requirements, discharge summary, referral forms) shall be transferred or referred to appropriate facilities, agencies or outpatient services, as needed, for follow-up or ancillary care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2417 (November 2003).

§9407. Post-Operative Area

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), repealed LR 29:2417 (November 2003).

Subchapter J. Physical Environment

§9409. General Provisions

A. The hospital shall be constructed, arranged and maintained to ensure the safety and well being of the patient.

B. Hospitals with specialty units such as psychiatric or rehabilitative units must also comply with the physical environment requirements as expressed within those particular chapters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health

Services Financing LR 21:177 (February 1995), amended LR 29:2417 (November 2003).

§9411. Buildings

A. The buildings shall reflect good housekeeping and shall by means of an effective pest control program, be free of insects and rodents.

B. The hospital shall maintain hospital-wide ventilation, lighting and temperature controls.

C. There shall be a provision of emergency sources of critical utilities such as electricity, natural gas, water and fuel during any period in which the normal supply is temporarily disrupted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2417 (November 2003).

§9413. Nursing Units

A. A nurses' station equipped with a telephone and a nurse call system shall be provided in a suitable location on each nursing unit.

B. An adequate and properly equipped utility space or area shall be provided on each nursing unit for the preparation, cleaning and storage of nursing supplies and equipment used on the nursing unit. This utility space shall be so arranged as to provide for separation of clean and soiled supplies and equipment.

1. Grab bars properly located and securely mounted shall be provided at patient bathing facilities and toilet bowl with accessories.

2. A lavatory basin shall be provided in or convenient to every toilet bowl with accessories.

3. Paper towels in a satisfactory dispenser or some other acceptable type of single use towel and a satisfactory receptacle for used towels shall be provided at all lavatories.

C. Areas for the isolation of patients with communicable diseases may be established on a temporary basis as the need arises. A private room or a corridor wing may be used provided appropriate isolation techniques are enforced, including identifying signs to warn and restrict the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2417 (November 2003).

§9415. Patient Rooms

A. Except as provided for in intensive care units, all patient rooms shall be outside rooms with a window area of clear glass of not less than 12 square feet.

B. In hospitals constructed prior to November 20, 1990 single rooms shall contain at least 80 square feet and multi-bed rooms shall contain at least 70 square feet per bed. In hospitals constructed subsequent to November 20, 1990 single rooms must contain at least 100 square feet and multi-bed rooms shall contain at least 80 square feet per bed, exclusive of fixed cabinets, fixtures, and equipment, in accordance with *Guidelines for Construction and Equipment of Hospital and Medical Facilities*, 1987 Edition. In hospitals constructed subsequent to March 1, 1995, single rooms must contain at least 120 square feet and multi-bed rooms shall contain at least 100 square feet per bed,

exclusive of fixed cabinets, fixtures, and equipment, in accordance with *Guidelines for Construction and Equipment of Hospitals and Medical Facilities, Current Edition*. Any patient room shall not contain more than four beds. Rooms shall have at least a 7 1/2 foot ceiling height over the required area.

C. There shall be at least 3 feet between beds.

D. Rooms shall be arranged so as to permit the movement of a wheeled stretcher to the side of each bed.

E. There shall be sufficient and satisfactory separate storage space for clothing, toilet articles and other personal belongings of patients.

F. Every patient room shall have a lavatory. This lavatory is not necessary in rooms with an adjoining toilet or bathroom that has a lavatory. In new construction, lavatory requirements will be directed by *Guidelines for Construction and Equipment of Hospitals and Medical Facilities Current Edition*.

G. There shall be at least one toilet bowl with accessories, lavatory basin and bathing facility reserved for patient use on each patient floor and additional toilets, lavatories, and bathing facilities to adequately meet the needs of employees, professional personnel and patients on each nursing unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2417 (November 2003).

§9417. Patient Room Furnishings

A. A hospital type bed with suitable mattress, pillow and necessary coverings shall be provided for each patient. There shall be a bedside stand, chair, and wardrobe, locker, or closet suitable for hanging full-length garments and storing personal effects for each patient.

B. A nurses call system, within easy reach of each bed, shall be provided. The call system shall also be provided in each patient toilet and bathing area.

C. Each bed in multi-bed rooms shall have approved ceiling suspended curtains, which extend around the bed to provide total visual privacy in combination with adjacent walls and curtains. A properly designed lamp or over-bed light, which can be operated by the patient, shall be provided at each bed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2418 (November 2003).

§9419. Equipment

A. Equipment shall be clean and in good repair for the safety and well-being of the patients.

B. Therapeutic, diagnostic and other patient care equipment shall be maintained and serviced in accordance with the manufacturer's recommendations.

C. All patients, when appropriate due to diagnosis, shall be provided with patient care items such as a bedpan, washbasin, emesis basin, drinking glass and soap dish. These supplies and equipment shall be properly cleaned and in appropriate cases shall be sterilized between use for different patients if disposable items are not used.

D. Methods for cleaning, sanitizing, handling and storing of all supplies and equipment shall be such as to prevent the transmission of infection through their use.

E. After discharge of a patient, the bed, mattress, cover, bedside furniture, and equipment shall be properly cleaned. Mattresses, blankets and pillows assigned to patients shall be in a sanitary condition. The mattress, blankets and pillows used for a patient with an infection shall be sanitized in an acceptable manner before they are assigned to another patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2418 (November 2003).

§9421. Facilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), repealed LR 29:2418 (November 2003).

Subchapter K. Infection Control

§9423. Organization and Policies

A. The hospital shall provide a sanitary environment to avoid sources and transmission of infections and communicable diseases.

B. There shall be an effective infection control program for the prevention, control, investigation and reporting of communicable disease and infections. The infection control program shall meet or exceed the latest criteria established by the following:

1. Centers for Disease Control;
2. Occupational Safety and Health Administration; and
3. *Sanitary Code* of the state of Louisiana.

C. A person or persons qualified by education and experience and competent in infection control practices shall be designated as infection control officer(s). This individual(s) shall be responsible for the development and implementation of a hospital-wide infection control program.

D. The infection control officer(s) shall develop, with approval of the medical director and governing body, policies and procedures for identifying, reporting, investigating, preventing and controlling infections and communicable diseases of patients and hospital personnel. The infection control officer(s) shall maintain a log of incidents related to infections and communicable diseases.

E. Employees with symptoms of illness that have the potential of being communicable (i.e. diarrhea, skin lesions, respiratory symptoms) shall be either evaluated by hospital staff or restricted from patient care activities during the infectious stage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2418 (November 2003).

§9425. Responsibilities

A. The chief executive officer or administrator, the medical staff and the director of nursing services shall ensure that the hospital-wide quality assessment and improvement program and training programs address problems identified by the infection control officer(s). They shall be responsible for the implementation of successful corrective action plans in affected problem areas. Infection control activities or programs conducted or instituted in different departments of the hospital shall have the approval of the infection control officer(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2419 (November 2003).

§9427. Laundry Services

A. A supply of clean linen, sufficient to meet the requirements of the patients, shall be provided by a laundry service either in-house, contracted with another healthcare facility or in accordance with an outside commercial laundry service. All linens shall be handled, cleaned, sanitized, stored and transported in such a way as to prevent infection.

B. Clean linen shall be delivered in such a way as to minimize microbial contamination from surface contact or airborne deposition. Soiled linen shall be collected in such a manner as to minimize microbial dissemination into the environment. All linen shall be laundered between patient use.

C. Contaminated laundry shall be specially handled according to the hospital's written protocol, which is approved by the infection control officer(s). If laundry chutes exist, linen shall be bagged and the chutes shall empty into an enclosed collection room.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2419 (November 2003).

§9429. Central Supply

A. Space shall be provided for the preparation, storage, handling and distribution of sterile supplies and other patient care items. Functional design shall provide for the separation of soiled and contaminated supplies from those that are clean and sterile. All central supply departments shall adhere to strict traffic control in their departments. Air circulation systems in central supply shall be negative pressure in decontamination and ethylene oxide areas and positive pressure in all clean areas.

B. Hand washing facilities shall be provided in all work areas. There shall be written policies and procedures for the decontamination and sterilization of supplies and equipment, shelf life of all stored sterile items and reuse of disposable items in accordance with the latest criteria established by the Centers for Disease Control.

C. All steam sterilizing equipment shall have live bacteriological spore monitoring performed at least weekly and with each load containing an implantable device. If tests are positive, a system shall be in place to recall supplies.

D. All ethylene oxide sterilizing equipment shall have live bacteriological spore monitoring performed with each load. There shall be ventilation of the room used for this sterilization to the outside atmosphere and there shall be a system in place to monitor trace gases of ethylene oxide at least monthly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2419 (November 2003).

§9431. Isolation

A. The hospital shall have appropriate facilities and procedures for infection control and the isolation of patients as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2419 (November 2003).

§9433. Waste and Hazardous Materials Management

A. The hospital shall have a written and implemented waste management program that identifies and controls wastes and hazardous materials. The program shall comply with all applicable laws and regulations governing wastes and hazardous materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2419 (November 2003).

§9435. Organization

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), repealed LR 29:2419 (November 2003).

Subchapter L. Surgical Services (Optional)

§9437. General Provisions

A. Surgical services are provided. The services shall be well organized and provided in accordance with acceptable standards of practice. If outpatient surgical services are offered, the services shall be consistent in quality with inpatient care in accordance with the complexity of services offered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2419 (November 2003).

§9439. Organization and Staffing

A. Surgical services shall be under the medical direction of a qualified physician who is a member of the medical staff and appointed by the governing body.

B. Surgical privileges shall be delineated for all practitioners performing surgery in accordance with the competencies of each practitioner. The surgical services shall maintain a roster of practitioners specifying the surgical privileges of each practitioner.

C. The surgical suite shall be supervised by a registered nurse experienced and competent in the management of surgical services.

D. A qualified registered nurse shall perform circulating duties for surgical procedures performed. In accordance with the needs of patients and the complexity of services performed, licensed practical nurses and operating room technicians may assist in circulatory duties under the supervision of a registered nurse who is immediately available to respond to emergencies. Licensed practical nurses and operating room technicians may perform scrub functions under the supervision of a registered nurse.

E. The operating room register shall be complete and up-to-date. It shall include at least the following:

1. patient's name;
2. patient's hospital identification number;
3. date of the operation;
4. inclusive or total time of the operation;
5. name of the surgeon and any assistant(s);
6. name of nursing personnel (scrub and circulating);
7. type of anesthesia used;
8. name of the person administering the anesthesia;

and

9. operation performed.

F. An operative report describing techniques, findings, and tissue removed or altered shall be written or dictated immediately following surgery and signed by the surgeon. It shall include at least:

1. the name and hospital identification number of the patient;
2. date of surgery;
3. name of the surgeon and assistant(s);
4. pre-operative and post-operative diagnoses;
5. name of the specific surgical procedure(s) performed;
6. type of anesthesia administered;
7. complications, if any;
8. a description of techniques, findings, and the tissues removed or altered; and
9. prosthetic devices or implants used, if any.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2419 (November 2003).

§9441. Delivery of Service

A. There shall be a complete history and physical work-up in the chart of every patient prior to surgery, except in emergency surgery. If the history and physical has been dictated, but not yet recorded in the patient's chart, there shall be a statement to that effect and an admission note in the chart by the practitioner who admitted the patient.

B. A properly executed informed consent form for the procedure must be in the patient's chart before surgery, except in emergencies. The consent form shall contain at least the following:

1. name of the patient;
2. hospital and patient identification number;
3. name of the procedure(s) or operation;
4. the reasonably foreseeable risks and benefits involved;
5. name of the practitioner(s);

6. signature of the patient or legal guardian;
7. date and time the consent is obtained; and
8. signature and professional designation of the person witnessing the consent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2420 (November 2003).

§9443. Surgery Suite and Equipment

A. The surgical suite shall be appropriately equipped and consist of a clear floor area to accommodate the equipment and personnel required, allowing for aseptic technique.

B. The surgical suite(s) shall be located in a segregated area out of the line of traffic of visitors and personnel from other departments and arranged so as to prevent traffic through them.

C. There shall be scrub-up facilities in the surgical suite providing hot and cold running water and equipped with knee, foot or elbow faucet controls.

D. There shall be a provision for washing instruments and equipment, which are to be cleaned within the surgical suite. If an autoclave is present, the same operating requirements referenced in Subchapter K, Infection Control shall be implemented.

E. There shall be policies and procedures, approved by the Infection Control Committee that addresses terminal cleaning of the operating room as well as cleaning of the room between surgical cases.

F. The emergency equipment in the surgical suite shall include:

1. a communication system that connects each operating room with a control center;
2. cardiac monitor;
3. resuscitator;
4. defibrillator;
5. aspirator; and
6. tracheotomy set.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2420 (November 2003).

§9445. Post-Operative Area

A. There shall be a post-operative care area (recovery room) which is a separate area of the hospital, unless provisions are made for close observation of the patient until they have regained consciousness (e.g., direct observation by an RN in the patient's room). Access shall be limited to authorized personnel. There shall be policies and procedures which specify transfer requirements to and from the post-operative area.

B. There shall be at least two health care personnel, one of which is a registered nurse, present whenever there is a patient. There shall be emergency equipment and monitoring equipment in the immediate area of the post-operative area. The equipment shall be commensurate with the surgical procedure and the medical requirements of the patient. That equipment shall include, but not be limited to, the following:

1. EKG/ECG monitor;
2. pulse oxymeter monitor;

3. temperature monitoring equipment;
4. equipment to administer oxygen;
5. equipment necessary to monitor vital signs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2420 (November 2003).

§9447. Facilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), repealed LR 29:2421 (November 2003).

Subchapter M. Anesthesia Services (Optional)

§9449. General Provisions

A. If anesthesia services are provided, which is mandatory when surgical or obstetric services are provided, they must be provided in a well organized manner under the direction of a qualified doctor of medicine or osteopathy.

B. The standards in this Chapter apply to services for all patients who:

1. receive general, spinal, or other major regional anesthesia; or
2. undergo surgery or other invasive procedures when receiving general, spinal, or other major regional anesthesia and/or intravenous, intramuscular, or inhalation sedation/analgesia, including conscious sedation, that, in the manner used in the hospital, may result in the loss of the patient's protective reflexes.

C. Invasive procedures include, but are not limited to, percutaneous aspirations and biopsies, cardiac and vascular catheterization, and endoscopies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2421 (November 2003).

§9451. Organization and Staffing

A. Anesthesia services shall be administered by practitioners with appropriate clinical privileges obtained through a mechanism that assures that each practitioner provide only those services for which they have been licensed, trained and deemed to be competent to administer anesthesia within the scope of their practice. Those practitioners include:

1. a qualified anesthesiologist;
2. a doctor of medicine or osteopathy;
3. a dentist, oral surgeon, or podiatrist who is qualified to administer anesthesia under state law;
4. a certified registered nurse anesthetist (CRNA) licensed by the Louisiana State Board of Nursing who is under the supervision of the operating practitioner or of an anesthesiologist who is immediately available if needed as defined in the medical staff bylaws; or
5. a bona fide student enrolled in a school of nurse anesthesia accredited by the Council on Accreditation of Nurse Anesthesia educational programs whose graduates are acceptable for certification by a nationally recognized certifying body may administer anesthesia as related to such

course of study under the direct supervision of a certified registered nurse anesthetist or an anesthesiologist.

B. The individual administering the anesthesia shall be present throughout its administration and attending the patient until the patient is under the care of post-anesthesia staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2421 (November 2003).

§9453. Delivery of Service

A. Policies on anesthesia procedures must include the delineation of pre-anesthesia and post-anesthesia responsibilities. As a minimum, they shall address:

1. the qualifications, responsibilities and supervision required of all personnel who administer anesthesia;
2. patient consent for anesthesia;
3. infection control measures;
4. safety practices in all anesthetizing areas;
5. protocol for supportive life functions, e.g., cardiac and respiratory emergencies;
6. reporting requirements;
7. documentation requirements;
8. inspection and maintenance reports on all supplies and equipment used in anesthesia; and
9. trace gas reports.

B. The policies must also ensure that the following are provided for each patient:

1. a pre-anesthesia evaluation performed and recorded within 48 hours prior to surgery by an individual qualified to administer anesthesia;
2. a reevaluation of each patient immediately prior to induction of anesthesia;
3. an intra-operative anesthesia record that records monitoring of the patient during anesthesia and documentation of at least the following:
 - a. prior to induction of the anesthesia, all anesthesia drugs and equipment to be used have been checked and are immediately available and are determined to be functional by the practitioner who is to administer the anesthetic;
 - b. dosages and total dosages of all drugs and agents used;
 - c. type and amount of all fluid administered, including blood and blood products;
 - d. technique(s) used;
 - e. unusual events during the anesthesia period;
 - f. the status of the patient at the conclusion of anesthesia;
 - g. a post-anesthesia follow-up report written within 48 hours after surgery on inpatients and prior to discharge for patients undergoing one-day/same-day surgery by the individual who administers the anesthesia or another fully qualified practitioner within the anesthesia section; and
 - h. a post-anesthesia evaluation on outpatients for proper anesthesia recovery performed in accordance with policies and procedures approved by the medical staff.

C. The anesthesia policy and procedure manual shall ensure that the following are provided for each patient undergoing:

1. general anesthesia:

a. the use of an anesthesia machine that provides the availability and use of safety devices including, but not limited to, an oxygen analyzer, pressure and disconnect alarm, pin-index safety system, gas-scavenging system, and oxygen pressure interlock system;

b. continuous monitoring of the patient's temperature and vital signs, as well as the continuous use of an EKG/ECG, pulse oximeter monitor, end tidal carbon dioxide volume monitor, and peripheral nerve stimulator monitor;

2. regional anesthesia (major nerve blocks):

a. all equipment listed in the above list for general anesthesia shall be immediately available and in the operating room where the procedure is being performed; and

b. continuous monitoring of the patient's vital signs, and temperature, as well as the continuous use of an EKG/ECG, and pulse oximeter monitor; and

c. monitored by the practitioner who administered the regional anesthetic or individuals identified as a practitioner listed in §9451.A;

3. local anesthesia (infiltration or topical). There shall be:

a. continuous monitoring of the patient's vital signs and temperature as well as the continuous use of an EKG/ECG, and pulse oximeter monitor; and

b. monitoring by the practitioner who administered the local anesthetic or a practitioner listed within §9451.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2421 (November 2003).

§9455. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), repealed LR 29:2422 (November 2003).

Subchapter N. Nuclear Medicine Services (Optional)

§9457. General Provisions

A. If the hospital provides nuclear medicine services or contracts for the services, those services must meet the needs of the patients in accordance with acceptable standards of practice and be provided in a safe and effective manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2422 (November 2003).

§9459. Organization and Staffing

A. The organization of the nuclear medicine services shall be appropriate to the scope and complexity of the services offered. There shall be a director who is a doctor of medicine or osteopathy qualified in nuclear medicine and named in the Department of Environmental Quality, Radiation Protection Division radioactive material license as authorized to use radioactive materials in humans.

B. Nuclear medicine services shall be ordered only by a practitioner whose scope of federal or state licensing and defined staff privileges allow such referrals.

C. The performance of nuclear medicine diagnostic procedures and the administration of radioactive material to humans may be accomplished only by the licensed physician practitioner or by the licensed nuclear medicine technologist.

AUTHORITY NOTE: promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2422 (November 2003).

§9461. Delivery of Service

A. Radioactive materials shall be prepared, labeled, used, transported, stored and disposed of in accordance with acceptable standards of practice.

B. In-house preparation of radiopharmaceuticals shall be by, or under the supervision of an appropriately trained registered pharmacist or a doctor of medicine or osteopathy whose use of radioactive materials is authorized in the facility's Department of Environmental Quality, Radiation Protection Division radioactive material license.

C. There shall be proper storage and disposal of radioactive materials. If clinical laboratory tests are performed in the nuclear medicine service, the service shall meet the requirements for clinical laboratories with respect to management, adequacy of facilities, proficiency testing and quality control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2422 (November 2003).

§9463. Facilities

A. Equipment and supplies shall be appropriate for the types of nuclear medicine services offered and shall be maintained for safe and efficient performance.

B. The equipment shall be maintained in safe operating condition, and inspected, tested, and calibrated at least annually by qualified personnel. The nuclear medicine service shall have and follow a preventive maintenance schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2422 (November 2003).

§9465. Records

A. The hospital shall maintain signed and dated reports of nuclear medicine interpretations, consultations and procedures. The hospital shall maintain copies of nuclear medicine reports in accordance with the retention requirement specified in Subchapter H, Medical Record Services.

B. The practitioner approved by the medical staff and authorized by the facility's Department of Environmental Quality, Radiation Protection Division radioactive material license to interpret diagnostic procedures shall sign and date the interpretations of these tests.

C. The hospital shall maintain records of the receipt and disposition of radiopharmaceuticals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2422 (November 2003).

§9467. Obstetrical Unit Functions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), repealed LR 29:2423 (November 2003).

Subchapter O. Outpatient Services (Optional)

§9469. General Provisions and Organization

A. If the hospital provides outpatient services, the services must meet the needs of the patients in accordance with acceptable standards of practice.

B. Outpatient services shall be appropriately organized, integrated with, and provided in accordance with the standards applicable to the same service provided by the hospital on an inpatient basis. There shall be established methods of communication as well as established procedures to assure integration with inpatient services that provide continuity of care. When outpatients are admitted, pertinent information from the outpatient record shall be in the inpatient record.

C. Any room designated for procedures or treatment involving conscious sedation shall have policies and procedures established by the medical staff to insure quality of care and safety of patients. Such guidelines shall include at a minimum:

1. pre-procedure preparation;
2. patient monitoring;
3. discharge criteria; and
4. staff competency requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2423 (November 2003).

§9471. Personnel

A. The hospital shall assign an individual to be responsible for the outpatient services. There shall be appropriate professional and non-professional personnel available.

B. There must be a registered nurse on the observation unit as long as there are patients admitted to the unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2423 (November 2003).

§9473. Facilities

A. All outpatient facilities shall be accessible to and usable by handicapped employees, staff, visitors and patients. Where appropriate, there shall be at least:

1. a receptionist desk;
2. waiting space;
3. an examination room equipped with a lavatory and nurse call system;
4. public toilet facilities;
5. public telephone; and

6. drinking fountain.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2423 (November 2003).

§9475. Neonatal Unit Functions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), repealed LR 29:2423 (November 2003).

Subchapter P. Rehabilitation Services (Optional)

§9477. General Provisions

A. If the hospital provides a range of rehabilitation services, including but not limited to physical therapy, occupational therapy, audiology or speech pathology services, the services shall be organized, operated and staffed in accordance with the provisions of this Subchapter P to ensure the health and safety of patients.

B. A rehabilitation unit or facility is defined as a designated unit or hospital that primarily provides physiological rehabilitation services to inpatients and/or outpatients.

C. For rehabilitation services that have multiple geographic locations, each geographical site shall meet the requirements in §9483.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2423 (November 2003).

§9479. Organization and Staffing

A. The organization of services shall be appropriate to the scope of the services offered. The rehabilitation service shall employ and define the leadership structure in accordance with the facility administration. The medical director of rehabilitation services shall:

1. be a doctor of medicine or osteopathy;
2. be licensed to practice medicine or surgery in accordance with state law;
3. have completed a one year hospital internship; and
4. have had at least two years of training or experience, within the last five years, in the medical management of patients requiring rehabilitation services.

B. Medical Director

1. It is expected that the experience and training of the medical director of rehabilitation services will be sufficient to provide the expertise to perform all of the functions within the service.

2. The medical director of rehabilitation services will be responsible to ensure that the objectives of each of the therapeutic disciplines of the rehabilitation program are efficiently conducted within the stated mission of the program and in accordance with current standards of rehabilitation medicine.

C. Physical therapy, occupational therapy, psychology/neuropsychology, speech therapy and audiology services shall be provided by staff that meet the qualifications in accordance with Louisiana law. All

rehabilitation staff shall be duly licensed to practice in the areas in which they provide service.

D. A rehabilitation unit in a general hospital shall employ a full-time registered nurse as director of rehabilitation nursing services who is not shared with any other hospital department and who has three years clinical nursing experience, one of which shall be in providing rehabilitative nursing care. The unit shall provide 24-hour registered nurse coverage with an adequate number of licensed nurses and rehabilitative workers to provide the nursing care necessary under each patient's active treatment program.

E. In a rehabilitation hospital, the director of nursing services shall be a full-time registered nurse who has three years clinical nursing experience, one of which shall be in providing rehabilitative nursing care. In addition to the director of nursing services, the hospital shall provide 24-hour registered nurse coverage with an adequate number of licensed nurses and rehabilitative workers to provide the nursing care necessary under each patient's active treatment program.

F. If provided, psychological services shall be provided by or supervised by a psychologist licensed by the Louisiana State Board of Examiners of Psychologists.

G. Social services shall be provided by a licensed clinical social worker and shall meet the needs of the patients.

H. If the hospital provides a range of rehabilitation services, the services must define criteria for admission to the inpatient rehabilitation program and discharge from the inpatient program.

I. There shall be an interdisciplinary team which should include, but not be limited to:

1. a registered nurse with rehabilitation experience on each shift;
2. restorative nursing assistants and/or certified nursing aides;
3. a physical therapist;
4. an occupational therapist;
5. a psychologist/neuropsychologist;
6. a physician experienced in rehabilitation medicine;
7. a social worker;
8. a speech-language pathologist.

J. The program should provide or make arrangements for:

1. audiology services;
2. driver assessment;
3. driver education;
4. medical nutrition therapy;
5. orthotic services;
6. prosthetic services;
7. rehabilitation resources (independent centers);
8. vocational rehabilitation;
9. durable medical equipment;
10. specialty consultants;
11. other services consistent with the criteria for admission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2423 (November 2003).

§9481. Delivery of Services

A. Rehabilitation services shall be furnished in accordance with a written plan of treatment based upon an assessment performed by the qualified professional. The written plan of treatment shall be established prior to the beginning of treatment. The plan of treatment shall consist of at least the treatment goals, type, amount, frequency and duration of services.

B. Rehabilitation services shall be given in accordance with the orders of practitioners who are authorized by the medical staff to order the services. The orders shall be incorporated in the patient's medical record.

C. The patient's progress shall be documented on a timely and regular basis in accordance with written policies and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2424 (November 2003).

§9483. Facilities? Physical Space

A. Space and equipment shall be appropriate for the types of rehabilitation services offered and shall be maintained for safe and efficient performance and in accordance with the Rehabilitation Chapter and General Hospital Chapter of the *AIA Guidelines for Design and Construction of Hospital and Health Care Facilities*, 2001 (or most recent edition).

B. The Activities of Daily Living (ADL) room is in addition to the licensed bed capacity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2424 (November 2003).

§9485. Pediatric Intensive Care Units

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), repealed LR 29:2424 (November 2003).

Subchapter Q. Respiratory Care Services (Mandatory)

§9487. General Provisions

A. The hospital shall provide respiratory care services. The services shall meet the needs of the patients in accordance with acceptable standards of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2424 (November 2003).

§9489. Organization and Staffing

A. The organization of the respiratory care services shall be appropriate to the scope and complexity of the services offered. There shall be a director of the service who shall have the administrative authority and responsibility for implementing the hospital's policies. The director shall be a doctor of medicine or osteopathy with the knowledge, experience and capabilities to supervise and administer the

services properly. The director may serve on either a full-time or part-time basis.

B. There shall be adequate numbers of respiratory therapists, respiratory therapy technicians and other personnel who meet the qualifications specified by the medical staff and approved by the governing body, consistent with Louisiana law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2424 (November 2003).

§9491. Delivery of Services

A. Respiratory care services shall be delivered in accordance with medical staff directives and incorporated in the patient's medical record. The order shall specify the type, frequency and duration of treatment, and as appropriate, the type and dose of medication, type of diluent, and the oxygen concentration. All respiratory care services provided shall be documented in the patient's medical record, including the type of therapy, date and time of administration, effects of therapy, and any adverse reactions.

B. Personnel qualified to perform specific procedures and the amount of supervision required for personnel to carry out specific procedures shall be designated in writing.

C. If blood gases or other clinical laboratory tests are performed in the respiratory care unit, the unit shall meet the requirement for clinical laboratories with respect to management, adequacy of facilities, proficiency testing and quality control as set forth in Subchapter F of these requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing IR 21:177 (February 1995), amended LR 29:2425 (November 2003).

§9493. Staffing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), repealed LR 29:2424 (November 2003).

Subchapter R. Psychiatric Services (Optional)

§9495. General Provisions

A. These requirements are applicable to those hospitals which are primarily engaged in providing psychiatric services for the diagnosis and treatment of mentally ill persons or have organized a physically and functionally distinct part unit within the hospital to provide these services. Pediatric and adolescent psychiatric units shall be physically separated from adult psychiatric units. Facilities without separate pediatric and adolescent units shall have policies and procedures that prevent adult patients from comingling with pediatric and/or adolescent psychiatric patients.

B. For psychiatric services/facilities that have multiple geographic locations, each geographical site shall meet the requirements in §9497, §9499 and §9501.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2425 (November 2003).

§9497. Facilities

A. The layout, design of details, equipment and furnishings shall be such that patients shall be under close observation and shall not be afforded opportunities for hiding, escape or injury to themselves or others. The environment of the unit shall be characterized by a feeling of openness with emphasis on natural light and exterior views. Interior finishes, lighting and furnishings shall suggest a residential rather than an institutional setting while conforming with applicable fire safety codes. Security and safety devices shall not be presented in a manner to attract or challenge tampering by patients.

B. Windows or vents shall be arranged and located so that they can be opened from the inside to permit venting of combustion products and to permit occupants direct access to fresh air in emergencies. The operation of windows shall be restricted to inhibit possible escape or suicide. Where windows or vents require the use of tools or keys for operation, the tools or keys shall be either located on the same floor in a prominent location accessible to staff or carried by every staff member. With hospitals that have approved engineered smoke control systems, the windows may be fixed. Where glass fragments pose a hazard to certain patients, safety glazing and/or other appropriate security features shall be used. There shall be no curtain or venetian blind chords.

C. Where grab bars are provided, they shall be institutional type, shall not rotate within their fittings, be securely fastened with tamper-proof screw heads, and shall be free of any sharp or abrasive elements. If grab bars are mounted adjacent to a wall, the space between the wall and the grab bar shall be 1 1/2 inches.

D. Where towel racks, closet and shower curtain rods are provided, they shall be the breakaway type.

E. Plastic bags and/or trash can liners shall not be used in patient care areas.

F. Electrical receptacles shall be of the safety type or protected by 5-milliampere ground-fault-interrupters.

G. There shall be outdoor space for patient recreation.

H. Patient Rooms

1. A nurses call system is not required, but if it is included, provisions shall be made for easy removal, or for covering call button outlets. A hospital shall have written policies and procedures to address call where no electronic system is in place.

2. Bedpan-flushing devices may be omitted from patient room toilets in psychiatric nursing units.

3. Visual privacy (e.g., cubicle curtains) in multi-bed rooms is not required.

4. Free standing closets shall be secured to the wall.

5. Electric patient beds are not to be used.

I. Service Areas

1. A secured storage area controlled by staff shall be provided for patients' belongings that are determined to be potentially harmful (e.g., razors, nail files, cigarette lighters).

2. Drugs and biologicals shall be stored in locked compartments under proper temperature controls, and only authorized personnel shall have access to the keys.

3. Food service may be one or a combination of the following:

- a. a nourishment station;
- b. a kitchenette designed for patient use with staff control of heating and cooking devices;
- c. a kitchen service including a hand washing fixture, storage space, refrigerator, and facilities for meal preparation.

4. Storage space for stretchers and wheelchairs may be outside the psychiatric unit, provided that provisions are made for convenient access as needed for handicapped patients.

5. A separate charting area shall be provided with provisions for acoustical privacy. A viewing window to permit observation of patient areas by the charting nurse or physician may be used if the arrangement is such that patient files cannot be read from outside the charting space.

6. At least two separate social spaces, one appropriate for noisy activities and one for quiet activities shall be provided. The combined area shall be at least 40 square feet per patient with at least 120 square feet for each of the two spaces. This space may be shared by dining activities.

7. Space for group therapy shall be provided. This may be combined with the quiet space noted above when the unit accommodates not more than 12 patients, and when at least 225 square feet of enclosed private space is available for group therapy activities.

8. An automatic washer and dryer shall be provided for patient laundry.

9. Room(s) for examination and treatment with a minimum area of 120 square feet shall be provided within or in close proximity to the unit.

10. Separate consultation room(s) with minimum floor space of 100 square feet each, provided at a room-to-bed ratio of one consultation room for each 12 psychiatric beds shall be provided within the unit for interviews with patients and their families. The room(s) shall be designed for acoustical and visual privacy and constructed to achieve a noise reduction of at least 45 decibels.

11. Psychiatric hospitals or units shall provide 15 square feet of separate space per patient for occupational therapy, with a minimum total area of at least 200 square feet, whichever is greater. This space shall include provision for hand washing, work counter(s), storage and displays. Occupational therapy areas may serve more than one nursing unit. When the psychiatric nursing unit(s) contain fewer than 12 beds, the occupational therapy functions may be performed within the noisy activities area, if at least an additional 10 square feet per patient served is included.

12. A conference and treatment planning room for use by the psychiatric unit shall be provided. This room may be combined with the charting room.

J. Seclusion Treatment Room

1. There shall be at least one seclusion room for up to 24 beds or a major fraction thereof. It is intended for short-term occupancy by violent or suicidal patients and provides for patients requiring security and protection. The room(s) shall be either located for direct nursing staff supervision or observed through the use of electronic monitoring equipment.

2. If electronic monitoring equipment is used, it shall be connected to the hospital's emergency electrical source.

3. Each room shall be for single occupancy and contain at least 60 square feet. It shall be constructed to prevent patient hiding, escape, injury or suicide.

4. Where restraint beds are required by the functional program, 80 square feet shall be required.

5. If a facility has more than one psychiatric unit, located at the same geographical address, the number of seclusion rooms shall be determined by the total number of psychiatric beds at that location. However, if there are psychiatric units located at multiple and different geographical addresses, there shall be a seclusion room that meets these requirements at each off-site campus that offers inpatient psychiatric services.

6. Special fixtures and hardware for electrical circuits shall be used.

7. The minimum ceiling height shall be 9 feet.

8. Doors shall be 3 feet 8 inches wide, and shall permit staff observation of the patient while also maintaining provisions for patient privacy.

9. Seclusion rooms shall be accessed by an anteroom or vestibule which also provides direct access to a toilet room.

K. Ceiling construction in psychiatric patient rooms and seclusion room(s) shall be monolithic or tamper proof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2425 (November 2003).

§9499. Supplies and Equipment

A. Restraint equipment shall be immediately available and accessible to staff.

B. Recreational supplies and therapy equipment shall be available and in locked storage.

C. Locked storage areas shall be available for safekeeping of patient luggage and contraband items.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2426 (November 2003).

§9501. Staffing

A. The hospital or unit shall provide qualified professional, technical and consultative personnel to evaluate patients, formulate written individualized comprehensive treatment plans, provide active treatment measures and engage in discharge planning.

B. The hospital or unit shall employ a clinical director, who meets the training and experience requirements for examination by the American Board of Psychiatry and Neurology, or the American Osteopathic Board of Neurology and Psychiatry. The clinical director shall monitor and evaluate the quality and appropriateness of services and treatment provided by the medical staff.

C. The hospital or unit shall employ a full-time registered nurse as director of psychiatric nursing services, who is not shared with any other hospital department and who has:

1. a master's degree in psychiatric or mental health nursing; or

2. a master's degree in a related field such as psychology or nursing education and five years nursing

experience and three years providing nursing care to the mentally ill; or

3. a bachelor's, associate degree or diploma in nursing with documented evidence of educational programs focused on treating psychiatric patients, which has occurred at intervals sufficient enough to keep the nurse current on psychiatric nursing techniques. In addition, the nurse shall have at least five years of nursing experience, three years of which were providing nursing care to the mentally ill, or receive regular, documented supervision/consultation from a master's prepared psychiatric nurse.

D. In addition to the director of psychiatric nursing service, the hospital or unit shall provide 24-hour registered nurse coverage with an adequate number of licensed nurses and mental health workers to provide the nursing care necessary under each patient's active treatment program.

E. Psychological services shall be provided by or supervised by a psychologist licensed by the Louisiana State Board of Examiners of Psychologists.

F. Social services shall be provided by a director who is a licensed clinical social worker and is experienced in the social service needs of the mentally ill.

G. Therapeutic activities such as art leisure counseling, recreational therapy, etc., shall be provided by licensed or certified therapists, adequate in number to respond to the therapeutic activity needs of the patient population being served. A certified therapist is a person with a college degree who has obtained a certification as an activity therapist, recreational therapist, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2426 (November 2003).

Subchapter S. Obstetrical and Newborn Services (Optional)

§9505. General Provisions

A. These requirements are applicable to hospitals that provide obstetrical and newborn services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2427 (November 2003).

§9507. Obstetrical Units

A. There are four obstetrical level-of-care units established: Obstetrical Level I Unit; Obstetrical Level II Unit; Obstetrical Level III Unit; and Obstetrical Level III Regional Unit. If obstetrical services are provided, the hospital shall satisfy the basic Obstetrical Level I Unit requirements. Obstetrical services shall be provided in accordance with acceptable standards of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2427 (November 2003).

§9509. Obstetrical Unit Functions

A. Obstetrical Level I Unit

1. Care and supervision for low risk pregnancies shall be provided.

2. A triage system shall exist for identification, stabilization and referral of high risk maternal and fetal conditions beyond the scope of care of a Level I Unit.

3. There shall be a transfer agreement with a hospital which has an Obstetrical Level III Unit and/or Obstetrical Level III Regional Unit.

4. The unit shall provide detection and care for unanticipated maternal-fetal problems encountered in labor.

5. The unit shall have the capability to perform cesarean delivery within 30 minutes of the decision to do so.

6. Blood and fresh frozen plasma for transfusion shall be immediately available.

7. Anesthesia, radiology, ultrasound, electronic fetal monitoring (along with personnel skilled in its use) and laboratory services shall be available on a 24-hour basis.

8. Postpartum care facilities shall be available.

9. There shall be resuscitation and stabilization capability of all inborn neonates.

10. A qualified physician or certified nurse midwife shall attend all deliveries.

B. Obstetrical Level II Unit

1. This unit shall meet all requirements of all Obstetrical Level I Unit services at a superior level.

2. There shall be management of high risk conditions appropriate for the level of medical, nursing support and technical expertise available.

3. The role of an Obstetrical Level II Unit is to provide excellent levels of care for most obstetric conditions in its population, but not to accept transports of obstetrical patients with a gestation age of less than 30 weeks or 1,250 grams if delivery is imminent and likely to result in the delivery of such infant.

4. Conditions which would result in the delivery of an infant weighing less than 1,250 grams or less than 30 weeks gestation shall be referred to a Level III or Level III Regional obstetrical unit unless the patient is too unstable to transport safely. Written cooperative agreements with Obstetrical Level III and/or Obstetrical III Regional Units for transfer of these patients shall exist for all Obstetrical Level II Units.

5. There shall be performance of all Level I unit services at a superior level.

6. The unit shall be able to manage maternal complications of a mild to moderate nature that do not surpass the capabilities of a well trained board-certified obstetrician/gynecologist.

7. The needed subspecialty expertise is predominantly neonatal although perinatal cases might be appropriate to co-manage with a perinatologist.

8. Ultrasound shall be available on labor and delivery 24 hours a day.

C. Obstetrical Level III Unit

1. The unit shall meet all Obstetrical Level I and II Unit services at a superior level.

2. There shall be provision of comprehensive perinatal care for high risk mothers both admitted and transferred. Pregnancies at highest risk shall be managed in these units. Pregnancies marked by extreme prematurity, need for fetal intervention, significant maternal illness (acute or chronic) shall be referred to an Obstetrical Level III or III Regional Unit.

3. Obstetric imaging capabilities to perform targeted ultrasound examinations in cases of known abnormalities shall be available.

4. Genetic counseling and diagnostics shall be provided as a comprehensive service.

5. Research and educational support to practitioners in the community shall be provided through organized outreach educational programs.

6. This unit shall provide for and coordinate maternal transport with Obstetrical Level I and II Units.

7. Cooperative transfer agreements with Obstetrical Level III Regional Units shall exist for the transport of mothers or fetuses requiring care unavailable in an Obstetrical Level III Unit or that are better coordinated at an Obstetrical Level III Regional Unit.

8. There shall be an initial evaluation of new high-risk technologies.

9. There shall be performance of all Level I and II Unit services at a superior level.

10. The unit shall provide care for the most premature labors.

11. The unit shall provide care for the most challenging of fetal conditions. Only those conditions requiring a medical team approach not available to the perinatologist in an Obstetrical Level III Unit shall be transported to an Obstetrical Level III Regional Unit.

12. The unit shall provide for the most challenging of maternal conditions. Only those conditions requiring an OB/ICU environment or specialty support unavailable in an Obstetrical Level III Unit shall be transported to an Obstetrical Level III Regional Unit.

13. Anesthesia services shall be in-house 24 hours per day.

D. Obstetrical Level III Regional Unit

1. The unit shall meet all requirements and performance of Level I, II and III NICU Unit services at a superior level.

2. There shall be a continuing commitment to maintain a depth and breadth of support specialties available in only the most sophisticated of medical centers.

3. These units shall provide for and coordinate maternal and neonatal transport with Level I, II and III NICU Units throughout the state.

4. Initial evaluation of new technologies shall be a goal of an Obstetrical Level III Regional Unit.

5. Hospitals with these units shall be recognized as a medical center of excellence, and a center of research, educational and consultative support to the medical community.

6. The unit shall have the ability to care for both mother and fetus in a comprehensive manner in an area dedicated to the care of the critically ill parturient.

7. An organized team dedicated to the care of the mother and of the fetus both in utero and after delivery shall be maintained. The team shall consist of, but is not limited to, specialist in the following areas: maternal fetal medicine, cardiology, neurology, neurosurgery and hematology. Additionally, sub-specialists to provide expertise in the care of the critically ill parturient shall be on staff in the following areas: adult critical care, cardiothoracic surgery, nephrology, pulmonary medicine, cardiology, endocrinology, urology, neurosurgery, infectious disease and gastroenterology. A nutritionist shall also be available in the care of these patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2427 (November 2003).

§9511. Medical Staff

A. Obstetrical Level I Unit

1. Obstetrical services shall be under the medical direction of a qualified physician who is a member of the medical staff with obstetric privileges and is appointed by the governing body. This physician has the responsibility of coordinating perinatal services with the pediatric medical director.

B. Obstetrical Level II Unit

1. The chief of obstetric services shall be a board certified/board eligible obstetrician with special interest and experience in maternal-fetal medicine. This obstetrician has the responsibility of coordinating perinatal services with the neonatologist in charge of the NICU.

2. Anesthesia personnel with credentials to administer obstetric anesthesia shall be readily available.

3. Policies regarding the availability of anesthesia for routine and emergency deliveries shall be developed. Specialized medical and surgical consultation shall be readily available by medical staff members.

4. A board certified radiologist and a board certified clinical pathologist shall be available 24 hours a day. Specialized medical and surgical consultation shall be readily available.

C. Obstetrical Level III Unit

1. The chief of the obstetrical unit providing maternal-fetal medicine services at a Level III Unit shall be a board certified or board eligible maternal-fetal medicine specialist or a board certified obstetrician with special interest and experience in maternal-fetal medicine who shall be designated as the chief to assure that appropriate care is provided by the primary attending physician for high risk maternal patients.

2. If there is no hospital based maternal-fetal medicine specialist, a strong consultative agreement shall exist through a formal transfer agreement with an Obstetrical Level III or Level III Regional Obstetrical Unit with a hospital based maternal-fetal medicine specialist. The agreement shall also provide for the review of outcomes and case management for all high risk obstetrical patients for educational purposes.

3. A board-certified anesthesiologist with special training or experience in maternal-fetal anesthesia shall be in charge of obstetric anesthesia services at a Level III Unit. Personnel with credentials to administer obstetric anesthesia, which would include CRNAs, shall be in-house 24 hours a day. Personnel with credentials to administer neonatal and pediatric anesthesia shall be available as required. Medical and surgical consultation shall be readily available and on staff.

D. Obstetrical Level III Regional Unit

1. The medical staff as outlined in the Level III Unit classification shall be available and shall coordinate care with the subspecialties as listed within an Obstetrical Level III Regional Unit function.

2. The chief of the perinatal team at the Level III Regional Unit shall be a board-certified maternal-fetal specialist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2428 (November 2003).

§9513. Facilities

A. Obstetrical patients shall not be placed in rooms with other types of patients.

B. At least one toilet and lavatory basin shall be provided for the use of obstetrical patients.

C. The arrangement of the rooms and areas used for obstetrical patients shall be such as to minimize traffic of patients, visitors and personnel from other departments and prevent traffic through the delivery room(s).

D. There shall be an isolation room provided with hand washing facilities for immediate segregation and isolation of a mother and/or baby with a known or suspected communicable disease.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2429 (November 2003).

§9515. Newborn Units

A. There are four neonatal level-of-care units established: Level I Neonatal Unit; Level II NICU Unit; Level III NICU Unit; and Level III Regional NICU Unit. If neonatal services are provided, the hospital shall satisfy the basic Neonatal Level I NICU Unit requirements. Neonatal services shall be provided in accordance with acceptable standards of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2429 (November 2003).

§9517. Neonatal Unit Functions

A. Level I Neonatal Unit

1. The unit shall be able to evaluate the condition of healthy neonates and provide continuing care of these neonates until their discharge in compliance with state regulations regarding eye care, hearing screening and metabolic screening.

2. The unit shall stabilize unexpectedly small or sick neonates before transfer to a Level II, III or III Regional NICU Unit.

3. The unit shall maintain consultation and transfer agreements with a Level II, III and III Regional NICU Units, emphasizing maternal transport when possible.

4. There shall be resuscitation and stabilization of all inborn neonates.

5. There shall be a defined nursery area with limited access and security or rooming-in facilities.

6. Parent-neonate visitation/interaction shall be provided.

7. There shall be the capability of data collection and retrieval.

B. Level II NICU Unit

1. The unit shall meet all requirements and performance of all Level I Neonatal Unit services at a superior level.

2. There shall be management of small, sick neonates with a moderate degree of illness that are admitted or transferred.

3. There shall be neonatal ventilatory support, vital signs monitoring and fluid infusion in the defined area of the nursery.

4. Neonates born in a Level II NICU Unit with a birth weight of less than 1,000 grams shall be transferred to a Level III or Level III Regional NICU Unit once they have been stabilized if they require prolonged ventilatory support or have life threatening diseases or surgical complications requiring a higher level of care.

5. Neonates with a birth weight in excess of 1,000 grams who require prolonged ventilation therapy shall be cared for in a Level II NICU Unit, provided such facility performs a minimum of 72 days of ventilator care annually. A day of ventilator care is defined as any period of time during a 24-hour period.

6. If a Level II NICU Unit performs less than 72 ventilator days per year, it shall transfer any neonate requiring prolonged (greater than 24 consecutive hours) ventilator therapy to a Level III or Level III Regional NICU Unit. Neonates requiring transfer to a Level III or Level III Regional NICU Unit may be returned to a Level II NICU Unit for convalescence.

C. Level III NICU Unit

1. The unit shall meet all requirements of the Level I Neonatal Unit and Level II NICU Unit services at a superior level.

2. There shall be provision of comprehensive care of high risk neonates of all categories admitted and transferred.

3. There shall be a neonatal transport agreement with Level III Regional Units and shall be involved in organized outreach educational programs.

4. There shall be one neonatologist for every 10 patients in intensive care (Level III NICU unit) area. If the neonatologist is not in-house, there shall be one licensed physician who has successfully completed the Neonatal Resuscitation Program (NRP), or one neonatal nurse practitioner in-house for Level III NICU unit patients who require intensive care. A five-year phase-in period shall be allowed in order for the hospital to recruit adequate staff to meet these requirements.

5. Obstetrics and neonatal diagnostic imaging, provided by obstetricians or radiologists who have special interest and competence in maternal and neonatal disease shall be available 24 hours a day.

6. There shall be a neonatologist or a licensed physician who has successfully completed the Neonatal Resuscitation Program (NRP), or a neonatal nurse practitioner in-house at all times.

D. Neonatal Level III Regional NICU Unit

1. The unit shall meet all requirements of the Level I Neonatal Unit and Level II and III NICU unit services at a superior level.

2. The unit shall have a transport team and provide for and coordinate a maternal and neonatal transport with Level I, Level II and Level III NICU's throughout the state.

3. The unit shall be recognized as a medical center of excellence, and a center of research, educational and consultative support to the medical community.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2429 (November 2003).

§9519. Medical Staff

A. Level I Neonatal Unit. The unit's medical director and/or department chief shall be a board-eligible or board-certified pediatrician; or a board-eligible or board-certified family practitioner on staff.

B. Level II NICU Unit. A board-certified pediatrician of a Level II NICU unit with subspecialty certification in neonatal medicine shall be the medical director and/or department chief. In existing units consideration shall be given to waiving this requirement for board-certified pediatricians with a minimum of five years experience in neonatal care who are currently serving as medical directors of Level II NICU units. The request for waiver shall be made in writing to the Office of the Secretary.

C. Level III NICU Unit. The medical director and/or department chief of a Level III NICU unit shall be a board-certified pediatrician with subspecialty certification in neonatal medicine. The following exceptions are recognized.

1. Board eligible neonatologists shall achieve board certification within five years of completion of fellowship training.

2. In existing units, consideration shall be given to waiving this requirement for neonatologists who are currently medical directors and/or department chiefs of Level III NICUs. The request for waiver shall be made in writing to the Office of the Secretary/Bureau of Health Services Financing. This exception applies only to the individual at the hospital where the medical director and/or department chief position is held. The physician can not relocate to another hospital nor can the hospital replace the medical director and/or department chief for whom the exception was granted and retain the exception.

3. There shall be one neonatologist for every 10 patients in the intensive care Level III NICU unit area. If the neonatologist is not in-house, there shall be one licensed physician (who has successfully completed the neonatal resuscitation program (NRP)), or one neonatal nurse practitioner in-house for Level III NICU unit patients who require intensive care. A five-year phase-in period shall be allowed in order for the hospital to recruit adequate staff to meet these requirements. A Level III NICU unit shall have a neonatologist, or a licensed physician (who has successfully completed the neonatal resuscitation program (NRP)), or a neonatal nurse practitioner in-house at all times.

4. Medical and surgical consultation shall be readily available and pediatric sub-specialists may be used in consultation with a transfer agreement with a Level III Regional NICU unit.

D. Level III Regional NICU Unit

1. The medical director and/or department chief shall be a board-certified neonatologist.

2. The unit shall have the following subspecialties on staff and clinical services available to provide consultation and care in a timely manner:

- a. pediatric surgery;
- b. pediatric cardiology;
- c. pediatric neurology;
- d. pediatric hematology;
- e. genetics;
- f. pediatric nephrology;
- g. endocrinology;
- h. pediatric gastroenterology;

- i. pediatric infectious disease;
- j. pediatric pulmonary medicine;
- k. cardiovascular surgery;
- l. neurosurgery;
- m. orthopedic surgery;
- n. pediatric urologic surgery;
- o. pediatric ophthalmology;
- p. pediatric ENT surgery;
- q. pediatric nutritionist;
- r. pediatric PT/OT;
- s. neonatal social services;
- t. bioethics committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2430 (November 2003).

§9521. Staffing

A. Level I Neonatal Unit. A registered nurse manager dedicated for the neonatal care area shall be available to all units. The registered nurse manager shall have specific training and experience in neonatal care. The registered nurse manager shall participate in the development of written policies and procedures for the neonatal care areas, coordinate staff education and budget preparation with the medical director. The nurse manager shall name qualified substitutes to fulfill his or her duties during their absences. Nurse to patient ratios will vary with patient needs; however, the range for Level I shall be 1:8.

B. Level II NICU Unit. A registered nurse manager dedicated for the neonatal care area shall be available to all units. The registered nurse manager shall have specific training and experience in the development of written policies and procedures for the neonatal care areas and shall coordinate staff education and budget preparation with the medical director. The nurse manager shall name qualified substitutes to fulfill his or her duties during their absences. Nurse to patient ratios will vary with patient needs; however, the range for Level II shall be 1:3-4.

C. Level III NICU Unit. A registered nurse manager dedicated for the neonatal care area shall be available to all units. The nurse manager shall have specific training and experience in the development of written policies and procedures for the neonatal care areas and shall coordinate staff education and budget preparation with the medical director. The nurse manager shall name qualified substitutes to fulfill his or her duties during their absences. Nurse-to-patient ratios will vary with patient needs, however, the range for Level III NICU unit shall be 1:2-3.

D. Level III Regional NICU Unit. A registered nurse manager dedicated for the neonatal care area shall be available to all units. The nurse manager shall have specific training and experience in neonatal intensive care. The nurse manager shall participate in the development of written policies and procedures for the neonatal care areas and shall coordinate staff education and budget preparation with the medical director. The nurse manager shall name qualified substitutes to fulfill his or her duties during their absences. Nurse to patient ratios will vary with patient needs, however, the range for Level III regional unit shall be 1:1-2.

E. The following support personnel shall be available to the perinatal care service of Level II, III and III Regional NICU units:

1. at least one full-time medical social worker who has experience with the socioeconomic and psychosocial problems of high-risk mothers and fetuses, sick neonates, and their families (additional medical social workers may be required if the patient load is heavy);

2. at least one occupational or physical therapist with neonatal expertise;

3. at least one registered dietitian/nutritionist who has special training in perinatal nutrition and can plan diets that meet the special needs of high-risk mothers and neonates;

4. qualified personnel for support services such as laboratory studies, radiologic studies and ultrasound examinations (these personnel shall be readily available 24 hours a day); and

5. respiratory therapists or nurses with special training who can supervise the assisted ventilations of neonates with cardiopulmonary disease (optimally, one therapist is needed for each four neonates who are receiving assisted ventilation).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2430 (November 2003).

Subchapter T. Pediatric Services (Optional)

§9525. General Provisions

A. Pediatric services shall be under the medical direction of a qualified physician who is a member of the medical staff with pediatric privileges and appointed by the governing body. Hospitals admitting children shall have proper facilities for their care apart from adult patients and the newborn. Children under 14 years of age shall not be placed in rooms with adult patients.

B. In hospitals with a separate designated pediatric unit in existence prior to March 1, 1995, the maximum number of beds permitted in each pediatric room shall be eight and shall meet the same spatial standards as specified in Subchapter J of these requirements. In hospitals with a separate designated pediatric unit subsequent to March 1, 1995, the maximum number of beds permitted in each pediatric room shall be four and shall meet the same spatial standards as specified in Subchapter J of these requirements. Patient rooms containing cribs shall provide at least 60 square feet minimum clear floor area for each crib, with no more than six cribs in each room. Provisions for hygiene, toilets, sleeping and personal belongings shall be included where the program indicates that parents are allowed to remain with pediatric patients. Equipment and supplies shall be readily available and appropriate for pediatric services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2431 (November 2003).

§9527. Personnel

A. Every registered nurse who works in the pediatric unit shall be trained in an emergency pediatric nursing course that includes training in pediatric trauma and pediatric advanced life support and that has been conducted pursuant to guidelines established by the Louisiana State Board of Nursing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2431 (November 2003).

§9529. Pediatric Intensive Care Units

A. There are two levels of pediatric care units: Level I; and Level II. If pediatric intensive care services are provided, the hospital shall satisfy the Level II PICU requirements.

B. Levels I and II units shall have a PICU Committee established as a standing committee of the hospital. It shall be composed of at least physicians, nurses, respiratory therapists and other disciplines as appropriate to the specific hospital unit. The committee shall participate in the delineation of privileges for all personnel (both MD and non-MD) within the unit. Policies and procedures shall be established by the medical director and the registered nurse manager in collaboration with the committee and with approval of the medical staff and the governing body. These written policies and procedures shall include, but not be limited to, safety procedures infection control, visitation, admission and discharge criteria, patient monitoring and record keeping, equipment preventive maintenance and repair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2431 (November 2003).

§9531. Facilities

A. The Levels I and II shall be distinct, separate units within the hospital. There shall be clean and soiled utility rooms, isolation room capabilities, medication and a conference area available on the units.

B. Level I units shall be located in the Category 1 facility as defined by the American Academy of Pediatrics.

C. The Emergency Department (ED) shall have a separate covered entrance. Two or more areas within the ED shall have the capacity and equipment to resuscitate any pediatric patient with any medical, surgical or traumatic illness within facilities with Level I units. Hospitals with Level II units only need one such area. The emergency room shall be staffed 24 hours a day in facilities with either Level I of II units.

D. There shall be an operating suite with one room available within 30 minutes and a second room within 45 minutes, 24 hours a day. Hospitals with Level I units must have the capability of providing cardiopulmonary bypass, pediatric bronchoscopy and radiography.

E. Clinical Laboratories

1. Clinical laboratories shall have microspecimen capability and the capability to perform clotting studies with one-hour turn around. There must also be the capability to perform:

- a. complete blood cell count;
- b. differential count;
- c. platelet count;
- d. urinalysis;
- e. electrolytes;
- f. blood urea nitrogen;
- g. creatinine;
- h. glucose calcium;
- i. prothrombin time;

- j. partial thromboplastin time; and
- k. cerebrospinal fluid cell counts.

2. Preparation of gram stains and bacteriologic cultures shall be available 24 hours per day. Blood gas values must be available within 15 minutes. Results of drug screening and levels of serum ammonia, serum and urine osmolarity, phosphorus and magnesium shall be available within three hours for Level I units.

F. There must be a blood bank able to provide all blood components 24 hours a day in both Levels I and II. Cross matching shall allow for transfusions within one hour unless some unusual antibody is encountered.

G. Hospitals with Level I units must have radiology services capable of radiography, fluoroscopy, computerized tomography scanning, ultrasonography and nuclear scanning angiography.

H. Diagnostic cardiac and neurologic studies shall be available to both Levels I and II unit facilities.

I. A catheterization laboratory or angiography suite must be present in facilities with Level I units.

J. Level I units shall have the capability to provide hemodialysis 24 hours a day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2432 (November 2003).

§9533. Patient Rooms

A. The head of each bed and/or crib shall be rapidly accessible for emergency airway management.

B. Electrical power, oxygen, medical compressed air and vacuum outlets shall be available at each bed/crib.

C. There shall be walls or curtains available at each bedside to provide for full visual privacy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2432 (November 2003).

§9535. Medical Staff

A. The medical director in Level I units shall be:

1. board certified in pediatrics and board certified or in the process of board certification in pediatric critical care medicine (certification must be completed within five years);

2. board certified in anesthesiology with practice limited to infants and children with special qualifications (as defined by the American Board of Anesthesiology) in critical care medicine; or

3. board certified in pediatric care medicine (as defined by the American Board of Surgery). A Level II medical director shall meet the same criteria of Level I except the board certification in Pediatric Critical Medicine is not required. The medical director shall name a qualified alternate to serve in his or her absence.

B. In existing units, consideration will be given to waiving this requirement for board certified pediatricians with a minimum of five years experience in pediatric care who are currently serving as medical directors of Levels I and II units. The request for waiver shall be made in writing to the Office of the Secretary.

C. Levels I and II units must have at least one physician of at least the postgraduate year two assigned to the PICU in-house 24 hours per day.

D. Other physicians including the attending physician or designee shall be available within 30 minutes.

E. Level I units shall have on staff a pediatric anesthesiologist, surgeon, cardiothoracic surgeon, neurosurgeon, intensivist, cardiologist, neurologist, pulmonologist, hematologist/oncologist, endocrinologist, gastroenterologist, allergist or immunologist, as well as a radiologist, pathologist, and psychiatrist or psychologist. Level II units shall meet the above medical staffing requirements, except the cardiothoracic surgeon and the pediatric subspecialties. There shall be a five-year phase in period with regard to staffing requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2432 (November 2003).

§9537. Staffing

A. Levels I and II shall have a unit manager dedicated to the unit who is a registered nurse with specific training and experience in pediatric critical care. The Level I manager shall be certified in critical-care nursing. The registered nurse manager shall name a qualified alternate to act in his/her absence.

1. The staff to patient ratio shall vary with the acuity of the patients; however, the minimum shall be 1:3.

2. There shall be an organized written orientation program as well as an ongoing in-service/continuing education program.

B. For the Level I units the respiratory therapy staff assigned to a unit shall be in-house 24 hours per day.

1. Biomedical technicians shall be available within one hour, 24 hours a day.

2. The unit clerk shall be readily available to the unit 24 hours a day.

3. A pharmacist and licensed radiographer shall be in-house 24 hours per day.

4. Social workers, physical therapists and nutritionists shall be assigned to the unit as applicable.

C. For Level II Units the respiratory therapist shall be in-house 24 hours a day.

1. The biomedical technician shall be available within one hour, 24 hours a day.

2. The pharmacist and radiologist shall be on call 24 hours a day.

3. Unit clerks, social workers, physical therapists and nutritionists shall be available as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2432 (November 2003).

§9539. Supplies and Equipment

A. There shall be lifesaving, therapeutic and monitoring equipment present in Level I and II units. There shall be a complete "code" or "crash" cart available on both Level I and II units. The cart contents available on Level I and II

units should include, but not be limited to, approved medications, a defibrillator/cardioverter, automated blood pressure apparatus devices. All equipment shall be of proper size for infants and children. Oxygen tanks are needed for transport and backup for both Levels I and II units.

B. There shall be additional equipment available to meet the needs of the patient population.

C. Level I units shall have the capability of ventilator support.

D. There shall be bedside monitoring in Level I and II PICUs with the capability for continuously monitoring heart rate and rhythm, respiratory rate, temperature and one hemodynamic pressure. Level I units shall also have the ability to monitor systemic arterial, central venous, pulmonary arterial and intracranial pressures. The monitors must have alarms with both high and low settings and they must also have both audible and visible capability. There shall be a maintenance and calibration schedule maintained for all monitoring devices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2432 (November 2003).

§9541. Miscellaneous

A. PICUs shall be integrated with the regional EMS system as available. Rapid access to a poison control center is essential. Each PICU shall have or be affiliated with a transport system and team to assist other hospitals in arranging safe patient transport.

B. Each Level I PICU shall offer pediatric critical care education for EMS providers, emergency department and transport personnel as well as for the general public. The staff nurses and respiratory therapists must also have basic life support certification.

C. Level I PICUs offering a fellowship program in pediatric critical care will possess sufficient patient volume, teaching expertise, and research capability to support such a fellowship. Programs providing sub-specialty training in critical care must possess approval by the residency review committee of the Accreditation Council on Graduate Medical Education. Research is essential for improving our understanding of the pathophysiology affecting vital organ systems. Such knowledge is vital to improve patient care techniques and therapies and thereby decrease morbidity and mortality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2433 (November 2003).

David W. Hood
Secretary

0311#087

RULE

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

Medicaid Estate Recovery Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the October 20, 2001 Rule governing Medicaid Estate Recovery.

David W. Hood
Secretary

0311#086

RULE

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

Medical Transportation Program Emergency and Non-Emergency Ambulance Services Certification for Ambulance Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes the following criteria for the certification of emergency and non-emergency ambulance transportation services.

1. The medical certification form shall be used to document the recipient's condition at the time the ambulance services were ordered and to establish medical necessity for the ambulance services. The signature of the following licensed medical professionals who render medical care to the recipient shall be acceptable on the medical certification form:

- a. a physician;
- b. a registered nurse;
- c. the director of nursing at a nursing facility;
- d. a nurse practitioner;

- e. a physician assistant; or
- f. a clinical nurse specialist.

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

David W. Hood
Secretary

0311#084

RULE

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

**State-Operated Intermediate Care Facilities for
the Mentally Retarded? Upper Payment Limit**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has promulgated the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the reimbursement methodology for state operated intermediate care facilities for the mentally retarded (ICFs-MR) and establishes payments using a formula for establishing per diem rates at the Medicare Upper Payment Limit for these services.

A. Medicaid payments to state-owned and operated ICFs-MR shall be based on the basic Medicare formula for determining the routine service cost limits, as follows:

1. calculate each state owned and operated ICFs-MR per diem routine costs in a base year;
2. calculate 112 percent of the average per diem routine costs; and
3. inflate 112 percent of the per diem routine costs using the skilled nursing facility (SNF) market basket index of inflation. Each state-owned and operated facility's capital and ancillary costs will be paid by Medicaid on a "pass-through" basis.

B. The sum of the calculations for routine service costs and the capital and ancillary costs "pass-through" shall be the per diem rate for each state-owned and operated ICF-MR. The base year cost reports to be used for the initial calculations shall be the cost reports for the fiscal year ended June 30, 2002.

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

David W. Hood
Secretary

0311#088

RULE

**Department of Insurance
Office of the Commissioner**

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

This regulation is authorized by R.S.22:2 and 22:224, and amends existing laws that pertain to the Medicare Supplement Insurance Minimum Standards. These standards are required to bring existing laws into compliance with the new federal standards created by the Benefits Improvement and Protection Act (hereinafter referred to as BIPA). The Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act was enacted on December 21, 2000. The Department of Insurance is adopting the NAIC Model Regulation in order to implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act, which comply with Federal law. Additionally, technical corrections are grammatical in nature and adjustments were made to the Outline of Coverage Charts to address the current amounts mandated by the federal government.

The department is clarifying existing laws in reference to notice requirements, rate increase requirements, grievance procedures and premium requirements.

Title 37

INSURANCE

Part XIII. Regulations

**Chapter 5. Regulati on 33? Medicare Supplement
Insurance Minimum Standards**

§501. Purpose

A. The purpose of this regulation is:

1. to provide for the reasonable standardization of coverage and simplification of terms and benefits of Medicare supplement policies;
2. to facilitate public understanding and comparison of such policies;
3. to eliminate provisions contained in such policies which may be misleading or confusing in connection with the purchase of such policies or with the settlement of claims; and
4. to provide for full disclosures in the sale of accident and sickness insurance coverages to persons eligible for Medicare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1101 (June 1999), repromulgated LR 25:1481 (August 1999), repromulgated LR 29:2434 (November 2003).

§502. Applicability and Scope

A. Except as otherwise specifically provided in §§510, 540, 545, 560 and 585, this regulation shall apply to:

1. all Medicare supplement policies delivered or issued for delivery in this state on or after the effective date of this regulation; and
2. all certificates issued under group Medicare supplement policies which certificates have been delivered or issued for delivery in this state.

B. This regulation shall not apply to a policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or a combination thereof, or for members or former members, or a combination thereof, of the labor organizations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1101 (June 1999), repromulgated LR 25:1481 (August 1999), LR 29:2434 (November 2003).

§503. Definitions

A. For purpose of this regulation:

Applicant?

a. in the case of an individual Medicare supplement policy, the person who seeks to contract for insurance benefits; and

b. in the case of a group Medicare supplement policy, the proposed certificateholder.

Bankruptcy? when a Medicare+Choice organization that is not an issuer has filed, or has had filed against it, a petition for declaration of bankruptcy and has ceased doing business in the state.

Certificate? any certificate delivered or issued for delivery in this state under a group Medicare supplement policy.

Certificate Form? the form on which the certificate is delivered or issued for delivery by the issuer.

Continuous Period of Creditable Coverage? the period during which an individual was covered by creditable coverage, if during the period of the coverage the individual had no breaks in coverage greater than 63 days.

Creditable Coverage?

a. with respect to an individual, coverage of the individual provided under any of the following:

- i. a group health plan;
- ii. health insurance coverage;
- iii. Part A or Part B of Title XVIII of the Social Security Act (Medicare);
- iv. Title XIX of the Social Security Act (Medicaid), other than coverage consisting solely of benefits under section 1928;
- v. Chapter 55 of Title 10 United States Code (CHAMPUS);
- vi. a medical care program of the Indian Health Service or of tribal organization;
- vii. a State health benefits risk pool;
- viii. a health plan offered under chapter 89 of Title 5 United States Code (Federal Employees Health Benefits Program);
- ix. a public health plan as defined in federal regulation; and
- x. a health benefit plan under Section 5(e) of the Peace Corps Act [22 United States Code 2504(e)].

b. creditable coverage shall not include one or more, or any combination of, the following:

- i. coverage only for accident or disability income insurance, or any combination thereof;
 - ii. coverage issued as a supplement to liability insurance;
 - iii. liability insurance, including general liability insurance and automobile liability insurance;
 - iv. workers compensation or similar insurance;
 - v. automobile medical payment insurance;
 - vi. credit-only insurance;
 - vii. coverage for on-site medical clinics; and
 - viii. other similar insurance coverage, specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance benefits.
- c. creditable coverage shall not include the following benefits if they are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of the plan:
- i. limited scope dental or vision benefits;
 - ii. benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; and
 - iii. such other similar, limited benefits as are specified in federal regulations;
- d. creditable coverage shall not include the following benefits if offered as independent, noncoordinated benefits:
- i. coverage only for a specified disease or illness; and
 - ii. hospital indemnity or other fixed indemnity insurance;
- e. creditable coverage shall not include the following if it is offered as a separate policy, certificate or contract of insurance:
- i. Medicare supplemental health insurance as defined under section 1882 (g)(1) of the Social Security Act;
 - ii. coverage supplemental to the coverage provided under chapter 55 of title 10, United States Code; and
 - iii. similar supplemental coverage provided to coverage under a group health plan.

Employee Welfare Benefit Plan? a plan, fund or program of employee benefits as defined in 29 U.S.C. Section 1002 (Employee Retirement Income Security Act).

Insolvency? inability to pay its obligations when they are due, or a condition when its admitted assets do not exceed its liabilities plus the greater of:

a. any capital and surplus required by law for its organization; and

b. the total par or stated value of its authorized and issued capital stock;

c. for purposes of this Subsection, liabilities shall include but not be limited to reserves required by statute, by general regulations of the Department of Insurance or by specific requirements imposed by the commissioner upon a subject company at the time of admission or subsequent thereto.

Issuer? includes insurance companies, fraternal benefit societies, health care service plans, health maintenance organizations, and any other entity authorized to deliver or issue for delivery in this state Medicare supplement policies or certificates.

Medicare? "Health Insurance for the Aged Act," Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended.

Medicare+Choice Plan? a plan of coverage for health benefits under Medicare Part C as defined in Section 1859 found in Title IV, Subtitle A, Chapter 1 of P.L. 105-33, and includes:

- a. coordinated care plans which provide health care services, including but not limited to health maintenance organization plans (with or without a point-of-service option), plans offered by provider-sponsored organizations, and preferred provider organization plans;
- b. medical savings account plans coupled with a contribution into a Medicare+Choice medical savings account; and
- c. Medicare+Choice private fee-for-service plans.

Medicare Supplement Policy? a group or individual policy of health insurance or a subscriber contract of hospital and medical service associations or health maintenance organizations, other than a policy issued pursuant to a contract under Section 1876 of the federal Social Security Act (42 U.S.C. Section 1395 et. seq.) or an issued policy under a demonstration project specified in 42 U.S.C. §1395ss(g)(1), which is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare. Also, it includes those plans commonly known as health care prepayment plans (HCPPs).

Policy Form? the form on which the policy is delivered or issued for delivery by the issuer.

Qualified Actuary? an actuary who is a member of either the Society of Actuaries or the American Academy of Actuaries.

Secretary? the Secretary of the United States Department of Health and Human Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 43 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1102 (June 1999), repromulgated LR 25:1481 (August 1999), LR 29:2435 (November 2003).

§504. Policy Definitions and Terms

A. No policy or certificate may be advertised, solicited or issued for delivery in this state as a Medicare supplement policy or certificate unless the policy or certificate contains definitions or terms, which conform to the requirements of this Section.

Accident, Accidental Injury, or Accidental Means? to employ "result" language and shall not include words, which establish an accidental means test or use words such as "external, violent, visible wounds" or similar words or description or characterization.

a. The definition shall not be more restrictive than the following:

"Injury or injuries for which benefits are provided means accidental bodily injury sustained by the insured person which is the direct result of an accident, independent of disease or bodily infirmity or any other cause, and occurs while insurance coverage is in force."

b. The definition may provide that injuries shall not include injuries for which benefits are provided or available under any workers' compensation, employer's liability or similar law, or motor vehicle no-fault plan, unless prohibited by law.

Benefit Period or Medicare Benefit Period? shall not be defined more restrictively than as defined in the Medicare program.

Convalescent Nursing Home, Extended Care Facility, or Skilled Nursing Facility? shall not be defined more restrictively than as defined in the Medicare program.

Health Care Expenses? expenses of health maintenance organizations associated with the delivery of health care services, which expenses are analogous to incurred losses of insurers. Expenses shall not include:

- a. home office and overhead costs;
- b. advertising costs;
- c. commissions and other acquisition costs;
- d. taxes;
- e. capital costs;
- f. administrative costs; and
- g. claims processing costs.

Hospital? may be defined in relation to its status, facilities and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals, but not more restrictively than as defined in the Medicare program.

Medicare? in the policy and certificate. Medicare may be substantially defined as "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended," or "Title I, Part I of Public Law 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof," or words of similar import.

Medicare Eligible Expenses? expenses of the kinds covered by Medicare, to the extent recognized as reasonable and medically necessary by Medicare.

Physician? shall not be defined more restrictively than as defined in the Medicare program.

Sickness? shall not be defined to be more restrictive than the following.

a. Sickness means illness or disease of an insured person which first manifests itself after the effective date of insurance and while the insurance is in force.

b. The definition may be further modified to exclude sicknesses or diseases for which benefits are provided under any workers' compensation, occupational disease, employer's liability or similar law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1102 (June 1999), repromulgated LR 25:1482 (August 1999), LR 29:2436 (November 2003).

§505. Policy Provisions

A. Except for permitted preexisting condition clauses as described in §510.A.1. and §515.A.1 of this regulation, no policy or certificate may be advertised, solicited or issued for delivery in this state as a Medicare supplement policy if the policy or certificate contains limitations or exclusions on coverage that are more restrictive than those of Medicare.

B. No Medicare supplement policy or certificate may use waivers to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions.

C. No Medicare supplement policy or certificate in force in the state shall contain benefits, which duplicate benefits provided by Medicare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1102 (June 1999), repromulgated LR 25:1483 (August 1999), LR 29:2436 (November 2003).

§506. Premium Increase Requirements

A. Every insurer issuing or renewing a Medicare Supplement policy shall notify the policyholder and each member of an association in writing at least 45 days before any premium increase.

B. Medicare supplement policies and certificates shall have a notice prominently printed on the first page of the policy or certificate stating in substance that policyholder or certificateholder will be notified at least 45 days before any premium increase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 29:2436 (November 2003).

§507. Rate Increases Requirements

A. Every insurer issuing a Medicare supplement policy shall not increase their premium rates during the initial 12 months of coverage and not more than once in any six-month period following the initial 12-month period for any policy, certificate, rider, or amendment issued in or for residents of the state, no matter the date of commencement or renewal of coverage. This Subsection does not affect increases in the premium amount due to the addition of a newly covered person or change in age or geographic location of an individual insured or policyholder or an increase in the policy benefit level.

B. Medicare supplement policies and certificates shall have a notice prominently printed on the first page of the policy or certificate stating in substance that the premium rates will not increase during the initial 12-months of coverage and not more than once in any six-month period following the initial 12-month period. The notice may include that this requirement does not affect increases in the premium amount due to the addition of a newly covered person or change in age or geographic location of an individual insured or policyholder or an increase in the policy benefit level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 29:2436 (November 2003).

§508. Reserved.

§509. Reserved.

§510. Minimum Benefit Standards for Policies or Certificates Issued for Delivery Prior to July 20, 1992

A. No policy or certificate may be advertised, solicited or issued for delivery in this state as a Medicare supplement policy or certificate unless it meets or exceeds the following minimum standards. These are minimum standards and do not preclude the inclusion of other provisions or benefits which are not inconsistent with these standards.

1. General Standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this regulation.

a. A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six months from the effective date of coverage because it involved a preexisting condition. The policy or certificate shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

b. A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

c. A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with such changes.

d. A noncancellable, guaranteed renewable, or noncancellable and guaranteed renewable Medicare supplement policy shall not:

i. provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium; or

ii. be cancelled or nonrenewed by the issuer solely on the grounds of deterioration of health.

e.i. Except as authorized by the commissioner of this state, an issuer shall neither cancel nor nonrenew a Medicare supplement policy or certificate for any reason other than nonpayment of premium or material misrepresentation.

ii. If a group Medicare supplement insurance policy is terminated by the group policyholder and not replaced as provided in §510.A.1.e.iv, the issuer shall offer certificateholders an individual Medicare supplement policy. The issuer shall offer the certificateholder at least the following choices:

(a) an individual Medicare supplement policy currently offered by the issuer having comparable benefits to those contained in the terminated group Medicare supplement policy; and

(b) an individual Medicare supplement policy which provides only such benefits as are required to meet the minimum standards as defined in §515.A.2 of this regulation;

(c) Group contracts in force prior to the effective date of the Omnibus Budget Reconciliation Act (OBRA) of 1990 may have existing contractual obligations to continue benefits contained in the group contract. This Section is not intended to impair those obligations.

iii. If membership in a group is terminated, the issuer shall:

(a) offer the certificateholder the conversion opportunities described in §510.A.1.e.ii; or

(b) at the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

iv. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of

termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

f. Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be predicated upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or to payment of the maximum benefits.

2. Minimum Benefit Standards

a. Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

b. coverage for either all or none of the Medicare Part A inpatient hospital deductible amount;

c. coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days;

d. upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of 90 percent of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional 365 days;

e. coverage under Medicare Part A for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations or already paid for under Part B;

f. coverage for the coinsurance amount, or in the case of hospital outpatient department services paid under a prospective payment system, the copayment amount, of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket amount equal to the Medicare Part B deductible (\$100);

g. effective January 1, 1990, coverage under Medicare Part B for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations), unless replaced in accordance with federal regulations or already paid for under Part A, subject to the Medicare deductible amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1103 (June 1999), repromulgated LR 25:1483 (August 1999), amended LR 29:2437 (November 2003).

§511. Reserved.

§512. Reserved.

§513. Reserved.

§514. Reserved.

§515. Benefit Standards for Policies or Certificates Issued or Delivered on or After July 20, 1992

A. The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state on or after July 20, 1992. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit standards.

1. General Standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this regulation.

a. A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

b. A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

c. A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with such changes.

d. No Medicare supplement policy or certificate shall provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium.

e. Each Medicare supplement policy shall be guaranteed renewable.

i. The issuer shall not cancel or nonrenew the policy solely on the ground of health status of the individual.

ii. The issuer shall not cancel or nonrenew the policy for any reason other than nonpayment of premium or material misrepresentation.

iii. If the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under §515.A.5.e.v, the issuer shall offer certificateholders an individual Medicare supplement policy which (at the option of the certificateholder):

(a). provides for continuation of the benefits contained in the group policy; or

(b). provides for benefits that otherwise meet the requirements of this Subsection.

iv. If an individual is a certificateholder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer shall:

(a). offer the certificateholder the conversion opportunity described in §515.A.1.e.iii; or

(b). at the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

v. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

f. Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous

total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits.

g.i. A Medicare supplement policy or certificate shall provide that benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificateholder for the period (not to exceed 24 months), or upon discovering thereof by the insurer in which the policyholder or certificateholder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificateholder notifies the issuer of the policy or certificate within 90 days after the date the individual becomes entitled to assistance.

ii. If suspension occurs and if the policyholder or certificateholder loses entitlement to medical assistance, the policy or certificate shall be automatically reinstated (effective as of the date of termination of such entitlement) as of the termination of entitlement if the policyholder or certificateholder provides notice of loss of entitlement within 90 days after the date of loss and pays the premium attributable to the period, effective as of the date of termination of entitlement.

iii. Each Medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended (for any period that may be provided by federal regulation) at the request of the policyholder if the policyholder is entitled to benefits under Section 226 (b) of the Social Security Act and is covered under a group health plan [as defined in Section 1862 (b)(1)(A)(v) of the Social Security Act]. If suspension occurs and if the policyholder or certificateholder loses coverage under the group health plan, the policy shall be automatically reinstated (effective as of the date of loss of coverage) if the policyholder provides notice of loss of coverage within 90 days after the date of the loss and pays the premium attributable to the period, effective as of the date of termination of enrollment in the group health plan.

iv. Reinstitution of coverage as described in Clauses g.ii and iii:

(a). shall not provide for any waiting period with respect to treatment of preexisting conditions;

(b). shall provide for coverage which is substantially equivalent to coverage in effect before the date of suspension; and

(c). shall provide for classification of premiums on terms at least as favorable to the policyholder or certificateholder as the premium classification terms that would have applied to the policyholder or certificateholder had the coverage not been suspended.

2. Standards for Basic (Core) Benefits Common to All Benefit Plans. Every issuer shall make available a policy or certificate including only the following basic core package of benefits to each prospective insured. An issuer may make available to prospective insureds any of the other Medicare Supplement Insurance Benefit Plans in addition to the basic core package, but not in lieu of it:

a. coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

b. coverage of Part A Medicare eligible expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used;

c. upon exhaustion of the Medicare hospital inpatient coverage including the lifetime reserve days, coverage of the Medicare Part A eligible expenses for hospitalization paid at the diagnostic related group (DRG) day outlier per diem or other appropriate standard of payment, subject to a lifetime maximum benefit of an additional 365 days;

d. coverage under Medicare Parts A and B for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations;

e. coverage for the coinsurance amount (or, in the case of hospital outpatient department services paid under a prospective payment system, the copayment amount) of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible.

3. Standards for Additional Benefits. The following additional benefits shall be included in Medicare Supplement Benefit Plans "B" through "J" only as provided by §520 of this regulation.

a. Medicare Part A Deductible? coverage for all of the Medicare Part A inpatient hospital deductible amount per benefit period.

b. Skilled Nursing Facility Care? coverage for the actual billed charges up to the coinsurance amount from the 21st day through the 100th day in a Medicare benefit period for post hospital skilled nursing facility care eligible under Medicare Part A.

c. Medicare Part B Deductible? coverage for all of the Medicare Part B deductible amount per calendar year regardless of hospital confinement.

d. Eighty Percent of the Medicare Part B Excess Charges? coverage for 80 percent of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.

e. One Hundred Percent of the Medicare Part B Excess Charges? coverage for all of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.

f. Basic Outpatient Prescription Drug Benefit? coverage for 50 percent of outpatient prescription drug charges, after a \$250 calendar year deductible, to a maximum of \$1,250 in benefits received by the insured per calendar year, to the extent not covered by Medicare.

g. Extended Outpatient Prescription Drug Benefit? coverage for 50 percent of outpatient prescription drug charges, after a \$250 calendar year deductible to a maximum of \$3,000 in benefits received by the insured per calendar year, to the extent not covered by Medicare.

h. Medically Necessary Emergency Care in a Foreign Country? coverage to the extent not covered by Medicare for 80 percent of the billed charges for Medicare-eligible expenses for medically necessary emergency

hospital, physician, and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first 60 consecutive days of each trip outside the United States, subject to a calendar year deductible of \$250, and a lifetime maximum benefit of \$50,000. For purposes of this benefit, emergency care shall mean care needed immediately because of an injury or an illness of sudden and unexpected onset.

i. Preventive Medical Care Benefit? coverage for the following preventive health services:

i. an annual clinical preventive medical history and physical examination that may include tests and services from Subparagraph ii. and patient education to address preventive health care measures;

ii. any one or a combination of the following preventive screening tests or preventive services, the frequency of which is considered medically appropriate:

(a). digital rectal examination;

(b). dipstick urinalysis for hematuria, bacteriuria and proteinuria;

(c). pure tone (air only) hearing screening test, administered or ordered by a physician;

(d). serum cholesterol screening (every five years);

(e). thyroid function test;

(f). diabetes screening.

iii. tetanus and diphtheria booster (every 10 years);

iv. any other tests or preventive measures determined appropriate by the attending physician.

Reimbursement shall be for the actual charges up to 100 percent of the Medicare-approved amount for each service, as if Medicare were to cover the service as identified in American Medical Association Current Procedural Terminology (AMA CPT) codes, to a maximum of 120 annually under this benefit. This benefit shall not include payment for any procedure covered by Medicare.

j. At-Home Recovery Benefit? coverage for services to provide short term, at-home assistance with activities of daily living for those recovering from an illness, injury, or surgery.

i. For purposes of this benefit, the following definitions shall apply:

Activities of Daily Living? include, but are not limited to bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings.

At-Home Recovery Visit? the period of a visit required to provide at home recovery care, without limit on the duration of the visit, except each consecutive four hours in a twenty-four-hour period of services provided by a care provider is one visit.

ii. Coverage Requirements and Limitations

(a). At-home recovery services provided must be primarily services, which assist in activities of daily living.

(b). The insured's attending physician must certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by Medicare.

(c). Coverage is limited to:

(i). no more than the number and type of at-home recovery visits certified as necessary by the insured's attending physician. The total number of at-home

recovery visits shall not exceed the number of Medicare approved home health care visits under a Medicare approved home care plan of treatment;

(ii). the actual charges for each visit up to a maximum reimbursement of \$40 per visit;

(iii). one thousand six hundred dollars per calendar year;

(iv). seven visits in any one week;

(v). care furnished on a visiting basis in the insured's home;

(vi). services provided by a care provider as defined in this Section;

(vii). at-home recovery visits while the insured is covered under the policy or certificate and not otherwise excluded;

(viii). at-home recovery visits received during the period the insured is receiving Medicare approved home care services or no more than eight weeks after the service date of the last Medicare approved home health care visit.

iii. Coverage is excluded for:

(a). home care visits paid for by Medicare or other government programs; and

(b). care provided by family members, unpaid volunteers, or providers who are not care providers.

Care Provider? a duly qualified or licensed home health aide or homemaker, personal care aide or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses registry.

Home? any place used by the insured as a place of residence, provided that such place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility shall not be considered the insured's place of residence.

New or Innovative Benefits? an issuer may, with the prior approval of the commissioner, offer policies or certificates with new or innovative benefits in addition to the benefits provided in a policy or certificate that otherwise complies with the applicable standards. The new or innovative benefits may include benefits that are appropriate to Medicare supplement insurance, new or innovative, not otherwise available, cost-effective, and offered in a manner which is consistent with the goal of simplification of Medicare supplement policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

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§516. Reserved.

§517. Reserved.

§518. Reserved.

§519. Reserved.

§520. Standard Medicare Supplement Benefit Plans

A. An issuer shall make available to each prospective policyholder and certificateholder a policy form or certificate form containing only the basic core benefits, as defined in §515.A.2. of this regulation.

B. No groups, packages or combinations of Medicare supplement benefits other than those listed in this Section shall be offered for sale in this state, except as may be

permitted in §515.A.3 *New and Innovative Benefits* and in §525 of this regulation.

C. Benefit plans shall be uniform in structure, language, designation and format to the standard benefit plans "A" through "J" listed in this Subsection and conform to the definitions in §503 of this regulation. Each benefit shall be structured in accordance with the format provided in §§515.A.2 and 515.A.3 and list the benefits in the order shown in this Subsection. For purposes of this Section, "structure, language, and format" means style, arrangement and overall content of a benefit.

D. An issuer may use, in addition to the benefit plan designations required in Subsection C, other designations to the extent permitted by law.

E. Make-up of Benefit Plans

1. Standardized Medicare supplement benefit plan "A" shall be limited to the basic (core) benefits common to all benefit plans, as defined in §515.A.2 of this regulation.

2. Standardized Medicare supplement benefit plan "B" shall include only the following: The core benefit as defined in §515.A.2 of this regulation, plus the Medicare Part A deductible as defined in §515.A.3 Medicare Part A Deductible.

3. Standardized Medicare supplement benefit plan "C" shall include only the following: The core benefit as defined in §515.A.2 of this regulation, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible and medically necessary emergency care in a foreign country, as defined in §515.A.3. Medicare Part A Deductible, Skilled Nursing Facility Care, Medicare Part B Deductible and Medically Necessary Emergency Care in a Foreign Country, respectively.

4. Standardized Medicare supplement benefit plan "D" shall include only the following: The core benefit as defined in §515.A.2 of this regulation, plus the Medicare Part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country, and the at-home recovery benefit as defined in §515.A.3. Medicare Part A Deductible, Skilled Nursing Facility Care, Medically Necessary Emergency Care in a Foreign Country, and At-Home Recovery Benefit, respectively.

5. Standardized Medicare supplement benefit plan "E" shall include only the following: The core benefit as defined in §515.A.2 of this regulation, plus the Medicare Part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country, and preventive medical care as defined in §515.A.3. Medicare Part A Deductible, Skilled Nursing Facility Care, Medically Necessary Emergency Care in a Foreign Country, and Preventive Medical Care Benefit, respectively.

6. Standardized Medical supplement benefit plan "F" shall include only the following: The core benefit as defined in §515.A.2 of this regulation, plus the Medicare Part A deductible, the skilled nursing facility care, the Part B deductible, 100 percent of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country, as defined in §515.A.3 Medicare Part A Deductible, Skilled Nursing Facility Care, Medicare Part B Deductible, One Hundred Percent of the Medicare Part B Excess Charges, and Medically Necessary Emergency Care in a Foreign Country, respectively.

7. Standardized Medicare supplement benefit high deductible plan "F" shall include only the following: 100 percent of covered expenses following the payment of the annual high deductible plan "F" deductible. The covered expenses include the core benefit as defined in §515.A.2 of this regulation, plus the Medicare Part A deductible, skilled nursing facility care, the Medicare Part B deductible, 100 percent of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in §515.A.3 Medicare Part A Deductible, Skilled Nursing Facility Care, Medicare Part B Deductible, 100 Percent of the Medicare Part B Excess Charges, and Medically Necessary Emergency Care in a Foreign Country respectively. The annual high deductible plan "F" deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement plan "F" policy, and shall be in addition to any other specific benefit deductibles. The annual high deductible Plan "F" deductible shall be \$1500 for 1998 and 1999, and shall be based on the calendar year. It shall be adjusted annually thereafter by the secretary to reflect the change in the Consumer Price Index for all urban consumers for the 12-month period ending with August of the preceding year, and rounded to the nearest multiple of \$10.

8. Standardized Medicare supplement benefit plan "G" shall include only the following: The core benefit as defined in §515.A.2 of this regulation, plus the Medicare Part A deductible, skilled nursing facility care, 80 percent of the Medicare Part B excess charges, medically necessary emergency care in a foreign country, and the at-home recovery benefit as defined in §515.A.3 Medicare Part A Deductible, Skilled Nursing Facility Care, Eighty Percent of the Medicare Part B Excess Charges, Medically Necessary Emergency Care in a Foreign Country, respectively.

9. Standardized Medicare supplement benefit plan "H" shall consist of only the following: The core benefit as defined in §515.A.2 of this regulation, plus the Medicare Part A deductible, skilled nursing facility care, basic outpatient prescription drug benefit, and medically necessary emergency care in a foreign country, as defined in §515.A.3 Medicare Part A Deductible, Skilled Nursing Facility Care, Basic Outpatient Prescription Drug Benefit and Medically Necessary Emergency Care in a Foreign Country, respectively.

10. Standardized Medicare supplement benefit plan "I" shall consist of only the following: The core benefit as defined in §515.A.2 of this regulation, plus the Medicare Part A deductible, skilled nursing facility care, 100 percent of the Medicare Part B excess charges, basic outpatient prescription drug benefit, medically necessary emergency care in a foreign country and at-home recovery benefit as defined in §515.A.3 Medicare Part A Deductible, Skilled Nursing Facility Care, 100 Percent of the Medicare Part B Excess Charges, Basic Outpatient Prescription Drug Benefit, Medically Necessary Care in a Foreign Country and At-Home Recovery Benefit, respectively.

11. Standardized Medicare supplement benefit plan "J" shall consist of only the following: The core benefit as defined in §515.A.2 of this regulation, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part

B deductible, 100 percent of the Medicare Part B excess charges, extended prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care and at-home recovery benefit as defined in §515.A.3 Medicare Part A Deductible, Skilled Nursing Facility Care, Medicare Part B Deductible, 100 Percent of the Medicare Part B Excess Charges, Extended Outpatient Prescription Drug Benefit, Medically Necessary Emergency Care in a Foreign Country, Preventive Medical Care Benefit and At-Home Recovery Benefit, respectively.

12. Standardized Medicare supplement benefit high deductible plan "J" shall consist of only the following: 100 percent of covered expenses following the payment of the annual high deductible plan "J" deductible. The covered expenses include the core benefit as defined in §515.A.2 of this regulation, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, 100 percent of the Medicare Part B excess charges, extended outpatient prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care benefit and at-home recovery benefit as defined in §515.A.3. Medicare Part A Deductible, Skilled Nursing Facility Care, Medicare Part B Deductible, 100 Percent of the Medicare Part B Excess Charges, Extended Outpatient Prescription Drug Benefit, Medically Necessary Emergency Care in a Foreign Country, Preventive Medical Care Benefit and At-Home Recovery Benefit, respectively. The annual high deductible plan "J" deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement plan "J" policy, and shall be in addition to any other specific benefit deductibles. The annual deductible shall be \$1500 for 1998 and 1999, and shall be based on a calendar year. It shall be adjusted annually thereafter by the secretary to reflect the change in the Consumer Price Index for all urban consumers for the 12-month period ending with August of the preceding year, and rounded to the nearest multiple of \$10.

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§521. **Reserved.**

§522. **Reserved.**

§523. **Reserved.**

§524. **Reserved.**

§525. **Medicare Select Policies and Certificates**

A.1. This Section shall apply to Medicare select policies and certificates, as defined in this Section.

2. No policy or certificate may be advertised as a Medicare select policy or certificate unless it meets the requirements of this Section.

B. For the purposes of this Section:

Complaint? any dissatisfaction expressed by an individual concerning a Medicare select issuer or its network providers.

Grievance? dissatisfaction expressed in writing by an individual insured under a Medicare select policy or certificate with the administration, claims practices, or provision of services concerning a Medicare select issuer or its network providers.

Medicare Select Issuer? an issuer offering, or seeking to offer, a Medicare select policy or certificate.

Medicare Select Policy or *Medicare Select Certificate?* respectively a Medicare supplement policy or certificate that contains restricted network provisions.

Network Provider? a provider of health care, or a group of providers of health care, which has entered into a written agreement with the issuer to provide benefits insured under a Medicare select policy.

Restricted Network Provision? any provision, which conditions the payment of benefits, in whole or in part, on the use of network providers.

Service Area? the geographic area approved by the commissioner within which an issuer is authorized to offer a Medicare select policy.

C. The commissioner may authorize an issuer to offer a Medicare select policy or certificate, pursuant to this Section and Section 4358 of the Omnibus Budget Reconciliation Act (OBRA) of 1990 if the commissioner finds that the issuer has satisfied all of the requirements of this regulation.

D. A Medicare select issuer shall not issue a Medicare select policy or certificate in this state until its plan of operation has been approved by the commissioner.

E. A Medicare select issuer shall file a proposed plan of operation with the commissioner in a format prescribed by the commissioner. The plan of operation shall contain at least the following information:

1. evidence that all covered services that are subject to restricted network provisions are available and accessible through network providers, including a demonstration that:

a. services can be provided by network providers with reasonable promptness with respect to geographic location, hours of operation and after-hour care. The hours of operation and availability of after-hour care shall reflect usual practice in the local area. Geographic availability shall reflect the usual travel times within the community;

b. the number of network providers in the service area is sufficient, with respect to current and expected policyholders, either:

i. to deliver adequately all services that are subject to a restricted network provision; or

ii. to make appropriate referrals;

c. there are written agreements with network providers describing specific responsibilities;

d. emergency care is available 24 hours per day and seven days per week;

e. in the case of covered services that are subject to a restricted network provision and are provided on a prepaid basis, there are written agreements with network providers prohibiting the providers from billing or otherwise seeking reimbursement from or recourse against any individual insured under a Medicare select policy or certificate. This Paragraph shall not apply to supplemental charges or coinsurance amounts as stated in the Medicare select policy or certificate;

2. a statement or map providing a clear description of the service area;

3. a description of the grievance procedure to be utilized;

4. a description of the quality assurance program, including:

- a. the formal organizational structure;
 - b. the written criteria for selection, retention and removal of network providers; and
 - c. the procedures for evaluating quality of care provided by network providers, and the process to initiate corrective action when warranted;
5. a list and description, by specialty, of the network providers;
6. copies of the written information proposed to be used by the issuer to comply with §525.I;
7. any other information requested by the commissioner.

F.1. A Medicare select issuer shall file any proposed changes to the plan of operation, except for changes to the list of network providers, with the commissioner prior to implementing the changes. Changes shall be considered approved by the commissioner after 30 days unless specifically disapproved.

2. An updated list of network providers shall be filed with the commissioner at least quarterly.

G A Medicare select policy or certificate shall not restrict payment for covered services provided by non-network providers if:

- 1. the services are for symptoms requiring emergency care or are immediately required for an unforeseen illness, injury or a condition; and
- 2. it is not reasonable to obtain such services through a network provider.

H. A Medicare select policy or certificate shall provide payment for full coverage under the policy for covered services that are not available through network providers.

I. A Medicare select issuer shall make full and fair disclosure, in writing, of the provisions, restrictions, and limitations of the Medicare select policy or certificate to each applicant. This disclosure shall include at least the following:

- 1. an outline of coverage sufficient to permit the applicant to compare the coverage and premiums of the Medicare select policy or certificate with:
 - a. other Medicare supplement policies or certificates offered by the issuer; and
 - b. other Medicare select policies or certificates;
- 2. a description (including address, phone number and hours of operation) of the network providers, including primary care physicians, specialty physicians, hospitals and other providers;
- 3. a description of the restricted network provisions, including payments for coinsurance and deductibles when providers other than network providers are utilized;
- 4. a description of coverage for emergency and urgently needed care and other out-of-service area coverage;
- 5. a description of limitations on referrals to restricted network providers and to other providers;
- 6. a description of the policyholder's rights to purchase any other Medicare supplement policy or certificate otherwise offered by the issuer;
- 7. a description of the Medicare select issuer's quality assurance program and grievance procedure.

J. Prior to the sale of a Medicare select policy or certificate, a Medicare select issuer shall obtain from the applicant a signed and dated form stating that the applicant has received the information provided pursuant to

Subsection I of this Section and that the applicant understands the restrictions of the Medicare select policy or certificate.

K. A Medicare select issuer shall have and use procedures for hearing complaints and resolving written grievances from the subscribers. The procedures shall be aimed at mutual agreement for settlement and may include non-binding arbitration procedures.

1. The grievance procedure shall be described in the policy and certificates and in the outline of coverage.

2. At the time the policy or certificate is issued, the issuer shall provide detailed information to the policyholder describing how a grievance may be registered with the issuer.

3. Grievances shall be considered in a timely manner and shall be transmitted to appropriate decision-makers who have authority to fully investigate the issue and take corrective action.

4. If a grievance is found to be valid, corrective action shall be taken promptly.

5. All concerned parties shall be notified about the results of a grievance.

6. The issuer shall report no later than each March 31st to the commissioner regarding its grievance procedure. The report shall be in a format prescribed by the commissioner and shall contain the number of grievances filed in the past year and a summary of the subject, nature and resolution of such grievances.

L. At the time of initial purchase, a Medicare select issuer shall make available to each applicant for a Medicare select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate otherwise offered by the issuer.

M.1. At the request of an individual insured under a Medicare select policy or certificate, a Medicare select issuer shall make available to the individual insured the opportunity to purchase a Medicare supplement policy or certificate offered by the issuer which has comparable or lesser benefits and which does not contain a restricted network provision. The issuer shall make such policies or certificates available without requiring evidence of insurability after the Medicare select policy or certificate has been in force for six months.

2. For the purposes of this Subsection, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one or more significant benefits not included in the Medicare select policy or certificate being replaced. For the purposes of this Paragraph, a significant benefit means coverage for the Medicare Part A deductible, coverage for prescription drugs, coverage for at-home recovery services or coverage for Part B excess charges.

N. Medicare select policies and certificates shall provide for continuation of coverage in the event the secretary of Health and Human Services determines that Medicare select policies and certificates issued pursuant to this Section should be discontinued due to either the failure of the Medicare Select Program to be reauthorized under law or its substantial amendment.

1. Each Medicare select issuer shall make available to each individual insured under a Medicare select policy or certificate the opportunity to purchase any Medicare

supplement policy or certificate offered by the issuer which has comparable or lesser benefits and which does not contain a restricted network provision. The issuer shall make the policies and certificates available without requiring evidence of insurability.

2. For the purposes of this Subsection, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one or more significant benefits not included in the Medicare select policy or certificate being replaced. For the purposes of this Paragraph, a significant benefit means coverage for the Medicare Part A deductible, coverage for prescription drugs, coverage for at-home recovery services or coverage for Part B excess charges.

O. A Medicare select issuer shall comply with reasonable requests for data made by state or federal agencies, including the United States Department of Health and Human Services, for the purpose of evaluating the Medicare Select Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1108 (June 1999), repromulgated LR 25:1488 (August 1999), amended LR 29:2441 (November 2003).

§526. Reserved.

§527. Reserved.

§528. Reserved.

§529. Reserved.

§530. Open Enrollment

A. An issuer shall not deny or condition the issuance or effectiveness of any Medicare supplement policy or certificate available for sale in this state, nor discriminate in the pricing of a policy or certificate because of the health status, claims experience, receipt of health care, or medical condition of an applicant in the case of an application for a policy or certificate that is submitted prior to or during the six month period beginning with the first day of the first month in which an individual is enrolled for benefits under Medicare Part B. Each Medicare supplement policy and certificate currently available from an insurer shall be made available to all applicants who qualify under this Subsection without regard to age.

B.1. If an applicant qualifies under Subsection A and submits an application during the time period referenced in Subsection A and, as of the date of application, has had a continuous period of creditable coverage of at least six months, the issuer shall not exclude benefits based on a preexisting condition.

2. If the applicant qualifies under Subsection A and submits an application during the time period referenced in Subsection A and, as of the date of application, has had a continuous period of creditable coverage that is less than six months, the issuer shall reduce the period of any preexisting condition exclusion by the aggregate of the period of creditable coverage applicable to the applicant as of the enrollment date. The secretary shall specify the manner of the reduction under this Subsection.

C. Except as provided in Subsection B and §590, Subsection A shall not be construed as preventing the exclusion of benefits under a policy, during the first six months, based on a preexisting condition for which the policyholder or certificateholder received treatment or was

otherwise diagnosed during the six months before the coverage became effective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1110 (June 1999), repromulgated LR 25:1490 (August 1999), LR 29:2444 (November 2003).

§531. Reserved.

§532. Reserved.

§533. Reserved.

§534. Reserved.

§535. Guaranteed Issue for Eligible Persons

A. Guaranteed Issue

1. Eligible persons are those individuals described in Subsection B who seek to enroll under the policy during the period specified in Subsection C, and who submit evidence of the date of termination or disenrollment with the application for a Medicare supplement policy.

2. With respect to eligible persons, an issuer shall not deny or condition the issuance or effectiveness of a Medicare supplement policy described in Subsection E that is offered and is available for issuance to new enrollees by the issuer, shall not discriminate in the pricing of such a Medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition, and shall not impose an exclusion of benefits based on a preexisting condition under such a Medicare supplement policy.

B. Eligible Persons. An eligible person is an individual described in any of the following Paragraphs.

1. The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under Medicare; and the plan terminates, or the plan ceases to provide some or all such supplemental health benefits to the individual; or the individual is enrolled under an employee welfare benefit plan that is primary to Medicare and the plan terminates or the plan ceases to provide some or all health benefits to the individual or the individual leaves the plan.

2. The individual is enrolled with a Medicare+Choice organization under a Medicare+Choice plan under Part C of Medicare, and any of the following circumstances apply, or the individual is 65 years of age or older and is enrolled with a Program of All-Inclusive Care for the Elderly (PACE) provider under Section 1894 of the Social Security Act, and there are circumstances similar to those described below that would permit discontinuance of the individual's enrollment with such provider if such individual were enrolled in a Medicare + Choice plan.

a. The certification of the organization or plan has been terminated, or the organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides.

b. The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the secretary, but not including termination of the individual's enrollment on the basis described in Section 1851(g)(3)(B) of the federal Social Security Act (where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under section

1856), or the plan is terminated for all individuals within a residence area.

c. The individual demonstrates, in accordance with guidelines established by the secretary, that:

i. the organization offering the plan substantially violated a material provision of the organization's contract under this Part in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards; or

ii. the organization, or agent or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual; or

d. The individual meets such other exceptional conditions as the secretary may provide.

3.a. The individual is enrolled with:

i. an eligible organization under a contract under Section 1876 of the Social Security Act (Medicare cost);

ii. a similar organization operating under demonstration project authority, effective for periods before April 1, 1999;

iii. an organization under an agreement under Section 1833(a)(1)(A) of the Social Security Act (health care prepayment plan); or

iv. an organization under a Medicare select policy; and

b. the enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under §535.B.2.

4. The individual is enrolled under a Medicare supplement policy and the enrollment ceases because:

a.i. of the insolvency of the issuer or bankruptcy of the nonissuer organization; or

ii. of other involuntary termination of coverage or enrollment under the policy;

b. the issuer of the policy substantially violated a material provision of the policy; or

c. the issuer, or an agent or other entity acting on the issuer's behalf, materially misrepresented the policy's provisions in marketing the policy to the individual;

5.a. The individual was enrolled under a Medicare supplement policy and terminates enrollment and subsequently enrolls, for the first time, with any Medicare+Choice organization under a Medicare+Choice plan under Part C of Medicare, any eligible organization under a contract under Section 1876 of the Social Security Act (Medicare cost), any similar organization operating under demonstration project authority, any PACE provider under Section 1894 of the Social Security Act, or a Medicare select policy; and

b. the subsequent enrollment under Subparagraph a is terminated by the enrollee during any period within the first 12 months of such subsequent enrollment [during which the enrollee is permitted to terminate such subsequent enrollment under Section 1851(e) of the federal Social Security Act]; or

6. the individual, upon first becoming enrolled for benefits under Medicare Part B, enrolls in a Medicare+Choice plan under Part C of Medicare, or with a PACE provider under Section 1894 of the Social Security

Act, and disenrolls from the plan by not later 12 months after the effective date of enrollment.

C. Guaranteed Issue Time Periods

1. In the case of an individual described in Paragraph B.1, the guaranteed issue period begins on the date the individual receives a notice of termination or cessation of all supplemental health benefits (or, if a notice is not received, notice that a claim has been denied because of such a termination or cessation) and ends 63 days after the date of the applicable notice;

2. in the case of an individual described in Paragraphs B.2, 3, 5 or 6 whose enrollment is terminated involuntarily, the guaranteed issue period begins on the date that the individual receives a notice of termination and ends 63 days after the date the applicable coverage is terminated;

3. in the case of an individual described in Subparagraph B.4.a, the guaranteed issue period begins on the earlier of:

a. the date that the individual receives a notice of termination, a notice of the issuer's bankruptcy or insolvency, or other such similar notice if any; and

b. the date that the applicable coverage is terminated, and ends on the date that is 63 days after the date the coverage is terminated;

4. in the case of an individual described in Paragraphs B.2, 4.b, 4.c, 5 or 6 who disenrolls voluntarily, the guaranteed issue period begins on the date that is 60 days before the effective date of the disenrollment and ends on the date that is 63 days after the effective date; and

5. in the case of an individual described in Subsection B but not described in the preceding provisions of this Subsection, the guaranteed issue period begins on the effective date of disenrollment and ends on the date that is 63 days after the effective date.

D. Extended Medigap Access for Interrupted Trial Periods

1. In the case of an individual described in Paragraph B.5 (or deemed to be so described, pursuant to this Paragraph) whose enrollment with an organization or provider described in Paragraph B.5.a is involuntarily terminated within the first 12 months of enrollment, and who, without an intervening enrollment, enrolls with another such organization or provider, the subsequent enrollment shall be deemed to be an initial enrollment described in Section 12B(5);

2. in the case of an individual described in Paragraph B.6 (or deemed to be so described, pursuant to this Paragraph) who enrollment with a plan or in a program described in Paragraph B.6 is involuntarily terminated within the first 12 months of enrollment, and who, without an intervening enrollment, enrolls in another such plan or program, the subsequent enrollment shall be deemed to be an initial enrollment described in Section 12B(6); and

3. for purposes of Paragraphs B.5 and 6, no enrollment of an individual with an organization or provider described in Subparagraph B.5.a, or with a plan or in a program described in Paragraph B.6, may be deemed to be an initial enrollment under this Paragraph after the two-year period beginning on the date on which the individual first enrolled with such an organization, provider, plan or program.

E. Products to Which Eligible Persons are Entitled. The Medicare supplement policy to which eligible persons are entitled under:

1. Section 535.B.1.2.3 and 4 is a Medicare supplement policy which has a benefit package classified as Plan A, B, C, or F offered by any issuer;

2. Section 535.B.5 is the same Medicare supplement policy in which the individual was most recently previously enrolled, if available from the same issuer, or, if not so available, a policy described in §535.C.1;

3. Section 535.B.6 shall include any Medicare supplement policy available by any issuer.

F. Notification Provisions

1. At the time of an event described in Subsection B of this Section because of which an individual loses coverage or benefits due to the termination of a contract or agreement, policy, or plan, the organization that terminates the contract or agreement, the issuer terminating the policy, or the administrator of the plan being terminated, respectively, shall notify the individual of his or her rights under this Section, and of the obligations of issuers of Medicare supplement policies under Subsection A. Such notice shall be communicated contemporaneously with the notification of termination.

2. At the time of an event described in Subsection B of this Section because of which an individual ceases enrollment under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the policy, or the administrator of the plan, respectively, shall notify the individual of his or her rights under this Section, and of the obligations of issuers of Medicare supplement policies under §535.A. Such notice shall be communicated within 10 working days of the issuer receiving notification of disenrollment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1110 (June 1999), repromulgated LR 25:1490 (August 1999), amended LR 29:2444 (November 2003).

§536. Reserved.

§537. Reserved.

§538. Reserved.

§539. Reserved.

§540. Standards for Claims Payment

A. An issuer shall comply with section 1882(c)(3) of the Social Security Act (as enacted by section 4081(b)(2)(C) of the Omnibus Budget Reconciliation Act of 1987 (OBRA) 1987, Pub. L. No. 100-203) by:

1. accepting a notice from a Medicare carrier on dually assigned claims submitted by participating physicians and suppliers as a claim for benefits in place of any other claim form otherwise required and making a payment determination on the basis of the information contained in that notice;

2. notifying the participating physician or supplier and the beneficiary of the payment determination;

3. paying the participating physician or supplier directly;

4. furnishing, at the time of enrollment, each enrollee with a card listing the policy name, number, and a central

mailing address to which notices from a Medicare carrier may be sent;

5. paying user fees for claim notices that are transmitted electronically or otherwise; and

6. providing to the Secretary of Health and Human Services, at least annually, a central mailing address to which all claims may be sent by Medicare carriers.

B. Compliance with the requirements set forth in Subsection A above shall be certified on the Medicare supplement insurance experience reporting form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1111 (June 1999), repromulgated LR 25:1491 (August 1999), LR 29:2446 (November 2003).

§541. Reserved.

§542. Reserved.

§543. Reserved.

§544. Reserved.

§545. Loss Ratio Standards and Refund or Credit of Premium

A. Loss Ratio Standards

1.a. A Medicare supplement policy form or certificate form shall not be delivered or issued for delivery unless the policy form or certificate form can be expected, as estimated for the entire period for which rates are computed to provide coverage, to return to policyholders and certificateholders in the form of aggregate benefits (not including anticipated refunds or credits) provided under the policy form or certificate form:

i. at least 75 percent of the aggregate amount of premiums earned in the case of group policies; or

ii. at least 65 percent of the aggregate amount of premiums earned in the case of individual policies.

b. Calculated on the basis of incurred claims experience or incurred health care expenses where coverage is provided by a health maintenance organization on a service rather than reimbursement basis and earned premiums for the period and in accordance with accepted actuarial principles and practices.

2. All filings of rates and rating schedules shall demonstrate that expected claims in relation to premiums comply with the requirements of this Section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards.

3. For purposes of applying Paragraph A.1 of this Section and §550.C.3 only, policies issued as a result of solicitations of individuals through the mails or by mass media advertising (including both print and broadcast advertising) shall be deemed to be individual policies.

4. For policies issued prior to January 20, 1991, expected claims in relation to premiums shall meet:

a. the originally filed anticipated loss ratio when combined with the actual experience since inception;

b. the appropriate loss ratio requirement from §545.A.1.a.i. and ii. when combined with actual experience beginning with January 1, 1998 to date; and

c. the appropriate loss ratio requirement from §545.A.1.a.i. and ii. over the entire future period for which the rates are computed to provide coverage.

B. Refund or Credit Calculation

1. An issuer shall collect and file with the commissioner by May 31 of each year the data contained in the applicable reporting form contained in Appendix A for each type in a standard Medicare supplement benefit plan.

2. If, on the basis of the experience as reported, the benchmark ratio since inception (ratio 1) exceeds the adjusted experience ratio since inception (ratio 3), then a refund or credit calculation is required. The refund calculation shall be done on a statewide basis for each type in a standard Medicare supplement benefit plan. For purposes of the refund or credit calculation, experience on policies issued within the reporting year shall be excluded.

3. For the purposes of this Section, policies or certificates issued prior to January 20, 1991, the issuer shall make the refund or credit calculation separately for all individual policies (including all group policies subject to an individual loss ratio standard when issued) combined and all other group policies combined for experience after January 1, 1998. The first report shall be due by May 31, 2000.

4. A refund or credit shall be made only when the benchmark loss ratio exceeds the adjusted experience loss ratio and the amount to be refunded or credited exceeds a *de minimis* level. The refund shall include interest from the end of the calendar year to the date of the refund or credit at a rate specified by the Secretary of Health and Human Services, but in no event shall it be less than the average rate of interest for 13-week treasury notes. A refund or credit against premiums due shall be made by September 30 following the experience year upon which the refund or credit is based.

C. Filing of Rates and Rating Schedules. All filings of rates and rating schedules shall demonstrate that expected claims in relation to premiums comply with the requirements of this Section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards.

1. Each Medicare supplement policy or certificate form shall be accompanied, upon submission for approval, by an original and one copy of an actuarial memorandum. The memorandum shall be prepared, signed and dated by a qualified actuary in accordance with generally accepted actuarial principles and practices. The filing shall contain at least the information listed in the following Subparagraphs:

- a. the form number that the actuarial memorandum addresses;
- b. a brief description of benefits provided;
- c. a schedule of rates to be used;
- d. a certification that the anticipated lifetime loss ratio is at least 65 percent (for individual coverage) or at least 75 percent (for group coverage);
- e. a table of anticipated loss ratio experience for each year from issue over a reasonable number of years;
- f. a certification that the premiums are reasonable in relation to the benefits provided; and
- g. the entire filing shall be provided in duplicate;

h. any additional information requested by the commissioner.

2. Subsequent rate adjustments filings, except for those rates filed solely due to a change in the Part A calendar year deductible, shall also provide an original and one copy of an actuarial memorandum, prepared, signed and dated by a qualified actuary, in accordance with generally accepted actuarial principles and practices. The filing shall contain at least the following:

- a. the form number addressed by the actuarial memorandum;
- b. a brief description of benefits provided;
- c. a schedule of rates before and after the rate change;
- d. a statement of the reason and basis for the rate change;
- e. a demonstration and certification by the qualified actuary showing that the past plus future expected experience after the rate change will result in an aggregate loss ratio equal to, or greater than, the required minimum aggregate loss ratio:
 - i. this rate change and demonstration shall be based on the experience of the named form in Louisiana only, if that experience is credible;
 - ii. the rate change and demonstration shall be based on experience of the named form nationwide, if the named form is used nationwide and the Louisiana experience is not credible, but the nationwide experience is credible;
- f. for policies or certificates in force less than three years, a demonstration shall be included to show that the third-year loss ratio is expected to be equal to, or greater than, the applicable percentage;
- g. a certification by the qualified actuary that the resulting premiums are reasonable in relation to the benefits provided;
- h. the entire filing shall be provided in duplicate;
- i. any additional information requested by the commissioner.

3.a. An issuer of Medicare supplement policies and certificates issued before or after the effective date of Regulation 33 (Revised, 1992) in this state shall file annually no later than December 31 its rates for the upcoming calendar year. Also, supporting documentation including ratios of incurred losses to earned premiums by policy duration shall be submitted for approval by the commissioner. The supporting documentation shall also demonstrate in accordance with actuarial standards of practice using reasonable assumptions that the appropriate loss ratio standards can be expected to be met over the entire period for which rates are computed. The demonstration shall exclude active life reserves. An expected third-year loss ratio which is greater than or equal to the applicable percentage shall be demonstrated for policies or certificates in force less than three years.

b. The filing for purposes of this Subsection shall contain all Medicare supplement plans issued by the issuer and shall not include rate adjustments. An actuarial memorandum shall be prepared, signed and dated by a qualified actuary in accordance with generally accepted actuarial principles and practices. The filing shall contain at least the following:

- i. the form number for each plan;
- ii. plan type designation (for example: Plan A, Plan B, Pre-standardized);
- iii. the rates for each plan;
- iv. yearly loss ratios for each plan;
- v. lifetime expected loss ratios for each plan;
- vi. identify filing as "ANNUAL MEDICARE SUPPLEMENT FILING" on the face page of the memorandum;
- vii. the entire filing shall be provided in duplicate;
- viii. any additional information requested by the commissioner.

4. As soon as practicable, but prior to the effective date of enhancements in Medicare benefits, every issuer of Medicare supplement policies or certificates in this state shall file with the commissioner, in accordance with the applicable filing procedures of this state:

a. appropriate premium adjustments necessary to produce loss ratios as anticipated for the current premium for the applicable policies or certificates. The supporting documents necessary to justify the adjustment shall accompany the filing;

b. an issuer shall make premium adjustments necessary to produce an expected loss ratio under the policy or certificate to conform to minimum loss ratio standards for Medicare supplement policies and which are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums by the issuer for the Medicare supplement policies or certificates. No premium adjustment which would modify the loss ratio experience under the policy other than the adjustments described herein shall be made with respect to a policy at any time other than upon its renewal date or anniversary date;

c. if an issuer fails to make premium adjustments acceptable to the commissioner, the commissioner may order premium adjustments, refunds or premium credits deemed necessary to achieve the loss ratio required by this Section.

5. Any appropriate riders, endorsements or policy forms needed to accomplish the Medicare supplement policy or certificate modifications necessary to eliminate benefit duplications with Medicare. The riders, endorsements or policy forms shall provide a clear description of the Medicare supplement benefits provided by the policy or certificate.

D. Public Hearings. The commissioner may conduct a public hearing to gather information concerning a request by an issuer for an increase in a rate for a policy form or certificate form issued before or after the effective date of Regulation 33 as revised July 20, 1992 if the experience of the form for the previous reporting period is not in compliance with the applicable loss ratio standard. The determination of compliance is made without consideration of any refund or credit for the reporting period. Public notice of the hearing shall be furnished in a manner deemed appropriate by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1112 (June 1999), repromulgated LR 25:1492 (August 1999), amended LR 29:2447 (November 2003).

§546. Reserved.

§547. Reserved.

§548. Reserved.

§549. Reserved.

§550. **Filing and Approval of Policies and Certificates and Premium Rates**

A. An issuer shall not deliver or issue for delivery a policy or certificate to a resident of this state unless the policy form or certificate form has been filed with and approved by the commissioner in accordance with filing requirements and procedures prescribed by the commissioner.

B. An issuer shall not use or change premium rates for a Medicare supplement policy or certificate unless the rates, rating schedule and supporting documentation have been filed with and approved by the commissioner in accordance with the filing requirements and procedures prescribed by the commissioner.

C.1. Except as provided in Paragraph C.2 of this Subsection, an issuer shall not file for approval more than one form of a policy or certificate of each type for each standard Medicare supplement benefit plan.

2. An issuer may offer, with the approval of the commissioner, up to four additional policy forms or certificate forms of the same type for the same standard Medicare supplement benefit plan, one for each of the following cases:

- a. the inclusion of new or innovative benefits;
- b. the addition of either direct response or agent marketing methods;
- c. the addition of either guaranteed issue or underwritten coverage;
- d. the offering of coverage to individuals eligible for Medicare by reason of disability.

3. For the purposes of this Section, a "type" means an individual policy, a group policy, an individual Medicare select policy, or a group Medicare select policy.

D.1. Except as provided in Subparagraph D.1.a, an issuer shall continue to make available for purchase any policy form or certificate form issued after the effective date of this regulation that has been approved by the commissioner. A policy form or certificate form shall not be considered to be available for purchase unless the issuer has actively offered it for sale in the previous 12 months.

a. An issuer may discontinue the availability of a policy form or certificate form if the issuer provides to the commissioner, in writing, its decision at least 30 days prior to discontinuing the availability of the form of the policy or certificate. After receipt of the notice by the commissioner, the issuer shall no longer offer for sale the policy form or certificate form in this state.

b. An issuer that discontinues the availability of a policy form or certificate form pursuant to Subclause (a) shall not file for approval a new policy form or certificate form of the same type for the same standard Medicare supplement benefit plan as the discontinued form for a period of five years after the issuer provides notice to the commissioner of the discontinuance. The period of discontinuance may be reduced if the commissioner determines that a shorter period is appropriate.

2. The sale or other transfer of Medicare supplement business to another issuer shall be considered a discontinuance for the purposes of this Subsection.

3. A change in the rating structure or methodology shall be considered a discontinuance under Paragraph D.1 unless the issuer complies with the following requirements.

a. The issuer provides an actuarial memorandum, in a form and manner prescribed by the commissioner, describing the manner in which the revised rating methodology and resultant rates differ from the existing rating methodology and existing rates.

b. The issuer does not subsequently put into effect a change of rates or rating factors that would cause the percentage differential between the discontinued and subsequent rates as described in the actuarial memorandum to change. The commissioner may approve a change to the differential, which is in the public interest.

E.1. Except as provided in Paragraph E.2, the experience of all policy forms or certificate forms of the same type in a standard Medicare supplement benefit plan shall be combined for purposes of the refund or credit calculation prescribed in §545 of this regulation.

2. Forms assumed under an assumption reinsurance agreement shall not be combined with the experience of other forms for purposes of the refund or credit calculation.

F.1. An issuer that fails to implement an approved rate increase within six months after the approval date shall be prohibited from implementing such increase on future dates. The issuer shall notify the commissioner when any approved rate increase has not been implemented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1113 (June 1999), repromulgated LR 25:1494 (August 1999), amended LR 29:2448 (November 2003).

§551. Reserved.

§552. Reserved.

§553. Reserved.

§554. Reserved.

§555. Permitted Compensation Arrangements

A. An issuer or other entity may provide commission or other compensation to an agent or other representative for the sale of a Medicare supplement policy or certificate only if the first year commission or other first year compensation is no more than 200 percent of the commission or other compensation paid for selling or servicing the policy or certificate in the second year or period.

B. The commission or other compensation provided in subsequent (renewal) years must be the same as that provided in the second year or period and must be provided for no fewer than five renewal years.

C. No issuer or other entity shall provide compensation to its agents or other producers, and no agent or producer shall receive compensation greater than the renewal compensation payable by the replacing issuer on renewal policies or certificates if an existing policy or certificate is replaced.

D. For purposes of this Section, "compensation" includes pecuniary or non-pecuniary remuneration of any kind relating to the sale or renewal of the policy or certificate including, but not limited to, bonuses, gifts, prizes, awards and finders fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1114 (June 1999), repromulgated LR 25:1494 (August 1999), LR 29:2449 (November 2003).

§556. Reserved.

§557. Reserved.

§558. Reserved.

§559. Reserved.

§560. Required Disclosure Provisions

A. General Rules

1. Medicare supplement policies and certificates shall include a renewal or continuation provision. The language or specifications of the provision shall be consistent with the type of contract issued. The provision shall be appropriately captioned and shall appear on the first page of the policy, and shall include any reservation by the issuer of the right to change premiums and any automatic renewal premium increases based on the policyholder's age.

2. Except for riders or endorsements by which the issuer effectuates a request made in writing by the insured, exercises a specifically reserved right under a Medicare supplement policy, or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits, all riders or endorsements added to a Medicare supplement policy after date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require a signed acceptance by the insured. After the date of policy or certificate issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term shall be agreed to, in writing, signed by the insured, unless the benefits are required by the minimum standards for Medicare supplement policies, or if the increased benefits or coverage is required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge shall be set forth in the policy.

3. Medicare supplement policies or certificates shall not provide for the payment of benefits based on standards described as "usual and customary," "reasonable and customary" or words of similar import.

4. If a Medicare supplement policy or certificate contains any limitations with respect to preexisting conditions, such limitations shall appear as a separate paragraph of the policy and be labeled as "Preexisting Condition Limitations."

5. Medicare supplement policies and certificates shall have a notice prominently printed on the first page of the policy or certificate stating in substance that the policyholder or certificateholder shall have the right to return the policy or certificate within 30 days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the insured person is not satisfied for any reason.

6.a. Issuers of accident and sickness policies or certificates which provide hospital or medical expense coverage on an expense incurred or indemnity basis to persons eligible for Medicare shall provide to those applicants a Guide to Health Insurance for People with Medicare in the form developed jointly by the National Association of Insurance Commissioners and the Health

Care Financing Administration and in a type size no smaller than 12 point type. Delivery of the guide shall be made whether or not the policies or certificates are advertised, solicited, or issued as Medicare supplement policies or certificates, as defined in this regulation. Except in the case of direct response issuers, delivery of the guide shall be made to the applicant at the time of application, and acknowledgement of receipt of the guide shall be obtained by the issuer. Direct response issuers shall deliver the guide to the applicant upon request but not later than at the time the policy is delivered.

b. For the purposes of this Section, *form* means the language, format, type size, type proportional spacing, bold character, and line spacing.

B. Notice Requirements.

1. As soon as practicable, but no later than 30 days prior to the annual effective date of any Medicare benefit changes, an issuer shall notify its policyholders and certificateholders of modifications it has made to Medicare supplement insurance policies or certificates in a format acceptable to the commissioner. The notice shall:

a. include a description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare supplement policy or certificate; and

b. inform each policyholder or certificateholder as to when any premium adjustment is to be made due to changes in Medicare.

2. The notice of benefit modifications and any premium adjustments shall be in outline form and in clear and simple terms so as to facilitate comprehension.

3. The notices shall not contain or be accompanied by any solicitation.

C. Outline of Coverage Requirements for Medicare Supplement Policies

1. Issuers shall provide an outline of coverage to all applicants at the time application is presented to the prospective applicant and, except for direct response policies, shall obtain an acknowledgement of receipt of the outline from the applicant; and

2. if an outline of coverage is provided at the time of application and the Medicare supplement policy or certificate is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate shall accompany the policy or certificate when it is delivered and contain the following statement, in no less than 12 point type, immediately above the company name: "NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued."

3.a. The outline of coverage provided to applicants pursuant to this Section consists of four parts:

- i. a cover page;
- ii. premium information;
- iii. disclosure pages; and
- iv. charts displaying the features of all benefit plans available by the issuer.

b. The outline of coverage shall be in the language and format prescribed below in no less than 12 point type. All plans A-J shall be shown on the cover page, and each Medicare supplement policy and certificate currently available by an issuer shall be prominently identified. Premium information for plans that are available shall be shown on the cover page or immediately following the cover page and shall be prominently displayed. The premium and mode shall be stated for all plans that are available to the prospective applicant. All possible premiums for the prospective applicant shall be illustrated.

4. The following items shall be included in the outline of coverage in the order prescribed below.

[COMPANY NAME]

Outline of Medicare Supplement Coverage-Cover Page:

Benefit Plan(s) _____ [insert letter(s) of plan(s) available from the issuer]

Medicare supplement insurance can be sold in only 10 standard plans plus two high deductible plans. This chart shows the benefits included in each plan. Every company must make available Plan A. Some plans may not be available in your state.

BASIC BENEFITS : Included in all plans.

Hospitalization: Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.

Medical Expenses: Part B coinsurance (Generally, 20% of Medicare-approved expenses), or, in the case of hospital outpatient department services under a prospective payment system, applicable copayments.

Blood: First three pints of blood each year.

A	B	C	D	E	F	F*	G	H	I	J	J*
Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits
		Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance
	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible
		Part B Deductible			Part B Deductible						Part B Deductible
					Part B Excess (100%)		Part B Excess (80%)		Part B Excess (100%)		Part B Excess (100%)
		Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency
			At-Home Recovery				At-Home Recovery		At-Home Recovery		At-Home Recovery
							Basic Drugs (\$1,250 Limit)		Basic Drugs (\$1,250 Limit)		Extended Drugs (\$3,000 Limit)
				Preventive Care							Preventive Care

*Plans F and J also have an option called a high deductible Plan F and a high deductible Plan J. These high deductible plans pay the same or offer the same benefits as Plan F and J after one has paid a calendar year [\$1650] deductible. Benefits from high deductible Plans F and J will not begin until out-of-pocket expenses are [\$1650]. Out -of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. These expenses include the Medicare deductibles for Part A and Part B, but does not include, in Plan J, the plan's separate prescription drug deductible or, in Plans F and J, the plan's separate foreign travel emergency deductible.

PREMIUM INFORMATION [Boldface Type]

We [insert issuer's name] can only raise your premium if we raise the premium for all policies like yours in this State. [If the premium is based on the increasing age of the insured, include information specifying when premiums will change.]

DISCLOSURES [Boldface Type]

Use this outline to compare benefits and premiums among policies.

READ YOUR POLICY VERY CAREFULLY [Boldface Type]

This is only an outline describing your policy's most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company.

RIGHT TO RETURN POLICY [Boldface Type]

If you find that you are not satisfied with your policy, you may return it to [insert issuer's address]. If you send the policy back to us within 30 days after you receive it, we will treat the policy as if it had never been issued and return all of your payments.

POLICY REPLACEMENT [Boldface Type]

If you are replacing another health insurance policy, do NOT cancel it until you have actually received your new policy and are sure you want to keep it.

NOTICE [Boldface Type]

This policy may not fully cover all of your medical costs.

[for agents:]

Neither [insert company's name] nor its agents are connected with Medicare.

[for direct response:]

[insert company's name] is not connected with Medicare.

This outline of coverage does not give all the details of Medicare coverage. Contact your local Social Security Office or consult The Medicare Handbook for more details.

COMPLETE ANSWERS ARE VERY IMPORTANT [Boldface Type]

When you fill out the application for the new policy, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy and refuse to pay any claims if you leave out or falsify important medical information. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

Review the application carefully before you sign it. Be certain that all information has been properly recorded.

[Include for each plan prominently identified in the cover page, a chart showing the services, Medicare payments, plan payments and insured payments for each plan, using the same language, in the same order, using uniform layout and format as shown in the charts below. No more than four plans may be shown on one chart. For purposes of illustration, charts for each plan are included in this regulation. An issuer may use additional benefit plan designations on these charts pursuant to §520.D of this regulation.] [Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the commissioner.]

Plan A
Medicare (Part A) --Hospital Services--Per Benefit Period

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
Hospitalization* Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: --While using 60 lifetime reserve days --Once lifetime reserve days are used: --Additional 365 days --Beyond the additional 365 days	All but \$[840] All but \$[210] a day All but \$[420] a day \$0 \$0	\$0 \$[210] a day \$[420] a day 100% of Medicare Eligible Expenses \$0	\$[840](Part A Deductible) \$0 \$0 \$0 All Costs
Skilled Nursing Facility Care* You must meet Medicare's requirements including having been in a hospital for at least 3 days and entered a Medicare- approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$[105.00] a day \$0	\$0 \$0 \$0	\$0 Up to \$[105.00] a day All costs
Blood First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
Hospice Care Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out - patient drugs and inpatient respite care	\$0	Balance

**NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

**Plan A
Medicare (Part B)--Medical Services--Per Calendar Year**

*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay
Medical Expenses-- In Or Out Of The Hospital And Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	Generally, 80%	Generally, 20%	\$0
Part B Excess Charges (Above Medicare Approved Amounts)	\$0	\$0	All Costs
Blood First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
Clinical Laboratory Services-- Blood Tests For Diagnostic Services	100%	\$0	\$0

Parts A and B

Home Health Care Medicare Approved Services --Medically necessary skilled care services and medical supplies	100%	\$0	\$0
--Durable medical equipment First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0

Plan B
Medicare (Part A) --Hospital Services--Per Benefit Period

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
Hospitalization* Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: --While using 60 lifetime reserve days --Once lifetime reserve days are used: --Additional 365 days --Beyond the additional 365 days	All but \$[840] All but \$[210] a day All but \$[420] a day \$0 \$0	\$[840](Part A Deductible) \$[210] a day \$[420] a day 100% of Medicare Eligible Expenses \$0	\$0 \$0 \$0 \$0 All Costs
Skilled Nursing Facility Care* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare- approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$[105.00] a day \$0	\$0 \$0 \$0	\$0 Up to \$[105.00] a day All costs
Blood First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
Hospice Care Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out - patient drugs and inpatient respite care	\$0	Balance

**NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

Plan B
Medicare (Part B) --Medical Services--Per Calendar Year

*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay
Medical Expenses-- In Or Out Of The Hospital And Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare Approved Amounts Part B Excess Charges (Above Medicare Approved Amounts)	Generally, 80%	Generally, 20%	\$0
	\$0	\$0	All Costs
Blood First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
Clinical Laboratory Services-- Blood Tests For Diagnostic Services	100%	\$0	\$0

Parts A and B

Home Health Care Medicare Approved Services --Medically necessary skilled care services and medical supplies	100%	\$0	\$0
--Durable medical equipment First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0

Plan C
Medicare (Part A) --Hospital Services--Per Benefit Period

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
Hospitalization* Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: --While using 60 lifetime reserve days --Once lifetime reserve days are used: --Additional 365 days --Beyond the additional 365 days	All but \$[840] All but \$[210] a day All but \$[420] a day \$0 \$0	\$[840](Part A Deductible) \$[210] a day \$[420] a day 100% of Medicare Eligible Expenses \$0	\$0 \$0 \$0 \$0 All Costs
Skilled Nursing Facility Care* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$[105.00] a day \$0	\$0 Up to \$[105.00] a day \$0	\$0 \$0 All costs
Blood First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
Hospice Care Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

**NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

Plan C
Medicare (Part B) --Medical Services--Per Calendar Year

*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay
Medical Expenses-- In Or Out Of The Hospital And Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts Part B Excess Charges (Above Medicare Approved Amounts)	 \$0 Generally, 80% \$0	 \$100(Part B Deductible) Generally, 20% \$0	 \$0 \$0 All Costs
Blood First 3 pints Next \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	 \$0 \$0 80%	 All Costs \$100(Part B Deductible) 20%	 \$0 \$0 \$0
Clinical Laboratory Services-- Blood Tests For Diagnostic Services	100%	\$0	\$0

Parts A and B

Home Health Care Medicare Approved Services --Medically necessary skilled care services and medical supplies --Durable medical equipment First \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	 100% \$0 80%	 \$0 \$100(Part B Deductible) 20%	 \$0 \$0 \$0
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Other Benefits--Not Covered By Medicare

Foreign Travel-- Not Covered By Medicare Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year Remainder of Charges	 \$0 \$0	 \$0 80% to a lifetime maximum benefit of \$50,000	 \$250 20% and amounts over the \$50,000 lifetime maximum
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Plan D
Medicare (Part A) --Hospital Services--Per Benefit Period

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
Hospitalization* Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: --While using 60 lifetime reserve days --Once lifetime reserve days are used: --Additional 365 days --Beyond the additional 365 days	All but \$[840] All but \$[210] a day All but \$[420] a day \$0 \$0	\$[840](Part A Deductible) \$[210] a day \$[420] a day 100% of Medicare Eligible Expenses \$0	\$0 \$0 \$0 \$0 All Costs
Skilled Nursing Facility Care* You must meet Medicare's requirements including having been in a hospital for at least 3 days and entered a Medicare- approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$[105.00] a day \$0	\$0 Up to \$[105.00] a day \$0	\$0 \$0 All costs
Blood First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
Hospice Care Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out -patient drugs and inpatient respite care	\$0	Balance

**NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

Plan D
Medicare (Part B) --Medical Services--Per Calendar Year

*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay
Medical Expenses-- In Or Out Of The Hospital And Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts Part B Excess Charges (Above Medicare Approved Amounts)	\$0 Generally, 80% \$0	\$0 Generally, 20% \$0	\$100(Part B Deductible) \$0 All Costs
Blood First 3 pints Next \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	\$0 \$0 80%	All Costs \$0 20%	\$0 \$100(Part B Deductible) \$0
Clinical Laboratory Services-- Blood Tests For Diagnostic Services	100%	\$0	\$0

**Plan D (continued)
Parts A and B**

Services	Medicare Pays	Plan Pays	You Pay
Home Health Care			
Medicare Approved Services			
--Medically necessary skilled care services and medical supplies	100%	\$0	\$0
--Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
At-Home Recovery Services--Not Covered By Medicare			
Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan			
--Benefit for each visit	\$0	Actual Charges to \$40 a visit	Balance
--Number of visits covered (must be received within 8 weeks of last Medicare Approved visit)	\$0	Up to the number of Medicare Approved visits, not to exceed 7 each week	
--Calendar year maximum	\$0	\$1,600	

Other Benefits--Not Covered By Medicare

Foreign Travel--			
Not Covered By Medicare			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

Plan E
Medicare (Part A) --Hospital Services--Per Benefit Period

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
Hospitalization* Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: --While using 60 lifetime reserve days --Once lifetime reserve days are used: --Additional 365 days --Beyond the additional 365 days	All but \$[840] All but \$[210] a day All but \$[420] a day \$0 \$0	\$[840](Part A Deductible) \$[210] a day \$[420] a day 100% of Medicare Eligible Expenses \$0	\$0 \$0 \$0 \$0 All Costs
Skilled Nursing Facility Care* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$[105.00] a day \$0	\$0 Up to \$[105.00] a day \$0	\$0 \$0 All costs
Blood First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
Hospice Care Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

**NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

Plan E
Medicare (Part B) --Medical Services--Per Calendar Year

*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year

Services	Medicare Pays	Plan Pays	You Pay
Medical Expenses-- In Or Out Of The Hospital And Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts Part B Excess Charges (Above Medicare Approved Amounts)	\$0 Generally, 80% \$0	\$0 Generally, 20% \$0	\$100(Part B Deductible) \$0 All Costs
Blood First 3 pints Next \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	\$0 \$0 80%	All Costs \$0 20%	\$0 \$100(Part B Deductible) \$0
Clinical Laboratory Services-- Blood Tests For Diagnostic Services	100%	\$0	\$0

Parts A and B

Home Health Care Medicare Approved Services --Medically necessary skilled care services and medical supplies --Durable medical equipment	100%	\$0	\$0
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0

Plan E (Continued)
Other Benefits--Not Covered By Medicare

Services	Medicare Pays	Plan Pays	You Pay
Foreign Travel-- Not Covered By Medicare Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year Remainder of Charges	\$0 \$0	\$0 80% to a lifetime maximum benefit of \$50,000	\$250 20% and amounts over the \$50,000 lifetime maximum
***Preventive Medical Care Benefit--Not Covered By Medicare Some annual physical and preventive tests and services such as: digital rectal exam, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, tetanus and diphtheria booster and education, administered or ordered by your doctor when not covered by Medicare First \$120 each calendar year Additional charges	\$0 \$0	\$120 \$0	\$0 All Costs

***Medicare benefits are subject to change. Please consult the latest *Guide to Health Insurance for People with Medicare*.

**Plan F or High Deductible Plan F
Medicare (Part A) --Hospital Services--Per Benefit Period**

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

**This high deductible plan pays the same or offers the same benefits as Plan F after one has paid a calendar year [\$1580] deductible. Benefits from the high deductible Plan F will not begin until out-of-pocket expenses are [\$1580]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.

Services	Medicare Pays	After You Pay \$1650 Deductible,** Plan Pays	In Addition To \$1650 Deductible,** You Pay
Hospitalization* Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: --While using 60 lifetime reserve days --Once lifetime reserve days are used: --Additional 365 days --Beyond the additional 365 days	All but \$[840] All but \$[210] a day All but \$[420] a day \$0 \$0	\$[840](Part A Deductible) \$[210] a day \$[420] a day 100% of Medicare Eligible Expenses \$0	\$0 \$0 \$0 \$0 All Costs
Skilled Nursing Facility Care* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$[105.00] a day \$0	\$0 Up to \$[105.00] a day \$0	\$0 \$0 All costs
Blood First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
Hospice Care Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

***NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance on any difference between its billed charges and the amount Medicare would have paid.

**Plan F or High Deductible Plan F (Continued)
Medicare (Part B) --Medical Services--Per Calendar Year**

*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

**This high deductible plan pays the same or offers the same benefits as Plan F after one has paid a calendar year [\$1650] deductible. Benefits from the high deductible Plan F will not begin until out-of-pocket expenses are [\$1650]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.

Services	Medicare Pays	After You Pay \$1650 Deductible,** Plan Pays	In Addition To \$1650 Deductible,** You Pay
Medical Expenses-- In Or Out Of The Hospital And Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$100 of Medicare Approved Amounts*	\$0	\$100(Part B Deductible)	\$0
Remainder of Medicare Approved Amounts	Generally, 80%	Generally, 20%	\$0
Part B Excess Charges (Above Medicare Approved Amounts)	\$0	100%	\$0
Blood First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	\$0	\$100(Part B Deductible)	\$0
Remainder of Medicare Approved Amounts	80%	20%	\$0
Clinical Laboratory Services-- Blood Tests For Diagnostic Services	100%	\$0	\$0

Parts A and B

Home Health Care Medicare Approved Services --Medically necessary skilled care services and medical supplies	100%	\$0	\$0
--Durable medical equipment First \$100 of Medicare Approved Amounts*	\$0	\$100(Part B Deductible)	\$0
Remainder of Medicare Approved Amounts	80%	20%	\$0

**Plan F or High Deductible Plan F (Continued)
Other Benefits--Not Covered By Medicare**

Services	Medicare Pays	After You Pay \$1650 Deductible,** Plan Pays	In Addition To \$1650 Deductible,** You Pay
Foreign Travel-- Not Covered By Medicare Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year Remainder of Charges	\$0 \$0	\$0 80% to a lifetime maximum benefit of \$50,000	\$250 20% and amounts over the \$50,000 lifetime maximum

**Plan G
Medicare (Part A) --Hospital Services--Per Benefit Period**

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
Hospitalization* Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: --While using 60 lifetime reserve days --Once lifetime reserve days are used: --Additional 365 days --Beyond the additional 365 days	All but \$[840] All but \$[210] a day All but \$[420] a day \$0 \$0	\$[840](Part A Deductible) \$[210] a day \$[420] a day 100% of Medicare Eligible Expenses \$0	\$0 \$0 \$0 \$0 All Costs
Skilled Nursing Facility Care* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$[105.00] a day \$0	\$0 Up to \$[105.00] a day \$0	\$0 \$0 All costs
Blood First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
Hospice Care Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

**NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

**Plan G
Medicare (Part B) --Medical Services--Per Calendar Year**

*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay
Medical Expenses-- In Or Out Of The Hospital And Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare Approved Amounts Part B Excess Charges (Above Medicare Approved Amounts)	Generally, 80%	Generally, 20%	\$0
	\$0	80%	20%
Blood First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
Clinical Laboratory Services-- Blood Tests For Diagnostic Services	100%	\$0	\$0

**Plan G (Continued)
Parts A and B**

Services	Medicare Pays	Plan Pays	You Pay
Home Health Care Medicare Approved Services --Medically necessary skilled care services and medical supplies	100%	\$0	\$0
--Durable medical equipment First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
At-Home Recovery Services--Not Covered By Medicare Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan			Balance
--Benefit for each visit	\$0	Actual Charges to \$40 a visit	
--Number of visits covered (must be received within 8 weeks of last Medicare Approved visit)	\$0	Up to the number of Medicare Approved visits, not to exceed 7 each week \$1,600	
--Calendar year maximum	\$0		

Other Benefits--Not Covered By Medicare

Foreign Travel-- Not Covered By Medicare Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year Remainder of Charges	\$0 \$0	\$0 80% to a lifetime maximum benefit of \$50,000	\$250 20% and amounts over the \$50,000 lifetime maximum
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Plan H

Medicare (Part A) --Hospital Services--Per Benefit Period

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
Hospitalization* Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: --While using 60 lifetime reserve days --Once lifetime reserve days are used: --Additional 365 days --Beyond the additional 365 days	All but \$[840] All but \$[210] a day All but \$[420] a day \$0 \$0	\$[840](Part A Deductible) \$[210] a day \$[420] a day 100% of Medicare Eligible Expenses \$0	\$0 \$0 \$0 \$0 All Costs
Skilled Nursing Facility Care* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$[105.00] a day \$0	\$0 Up to \$[105.00] a day \$0	\$0 \$0 All costs
Blood First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
Hospice Care Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

**NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

Plan H

Medicare (Part B) --Medical Services--Per Calendar Year

*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay
Medical Expenses-- In Or Out Of The Hospital And Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare Approved Amounts Part B Excess Charges (Above Medicare Approved Amounts)	Generally, 80%	Generally, 20%	\$0
	\$0	\$0	All Costs
Blood First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
Clinical Laboratory Services-- Blood Tests For Diagnostic Services	100%	\$0	\$0

Parts A and B

Home Health Care Medicare Approved Services	100%	\$0	\$0
--Medically necessary skilled care services and medical supplies	\$0	\$0	\$100(Part B Deductible)
--Durable medical equipment	80%	20%	\$0
First \$100 of Medicare Approved Amounts*			
Remainder of Medicare Approved Amounts			

Plan H (Continued)

Other Benefits--Not Covered By Medicare

Services	Medicare Pays	Plan Pays	You Pay
Foreign Travel-- Not Covered By Medicare Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
Basic Outpatient Prescription Drugs--Not Covered By Medicare First \$250 each calendar year	\$0	\$0	\$250
Next \$2,500 each calendar year	\$0	50%--\$1,250 calendar year maximum benefit	50%
Over \$2,500 each calendar year	\$0	\$0	All Costs

**Plan I
Medicare (Part A) --Hospital Services--Per Benefit Period**

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
Hospitalization* Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: --While using 60 lifetime reserve days --Once lifetime reserve days are used: --Additional 365 days --Beyond the additional 365 days	All but \$[840] All but \$[210] a day All but \$[420] a day \$0 \$0	\$[840](Part A Deductible) \$[210] a day \$[420] a day 100% of Medicare Eligible Expenses \$0	\$0 \$0 \$0 \$0 All Costs
Skilled Nursing Facility Care* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$[105.00] a day \$0	\$0 Up to \$[105.00] a day \$0	\$0 \$0 All costs
Blood First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
Hospice Care Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

**NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

**Plan I
Medicare (Part B) --Medical Services--Per Calendar Year**

*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay
Medical Expenses-- In Or Out Of The Hospital And Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$100 of Medicare Approved Amounts* Remain der of Medicare Approved Amounts Part B Excess Charges (Above Medicare Approved Amounts)	\$0 Generally, 80% \$0	\$0 Generally, 20% 100%	\$100(Part B Deductible) \$0 \$0
Blood First 3 pints Next \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	\$0 \$0 80%	All Costs \$0 20%	\$0 \$100(Part B Deductible) \$0

Clinical Laboratory Services-- Blood Tests For Diagnostic Services	100%	\$0	\$0
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Plan I (Continued)
Parts A and B

Services	Medicare Pays	Plan Pays	You Pay
Home Health Care Medicare Approved Services --Medically necessary skilled care services and medical supplies	100%	\$0	\$0
--Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
At-Home Recovery Services--Not Covered By Medicare Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan			
--Benefit for each visit	\$0	Actual Charges to \$40 a visit	Balance
--Number of visits covered (must be received within 8 weeks of last Medicare Approved visit)	\$0	Up to the number of Medicare Approved visits, not to exceed 7 each week	
--Calendar year maximum	\$0	\$1,600	

Other Benefits--Not Covered By Medicare

Foreign Travel-- Not Covered By Medicare Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
Basic Outpatient Prescription Drugs--Not Covered By Medicare First \$250 each calendar year	\$0	\$0	\$250
Next \$2,500 each calendar year	\$0	50%--\$1,250 calendar year maximum benefit	50%
Over \$2,500 each calendar year	\$0	\$0	All Costs

**Plan J or High Deductible Plan J
Medicare (Part A) --Hospital Services--Per Benefit Period**

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

**This high deductible plan pays the same or offers the same benefits as Plan J after one has paid a calendar year [\$1650] deductible. Benefits from high deductible Plan J will not begin until out-of-pocket expenses are [\$1650]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate prescription drug deductible or the plan's separate foreign travel emergency deductible.

Services	Medicare Pays	After You Pay \$1650 Deductible, ** Plan Pays	In Addition To \$1650 Deductible, ** You Pay
Hospitalization* Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: --While using 60 lifetime reserve days --Once lifetime reserve days are used: --Additional 365 days --Beyond the additional 365 days	All but \$[840] All but \$[210] a day All but \$[420] a day \$0 \$0	\$[840](Part A Deductible) \$[210] a day \$[420] a day 100% of Medicare Eligible Expenses \$0	\$0 \$0 \$0 \$0 All Costs
Skilled Nursing Facility Care* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$[105.00] a day \$0	\$0 Up to \$[105.00] a day \$0	\$0 \$0 All costs
Blood First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
Hospice Care Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

***NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

Plan J or High Deductible Plan J (Continued)
Medicare (Part B) --Medical Services--Per Calendar Year

*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

**This high deductible plan pays the same or offers the same benefits as Plan J after one has paid a calendar year [\$1650] deductible. Benefits from high deductible Plan J will not begin until out-of-pocket expenses are [\$1650]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate prescription drug deductible or the plan's separate foreign travel emergency deductible.

Services	Medicare Pays	After You Pay \$1650 Deductible, ** Plan Pays	In Addition To \$1650 Deductible, ** You Pay
Medical Expenses-- In Or Out Of The Hospital And Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts Part B Excess Charges (Above Medicare Approved Amounts)	\$0 Generally, 80% \$0	\$100(Part B Deductible) Generally, 20% 100%	\$0 \$0 \$0
Blood First 3 pints Next \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	\$0 \$0 80%	All Costs \$100(Part B Deductible) 20%	\$0 \$0 \$0
Clinical Laboratory Services-- Blood Tests For Diagnostic Services	100%	\$0	\$0

Parts A and B

Home Health Care Medicare Approved Services --Medically necessary skilled care services and medical supplies --Durable medical equipment First \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	100% \$0 80%	\$0 \$100(Part B Deductible) 20%	\$0 \$0 \$0
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Plan J or High Deductible Plan J (Continued)
Medicare (Part B) - Medical Services - Per Calendar Year
Parts A and B (Continued)

Services	Medicare Pays	After You Pay \$1650 Deductible, ** Plan Pays	In Addition To \$1650 Deductible, ** You Pay
Home Health Care(Cont'd) At-Home Recovery Services--Not Covered By Medicare Home care certified by your doctor, for personal care beginning during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan --Benefit for each visit	\$0	Actual Charges to \$40 a visit	Balance
--Number of visits covered (must be received within 8 weeks of last Medicare Approved visit)	\$0	Up to the number of Medicare Approved visits, not to exceed 7 each week	
--Calendar year maximum	\$0	\$1,600	

Plan J or High Deductible Plan J (Continued)
Parts A and B (Continued)
Other Benefits--Not Covered By Medicare

Services	Medicare Pays	After You Pay \$1650 Deductible, ** Plan Pays	In Addition To \$1650 Deductible, ** You Pay
Foreign Travel--Not Covered By Medicare Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year Remainder of Charges	\$0 \$0	\$0 80% to a lifetime maximum benefit of \$50,000	\$250 20% and amounts over the \$50,000 lifetime maximum
Extended Outpatient Prescription Drugs--Not Covered By Medicare First \$250 each calendar year Next \$6,000 each calendar year Over \$6,000 each calendar year	\$0 \$0 \$0	\$0 50%--\$3,000 calendar year maximum benefit \$0	\$250 50% All Costs
***Preventive Medical Care Benefit--Not Covered By Medicare Some annual physical and preventive tests and services such as: digital rectal exam, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, tetanus and diphtheria booster and education, administered or ordered by your doctor when not covered by Medicare First \$120 each calendar year Additional charges	\$0 \$0	\$120 \$0	\$0 All Costs

***Medicare benefits are subject to change. Please consult the latest *Guide to Health Insurance for People with Medicare*.

D. Notice Regarding Policies or Certificates which are not Medicare Supplement Policies

1. Any accident and sickness insurance policy or certificate, other than a Medicare supplement policy; a policy issued pursuant to a contract under Section 1876 of the Federal Social Security Act (42 U.S.C. §1395 et seq.), disability income policy; or other policy identified in §502.B of this regulation, issued for delivery in this state to persons eligible for Medicare shall notify insureds under the policy that the policy is not a Medicare supplement policy or certificate. The notice shall either be printed or attached to the first page of the outline of coverage delivered to insureds under the policy, or if no outline of coverage is delivered, to the first page of the policy, or certificate delivered to insureds. The notice shall be in no less than 12 point type and shall contain the following language: "This [policy or certificate] is not a Medicare supplement [policy or contract]. If you are eligible for Medicare, review the Guide to Health Insurance for People with Medicare available from the company."

2. Applications provided to persons eligible for Medicare for the health insurance policies or certificates described in Paragraph D.1 shall disclose, using the applicable statement in Appendix C, the extent to which the policy duplicates Medicare. The disclosure statement shall be provided as a part of, or together with, the application for the policy or certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1114 (June 1999), repromulgated LR 25:1495 (August 1999), amended LR 29:2449 (November 2003).

§561. Reserved.

§562. Reserved.

§563. Reserved.

§564. Reserved.

§565. Requirements for Application Forms and Replacement Coverage

A. Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another Medicare supplement or other health insurance policy or certificate in force or whether a Medicare supplement policy or certificate is intended to replace any other accident and sickness policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent containing such questions and statements may be used.

B. An application for a Medicare supplement policy shall not be combined with an application for any other type of insurance coverage. The application may not make reference to or include questions regarding other types of insurance coverage except for those questions specifically required under this Section.

1. [Statements]

a. You do not need more than one Medicare supplement policy.

b. If you purchase this policy, you may want to evaluate your existing health coverage and decide if you need multiple coverages.

c. You may be eligible for benefits under Medicaid and may not need a Medicare supplement policy.

d. The benefits and premiums under your Medicare supplement policy can be suspended, if requested, during your entitlement to benefits under Medicaid for 24 months. You must request this suspension within 90 days of becoming eligible for Medicaid. If you are no longer entitled to Medicaid, your policy will be reinstated if requested within 90 days of losing Medicaid eligibility.

e. Counseling services may be available in your state to provide advice concerning your purchase of Medicare supplement insurance and concerning medical assistance through the state Medicaid program, including benefits as a Qualified Medicare Beneficiary (QMB) and a Specified Low-Income Medicare Beneficiary (SLMB).

2. [Questions]

a. To the best of your knowledge:

i. Do you have another Medicare supplement policy or certificate in force?

(a). If so, with which company?

(b). If so, do you intend to replace your current Medicare supplement policy with this policy [certificate]?

ii. Do you have any other health insurance coverage that provides benefits similar to this Medicare supplement policy?

(a). If so, with which company?

(b). What kind of policy?

iii. Are you covered for medical assistance through the state Medicaid program:

(a). As a Specified Low-Income Medicare Beneficiary (SLMB)?

(b). As a Qualified Medicare Beneficiary (QMB)?

(c). For other Medicaid medical benefits?

C. Agents shall list any other health insurance policies they have sold to the applicant:

1. list policies sold which are still in force;

2. list policies sold in the past five years, which are no longer in force.

D. In the case of a direct response issuer, a copy of the application or supplemental form, signed by the applicant, and acknowledged by the insurer, shall be returned to the applicant by the insurer upon delivery of the policy.

E. Upon determining that a sale will involve replacement of Medicare supplement coverage, any issuer, other than a direct response issuer, or its agent, shall furnish the applicant, prior to issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of Medicare supplement coverage. One copy of the notice, signed by the applicant and the agent, except where the coverage is sold without an agent, shall be provided to the applicant and an additional signed copy shall be retained by the issuer. A direct response issuer shall deliver to the applicant, at the time of the issuance of the policy, the notice regarding replacement of Medicare supplement coverage.

F. The notice required by Subsection D above for an issuer shall be provided in substantially the following form in no less than 12 point type:

**NOTICE TO APPLICANT REGARDING REPLACEMENT
OF MEDICARE SUPPLEMENT INSURANCE**

[Insurance company's name and address]

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to terminate existing Medicare supplement insurance and replace it with a policy to be issued by [Company Name] Insurance Company. Your new policy will provide 30 days within which you may decide without cost whether you desire to keep the policy.

You should review this new coverage carefully. Compare it with all accident and sickness coverage you now have. If, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision, you should terminate your present Medicare supplement coverage. You should evaluate the need for other accident and sickness coverage you have that may duplicate this policy.

STATEMENT TO APPLICANT BY ISSUER, AGENT [BROKER OR OTHER REPRESENTATIVE]:

I have reviewed your current medical or health insurance coverage. To the best of my knowledge, this Medicare supplement policy will not duplicate your existing Medicare supplement coverage because you intend to terminate your existing Medicare supplement coverage. The replacement policy is being purchased for the following reason (check one):

- Additional benefits.
 - No change in benefit, but lower premiums.
 - Fewer benefits and lower premiums.
 - Other. (please specify)
- _____
- _____
- _____

1. Health conditions which you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.
2. State law provides that your replacement policy or certificate may not contain new preexisting conditions, waiting periods, elimination periods or probationary periods. The insurer will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new policy (or coverage) to the extent such time was spent (depleted) under the original policy.
3. If, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical and health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, review it carefully to be certain that all information has been properly recorded. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

Do not cancel your present policy until you have received your new policy and are sure that you want to keep it.

(Signature of Agent, Broker or Other Representative)*

[Typed Name and Address of Issuer, Agent or Broker]

(Applicant's Signature)

(Date)

*Signature not required for direct response sales.

G Paragraphs 1 and 2 of the replacement notice (applicable to preexisting conditions) may be deleted by an issuer if the replacement does not involve application of a new preexisting condition limitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1130 (June 1999), repromulgated LR 25:1510 (August 1999), LR 29:2474 (November 2003).

§566. Reserved.

§567. Reserved.

§568. Reserved.

§569. Reserved.

§570. Filing Requirements for Advertising

A. An issuer shall provide a copy of any Medicare supplement advertisement intended for use in this state whether through written, radio or television medium to the commissioner of Insurance of this state for review and approval by the commissioner to the extent permitted under the Insurance Code, particularly under R.S. 22:1215.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1131 (June 1999), repromulgated LR 25:11512 (August 1999), LR 29:2476 (November 2003).

§571. Reserved.

§572. Reserved.

§573. Reserved.

§574. Reserved.

§575. Standards for Marketing

A. An issuer, directly or through its producers, shall:

1. establish marketing procedures to assure that any comparison of policies by its agents or other producers will be fair and accurate;

2. establish marketing procedures to assure excessive insurance is not sold or issued;

3. display prominently by type, stamp or other appropriate means, on the first page of the policy the following: "Notice to buyer: This policy may not cover all of your medical expenses;"

4. inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for Medicare supplement insurance already has accident and sickness insurance and the types and amounts of any such insurance;

5. establish auditable procedures for verifying compliance with this Subsection A.

B. In addition to the practices prohibited in Louisiana Revised Statutes 22:1211 et seq. the following acts and practices are prohibited.

1. Twisting. Making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any insurance policy or to take out a policy of insurance with another insurer.

2. High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether

explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

3. Cold lead advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

C. The terms Medicare Supplement, Medigap, Medicare Wrap-Around and words of similar import shall not be used unless the policy is issued in compliance with this regulation.

D. No insurer providing Medicare supplement insurance in this state shall allow its agent to accept premiums except by check, money order, or bank draft made payable to the insurer. If payment in cash is made, the agent must leave the insurer's official receipt with the insured or the person paying the premium on behalf of the insured. This receipt shall bind the insurer for the monies received by the agent. Under this Section, the agent is prohibited from accepting checks, money orders and/or bank drafts payable to the agent or his agency. The agent is not to leave any receipt other than the insurer's for premium paid in cash.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1131 (June 1999), repromulgated LR 25:1512 (August 1999), LR 29:2476 (November 2003).

§576. Reserved.

§577. Reserved.

§578. Reserved.

§579. Reserved.

§580. Appropriateness of Recommended Purchase and Excessive Insurance

A. In recommending the purchase or replacement of any Medicare supplement policy or certificate an agent shall make reasonable efforts to determine the appropriateness of a recommended purchase or replacement.

B. Any sale of Medicare supplement coverage that will provide an individual more than one Medicare supplement policy or certificate is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1132 (June 1999), repromulgated LR 25:1512 (August 1999), LR 29:2476 (November 2003).

§581. Reserved.

§582. Reserved.

§583. Reserved.

§584. Reserved.

§585. Reporting of Multiple Policies

A. On or before March 1 of each year, an issuer shall report the following information for every individual resident of this state for which the issuer has in force more than one Medicare supplement policy or certificate:

1. policy and certificate number; and
2. date of issuance.

B. The items set forth above must be grouped by individual policyholder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1132 (June 1999), repromulgated LR 25:1512 (August 1999), LR 29:2476 (November 2003).

§586. Reserved.

§587. Reserved.

§588. Reserved.

§589. Reserved.

§590. Prohibition Against Preexisting Conditions, Waiting Periods, Elimination Periods and Probationary Periods in Replacement Policies or Certificates

A. If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate, the replacing issuer shall waive any time periods applicable to preexisting conditions, waiting periods, elimination periods and probationary periods in the new Medicare supplement policy or certificate to the extent such time was spent under the original policy.

B. If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate which has been in effect for at least six months, the replacing policy shall not provide any time period applicable to

preexisting conditions, waiting periods, elimination periods and probationary periods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1132 (June 1999), repromulgated LR 25:1512 (August 1999), LR 29:2477 (November 2003).

§591. Reserved.

§592. Reserved.

§593. Reserved.

§594. Reserved.

§595. Separability

A. If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1132 (June 1999), repromulgated LR 25:1513 (August 1999), LR 29:2477 (November 2003).

**MEDICARE SUPPLEMENT REFUND CALCULATION FORM
FOR CALENDAR YEAR _____**

Type¹ _____ SMSBP² _____
 For the State of _____ Company Name _____
 NAIC Group Code _____ NAIC Company Code _____
 Address _____ Person Completing Exhibit _____
 Title _____ Telephone Number _____

LINE		(a) Earned Premium ³	(b) Incurred Claims ⁴
1.	Current Year's Experience		
	a. Total (all policy years)		
	b. Current year's issues ⁵		
	c. Net (for reporting purposes = 1a-1b)		
2.	Past Year's Experience (all policy years)		
3.	Total Experience (Net Current Year + Past Year)		
4.	Refunds Last Year (Excluding Interest)		
5.	Previous Since Inception (Excluding Interest)		
6.	Refunds Since Inception (Excluding Interest)		
7.	Benchmark Ratio Since Inception (see worksheet for Ratio 1)		
8.	Experienced Ratio Since Inception (Ratio 2) Total Actual Incurred Claims (line 3, col.b) Total Earned Prem. (line 3, col. a) - Refunds Since Inception (line 6)		
9.	Life Years Exposed Since Inception If the Experienced Ratio is less than the Benchmark Ratio, and there are more than 500 life years exposure, then proceed to calculation of refund.		
10.	Tolerance Permitted (obtained from credibility table)		

Medicare Supplement Credibility Table

Life Years Exposed		Tolerance
Since Inception		
10,000+		0.0%
5,000 – 9,999		5.0%
2,500 – 4,999		7.5%
1,000 – 2,499		10.0%
500 - 999		15.0%
If less than 500, no credibility.		

- Individual, Group, Individual Medicare Select, or Group Medicare Select Only.
- "SMSBP" – Standardized Medicare Supplement Benefit Plan – Use "P" for pre-standardized plans.
- Includes Modal Loadings and Fees Charged
- Excludes Active Life Reserves
- This is to be used as "Issue Year Earned Premium" for Year 1 of next year's "Worksheet for Calculation of Benchmark Ratio"

**MEDICARE SUPPLEMENT REFUND CALCULATION FORM
FOR CALENDAR YEAR**

Type¹ _____ SMSBP² _____
 For the State of _____ Company Name _____
 NAIC Group Code _____ NAIC Company Code _____
 Address _____ Person Completing Exhibit _____
 Title _____ Telephone Number _____

11.	Adjustment to Incurred Claims for Credibility Ratio 3 = Ratio 2 + Tolerance	
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If Ratio 3 is more than Benchmark Ratio (Ratio 1), a refund or credit to premium is not required.
 If Ratio 3 is less than the Benchmark Ratio, then proceed.

12.	Adjusted Incurred Claims (Total Earned Premiums (Line 3, col. a) - Refund Since Inception (line 6)) x Ratio 3 (line 11)	
13.	Total Earned Premiums (line 3, col. a) - Refunds Inception (line 6) - [Adjusted Incurred Claims (line 12) / Benchmark Ratio (Ratio 1)]	

If the amount on line 13 is less than .005 times the annualized premium in force as of December 31 of the reporting year, then no refund is made. Otherwise, the amount on line 13 is to be refunded or credited, and a description of the refund or credit against premiums to be used must be attached to this form.

I certify that the above information and calculations are true and accurate to the best of my knowledge and belief.

 Signature

 Name – Please Type

 Title

 Date

**REPORTING FORM FOR THE CALCULATION OF BENCHMARK
RATIO SINCE INCEPTION FOR GROUP POLICIES
FOR CALENDAR YEAR _____**

Type¹ _____ SMSBP² _____
 For the State of _____ Company Name _____
 NAIC Group Code _____ NAIC Company Code _____
 Address _____ Person Completing Exhibit _____
 Title _____ Telephone Number _____

(a)3 Year	(b)4 Earned Premium	(c) Factor	(d) (b)x(c)	(e) Cumulative Loss Ratio	(f) (d)x(e)	(g) Factor	(h) (b)x(g)	(i) Cumulative Loss Ratio	(j) (h)x(i)	(o)5 Policy Year Loss Ratio
1		2.770		0.507		0.000		0.000		0.46
2		4.175		0.567		0.000		0.000		0.63
3		4.175		0.567		1.194		0.759		0.75
4		4.175		0.567		2.245		0.771		0.77
5		4.175		0.567		3.170		0.782		0.80
6		4.175		0.567		3.998		0.792		0.82
7		4.175		0.567		4.754		0.802		0.84
8		4.175		0.567		5.445		0.811		0.87
9		4.175		0.567		6.075		0.818		0.88
10		4.175		0.567		6.650		0.824		0.88
11		4.175		0.567		7.176		0.828		0.88
12		4.175		0.567		7.655		0.831		0.88
13		4.175		0.567		8.093		0.834		0.89
14		4.175		0.567		8.493		0.837		0.89
15		4.175		0.567		8.684		0.838		0.89
Total:			(k):		(l):		(m):		(n):	

Benchmark Ratio Since Inception: $(l + n)/(k + m)$: _____

¹Individual, Group, Individual Medicare Select, or Group Medicare Select Only.

²"SMSBP" = Standardized Medicare Supplement Benefit Plan - Use "P" for pre-standardized plans

³Year 1 is the current calendar year - 1. Year 2 is the current calendar year - 2 (etc.) (Example: If the current year is 1991, then: Year 1 is 1990; Year 2 is 1989, etc.)

⁴For the calendar year on the appropriate line in column (a), the premium earned during that year for policies issued in that year.

⁵These loss ratios are not explicitly used in computing the benchmark loss ratios. They are the loss ratios, on a policy year basis, which result in the cumulative loss ratios displayed on this worksheet. They are shown here for informational purposes only.

**REPORTING FORM FOR THE CALCULATION OF BENCHMARK
RATIO SINCE INCEPTION FOR INDIVIDUAL POLICIES
FOR CALENDAR YEAR _____**

Type1 _____ SMSBP2 _____
 For the State of _____ Company Name _____
 NAIC Group Code _____ NAIC Company Code _____
 Address _____ Person Completing Exhibit _____
 Title _____ Telephone Number _____

(a)3 Year	(b)4 Earned Premium	(c) Factor	(d) (b)x(c)	(e) Cumulative Loss Ratio	(f) (d)x(e)	(g) Factor	(h) (b)x(g)	(i) Cumulative Loss Ratio	(j) (h)x(i)	(o)5 Policy Year Loss Ratio
1		2.770		0.442		0.000		0.000		0.40
2		4.175		0.493		0.000		0.000		0.55
3		4.175		0.493		1.194		0.659		0.65
4		4.175		0.493		2.245		0.669		0.67
5		4.175		0.493		3.170		0.678		0.69
6		4.175		0.493		3.998		0.686		0.71
7		4.175		0.493		4.754		0.695		0.73
8		4.175		0.493		5.445		0.702		0.75
9		4.175		0.493		6.075		0.708		0.76
10		4.175		0.493		6.650		0.713		0.76
11		4.175		0.493		7.176		0.717		0.76
12		4.175		0.493		7.655		0.720		0.77
13		4.175		0.493		8.093		0.723		0.77
14		4.175		0.493		8.493		0.725		0.77
15		4.175		0.493		8.684		0.725		0.77
Total:			(k):		(l):		(m):		(n):	

Benchmark Ratio Since Inception: $(l + n)/(k + m)$: _____

¹ Individual, Group, Individual Medicare Select, or Group Medicare Select Only.

² "SMSBP" = Standardized Medicare Supplement Benefit Plan - Use "P" for pre-standardized plans

³ Year 1 is the current calendar year - 1. Year 2 is the current calendar year - 2 (etc.) (Example: If the current year is 1991, then: Year 1 is 1990; Year 2 is 1989, etc.)

⁴ For the calendar year on the appropriate line in column (a), the premium earned during that year for policies issued in that year.

⁵ These loss ratios are not explicitly used in computing the benchmark loss ratios. They are the loss ratios, on a policy year basis, which result in the cumulative loss ratios displayed on this worksheet. They are shown here for informational purposes only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1132 (June 1999), repromulgated LR 25:1513 (August 1999), repromulgated LR 29:2478 (November 2003).

§597. Appendix B

**FORM FOR REPORTING
MEDICARE SUPPLEMENT POLICIES**

Company Name: _____
Address: _____
Phone Number: _____

Due: March 1, annually

The purpose of this form is to report the following information on each resident of this state who has in force more than one Medicare supplement policy or certificate. The information is to be grouped by individual policyholder.

Policy and Certificate #	Date of Issuance

Signature

Name and Title (please type)

Date

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1136 (June 1999), repromulgated LR 25:1516 (August 1999), repromulgated LR 29:2482 (November 2003).

DISCLOSURE STATEMENTS

**Instructions for Use of the Disclosure Statements for
Health Insurance Policies Sold to Medicare Beneficiaries
that Duplicate Medicare**

1. Section 1882(d) of the federal Social Security Act [42 U.S.C. 1395ss] prohibits the sale of a health insurance policy (the term policy includes certificates) to Medicare beneficiaries that duplicates Medicare benefits unless it will pay benefits without regard to a beneficiary's other health coverage and it includes the prescribed disclosure statement on or together with the application for the policy.
2. All types of health insurance policies that duplicate Medicare shall include one of the attached disclosure statements, according to the particular policy type involved, on the application or together with the application. The disclosure statement may not vary from the attached statements in terms of language or format (type size, type proportional spacing, bold character, line spacing, and usage of boxes around text).
3. State law and federal law prohibits insurers from selling a Medicare supplement policy to a person that already has a Medicare supplement policy except as a replacement policy.
4. Property/casualty and life insurance policies are not considered health insurance.
5. Disability income policies are not considered to provide benefits that duplicate Medicare.
6. Long-term care insurance policies that coordinate with Medicare and other health insurance are not considered to provide benefits that duplicate Medicare.
7. The federal law does not pre-empt state laws that are more stringent than the federal requirements.
8. The federal law does not pre-empt existing state form filing requirements.
9. Section 1882 of the federal Social Security Act was amended in Subsection (d)(3)(A) to allow for alternative disclosure statements. The disclosure statements already in Appendix C remain. Carriers may use either disclosure statement with the requisite insurance product. However, carriers should use either the original disclosure statements or the alternative disclosure statements and not use both simultaneously.

[Original disclosure statement for policies that provide benefits for expenses incurred for an accidental injury only.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses that result from accidental injury. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement insurance.

This insurance duplicates Medicare benefits when it pays:

?? hospital or medical expenses up to the maximum stated in the policy

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- ?? hospitalization
- ?? physician services
- ?? other approved items and services

Before You Buy This Insurance

- v Check the coverage in all health insurance policies you already have.
- v For more information about Medicare and Medicare supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- v For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Original disclosure statement for policies that provide benefits for specified limited services.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for expenses relating to the specific services listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement insurance.

This insurance duplicates Medicare benefits when:

- ?? any of the services covered by the policy are also covered by Medicare

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- ?? hospitalization
- ?? physician services
- ?? other approved items and services

Before You Buy This Insurance

- v Check the coverage in all health insurance policies you already have.
- v For more information about Medicare and Medicare supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- v For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Original disclosure statement for policies that reimburse expenses incurred for specified diseases or other specified impairments. This includes expense-incurred cancer, specified disease and other types of health insurance policies that limit reimbursement to named medical conditions.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses only when you are treated for one of the specific diseases or health conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement insurance.

This insurance duplicates Medicare benefits when it pays:

?? hospital or medical expenses up to the maximum stated in the policy

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- ?? hospitalization
- ?? physician services
- ?? hospice
- ?? other approved items and services

Before Yo u Buy This Insurance

- v Check the coverage in all health insurance policies you already have.
- v For more information about Medicare and Medicare supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- v For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Original disclosure statement for policies that pay fixed dollar amounts for specified diseases or other specified impairments. This includes cancer, specified disease, and other health insurance policies that pay a scheduled benefit or specific payment based on diagnosis of the conditions named in the policy.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

This is not Medicare Supplement Insurance

This insurance pays a fixed amount, regardless of your expenses, if you meet the policy conditions, for one of the specific diseases or health conditions named in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement insurance.

This insurance duplicates Medicare benefits because Medicare generally pays for most of the expenses for the diagnosis and treatment of the specific conditions or diagnoses named in the policy.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- ?? hospitalization
- ?? physician services
- ?? hospice
- ?? other approved items and services

Before You Buy This Insurance

- v Check the coverage in all health insurance policies you already have.
- v For more information about Medicare and Medicare supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- v For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Original disclosure statement for indemnity policies and other policies that pay a fixed dollar amount per day, excluding long-term care policies.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

This is not Medicare Supplement Insurance

This insurance pays a fixed dollar amount, regardless of your expenses, for each day you meet the policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement insurance.

This insurance duplicates Medicare benefits when:

?? any expenses or services covered by the policy are also covered by Medicare

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- ?? hospitalization
- ?? physician services
- ?? hospice
- ?? other approved items and services

Before You Buy This Insurance

- v Check the coverage in all health insurance policies you already have.
- v For more information about Medicare and Medicare supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- v For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Original disclosure statement for policies that provide benefits upon both an expense-incurred and fixed indemnity basis]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

This is not Medicare Supplement Insurance

This insurance pays limited reimbursement for expenses if you meet the conditions listed in the policy. It also pays a fixed amount, regardless of your expenses, if you meet other policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement insurance.

This insurance duplicates Medicare benefits when:

- ?? any expenses or services covered by the policy are also covered by Medicare; or
- ?? it pays the fixed dollar amount stated in the policy and Medicare covers the same event.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- ?? hospitalization
- ?? physician services
- ?? hospice
- ?? other approved items and services

Before You Buy This Insurance

- v Check the coverage in all health insurance policies you already have.
- v For more information about Medicare and Medicare supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- v For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Original disclosure statement for other health insurance policies not specifically identified in the preceding statements.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

This is not Medicare Supplement Insurance

This insurance provides limited benefits if you meet the conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement insurance.

This insurance duplicates Medicare benefits when it pays:

?? the benefits stated in the policy and coverage for the same event is provided by Medicare

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- ?? hospitalization
- ?? physician services
- ?? hospice
- ?? other approved items and services

Before You Buy This Insurance

- v Check the coverage in all health insurance policies you already have.
- v For more information about Medicare and Medicare supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- v For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Alternative disclosure statement for policies that provide benefits for expenses incurred for an accidental injury only.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS IS NOT SUPPLEMENT INSURANCE**

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses that result from accidental injury. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- ?? hospitalization
- ?? physician services
- ?? other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

- v Check the coverage in all health insurance policies you already have.
- v For more information about Medicare and Medicare supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- v For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Alternative disclosure statement for policies that provide benefits for specified limited services.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS IS NOT SUPPLEMENT INSURANCE**

Some health care services paid for by Medicare may also trigger the payment of benefits under this policy.

This insurance provides limited benefits, if you meet the policy conditions, for expenses relating to the specific services listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement insurance.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- ?? hospitalization
- ?? physician services
- ?? other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

- v Check the coverage in all health insurance policies you already have.
- v For more information about Medicare and Medicare supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- v For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Alternative disclosure statement for policies that reimburse expenses incurred for specified diseases or other specified impairments. This includes expense-incurred cancer, specified disease and other types of health insurance policies that limit reimbursement to named medical conditions.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS IS NOT SUPPLEMENT INSURANCE**

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy. Medicare generally pays for most or all of these expenses.

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses only when you are treated for one of the specific diseases or health conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- ?? hospitalization
- ?? physician services
- ?? hospice
- ?? other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

- v Check the coverage in all health insurance policies you already have.
- v For more information about Medicare and Medicare supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- v For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Alternative disclosure statement for policies that pay fixed dollar amounts for specified diseases or other specified impairments. This includes cancer, specified disease, and other health insurance policies that pay a scheduled benefit or specific payment based on diagnosis of the conditions named in the policy.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS IS NOT SUPPLEMENT INSURANCE**

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance pays a fixed amount, regardless of your expenses, if you meet the policy conditions, for one of the specific diseases or health conditions named in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement insurance.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- ?? hospitalization
- ?? physician services
- ?? hospice
- ?? other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

- v Check the coverage in all health insurance policies you already have.
- v For more information about Medicare and Medicare supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- v For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Alternative disclosure statement for indemnity policies and other policies that pay a fixed dollar amount per day, excluding long-term care policies.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS IS NOT SUPPLEMENT INSURANCE**

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance pays a fixed dollar amount, regardless of your expenses, for each day you meet the policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- ?? hospitalization
- ?? physician services
- ?? hospice
- ?? other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

- v Check the coverage in all health insurance policies you already have.
- v For more information about Medicare and Medicare supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- v For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Alternative disclosure statement for policies that provide benefits upon both an expense-incurred and fixed indemnity basis]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS IS NOT SUPPLEMENT INSURANCE**

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance pays limited reimbursement for expenses if you meet the conditions listed in the policy. It also pays a fixed amount, regardless of your expenses, if you meet other policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- ?? hospitalization
- ?? physician services
- ?? hospice
- ?? other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

- v Check the coverage in all health insurance policies you already have.
- v For more information about Medicare and Medicare supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- v For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Alternative disclosure statement for other health insurance policies not specifically identified in the preceding statements.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS IS NOT SUPPLEMENT INSURANCE**

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance provides limited benefits if you meet the conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- ?? hospitalization
- ?? physician services
- ?? hospice
- ?? other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

- v Check the coverage in all health insurance policies you already have.
- v For more information about Medicare and Medicare supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- v For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1136 (June 1999), repromulgated LR 25:1516 (August 1999), LR 29:2483 (November 2003).

§599. Effective Date

A. This regulation shall become effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1142 (June 1999), repromulgated LR 25:1522 (August 1999), amended LR 29:2497 (November 2003).

J. Robert Wooley
Commissioner

0311#015

RULE

**Department of Labor
Office of Workforce Development**

Customized Training? Fund
(LAC 40:XVI.101, 103, 105, 109, and 113)

Notice is hereby given, in accordance with R.S. 49:905 et seq., that the Louisiana Department of Labor, pursuant to authority vested in the department by R.S. 23:1514 and in

accordance with applicable provisions of the Administrative Procedure Act, has amended Rules governing the workforce development training account, LAC 40:XVI.101, 103, 105, 109, and 113 to provide for clarification of terms and establish requirements for the Small Business Employee Training Program.

Title 40

LABOR AND EMPLOYMENT

Part XVI. Customized Training

Chapter 1. Workforce Development Training Fund

§101. Definitions

* * *

Applicant? the business requesting training assistance from LDOL under this program, including a registered joint labor and employer group-administered apprenticeship program under §103A.4.

* * *

Incumbent Worker? a worker who is currently on the payroll of the applicant.

Individual Standardized Training? off-the-shelf training that is not customized to the needs of the individual applicant and that is currently offered by a training provider at the time the application is filed with LDOL; to be provided through the Small Business Employee Training Program and to be administered in accordance with §113.

* * *

Supplant? diversion of normal training funding for other uses simply because training funds are awarded under the *Incumbent Worker Training Program*.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workforce Development, LR 25:1142 (June 1999), amended LR 26:1629 (August 2000), LR 29:2497 (November 2003).

§103. Eligibility

A. ...

1. an individual employer that seeks to provide customized training for his incumbent workers to prevent job loss caused by obsolete skills, technological change, or national or global competition;

2. an individual employer that seeks to provide customized training for its incumbent workers to create, update, or retain jobs in a labor demand occupation;

3. an individual employer that seeks to provide customized training for its incumbent workers to update or retain jobs in an occupation which is not a labor demand occupation, if the administrator determines that the services are necessary to prevent the likely loss of jobs;

4. a labor or community-based organization that seeks to provide customized training for a labor demand occupation for workers who are incumbent to an industry, were attached to a contributing employer within the last 12 months, and are not receiving unemployment insurance benefits at time of training;

5. a consortium made up of one or more educational institutions and one or more eligible individual employers, labor, or community-based organizations that seeks to provide customized training for incumbent workers in labor demand occupations;

6. a local economic development entity and one or more eligible individual employers that seek to provide customized training for incumbent workers in a labor demand occupation.

B. Qualified businesses currently receiving training for their employees may, upon the expiration of contracts, apply for new training grants for training of new employees, previously untrained employees, or for additional training of previously trained employees.

C. All applications by eligible applicants for customized training shall be submitted in conjunction with the entity selected by the applicant to provide the customized training. All disbursements of funds for the training shall be made to the entity actually providing the customized training. To be eligible, the training provider selected by the applicant must demonstrate a history of:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workforce Development, LR 25:1142 (June 1999), amended LR 29:2498 (November 2003).

§105. Criteria

A. ...

B. No single employer or consortium shall receive training funds more than once in a 24-month time period. No single employer or consortium shall receive more than 5 percent of the total funds available to the program to the program during a fiscal year. An employer with multiple operations sites and a single unemployment insurance tax identification number shall be limited to a single application

which may encompass training at the various sites, as long as the amount awarded under the application does not exceed the maximum award amount. When an employer has more than one site and each site maintains a different unemployment insurance tax identification number, the employer may apply for a separate training award under each tax identification number.

C. Employers receiving awards must provide evidence satisfactory to LDOL of their long-range commitment to employee training and that funds shall be used to supplement and not supplant existing training efforts.

D. Applicants must request training for at least 15 employees and where applicable, the training provided must meet, at the minimum, the safety standards determined by OSHA.

E. Special emphasis shall be placed on entry level/incumbent training programs.

F. Preference will be given to employers that have:

1. - 7. ...

G. Employers seeking a training award may not select as a training provider:

1. - 2. ...

H. Nothing contained herein shall prohibit the selection of a training proprietary school or private institution as a training provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, LR 25:1143 (June 1999), amended LR 26:1629 (August 2000), LR 28:2203 (October 2002), LR 29:2498 (November 2003).

§109. Submission and Review Procedure

A. Applicants must submit their completed application to LDOL. Submitted applications will be reviewed and evaluated by LDOL staff. All applications will be measured using a rating system as an evaluation tool that will enable LDOL staff to determine which applications should receive approval, be deferred to future funding cycles, or be denied outright. Input may be required from the applicant, other divisions of the Department of Labor, and other state agencies as needed, in order to:

A.1. - B. ...

C.1. Upon determination that an application meets the eligibility criteria for this program and is deemed to be beneficial to the well-being of the state, LDOL staff will then make a recommendation to the secretary of the Department of Labor. The application will then be reviewed and approved by the following entities in the following order:

- a. the secretary of the Department of Labor;
- b. the governor.

2. A copy of the application shall be sent to the executive director of the Louisiana Workforce Commission. No funds spent on the project prior to the secretary's approval will be considered eligible project costs.

3. The secretary will issue a letter of commitment to the applicant within five working days of the application approval by the governor.

4. If any application is rejected by any of the preceding entities, the application shall not be considered by the next succeeding entity unless first reconsidered and approved by the entity which initially rejected the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workforce Development, LR 25:1143 (June 1999), amended LR 26:1630 (August 2000), LR 29:2498 (November 2003).

§113. Small Business Employee Training Program

A. For purposes of this Part, small business is defined as a Louisiana based business that has 50 or less employees and is an eligible applicant as outlined in §103.A. The applicant will be reimbursed for the eligible costs associated with the training once the training has been completed and proper documentation has been submitted to LDOL.

B. Applicant can not receive customized training and small business employee training concurrently.

C. The applicant must submit the Small Business Employee Training Program application and receive LDOL approval, in writing, prior to the start of any training.

D. Applicant must be current on all state UI tax obligations.

E. Trainees must be incumbent workers for whom the applicant incurs a state unemployment tax liability under R.S. Title 23, Chapter 11.

F. The request for training must be in a labor demand occupation as defined in the Workforce Investment Act of 1998 (WIA) or cluster based industry as defined in Vision 2020.

G. Small business training can consist of the following:

1. taking a class, either non-credit or credit in an audit capacity, at an educational institution under the policy or direct management authority of the Board of Regents;

2. receiving training from a manufacturer or their representative within one year of the purchase of equipment valued at more than \$3,000 where the training is not otherwise incorporated into the purchase price of the equipment;

3. receiving training from a manufacturer or their representative in order to upgrade computer skills;

4. receiving training from a national, regional or state trade association, that offers an independently certified training curricula and testing, which can demonstrate a successful training history of at least five years.

H. The proposed training provider under Paragraph G.1 must be domiciled in Louisiana and contribute data to LOIS Scorecard as required by R.S. 23:75 which shows a demonstrated history of successful training in the particular instruction that will be given.

I. Training costs shall not exceed \$3,000 per trainee per fiscal year.

J. Training costs can be any of the following:

1. tuition;

2. required textbooks and manuals.

K. Training must be completed by the end of the state fiscal year (June 30) in which it was begun.

L. Upon completion of the training, the employer must submit invoices for training expenditures along with proof of payment, proof of completion from the training provider, as well as proof of a pay increase or wages that were paid for the training hours attended, all within 30 days of the completion of the training.

M. An application shall be deemed approved by LDOL upon written approval of the Secretary of Labor or their designee. A letter of approval shall be forwarded to the

applicant within five working days of approval of the application.

N. The Small Business Employee Training Program shall be funded at 2.3 percent of all funds available for training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, LR 29:2499 (November 2003).

Dawn Watson
Secretary

0311#100

RULE

Department of Natural Resources Office of Conservation

Fees (LAC 43:XIX.Chapter 7)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation hereby amends the established fees.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation? General Operations Subpart 2. Statewide Order No. 29-R

Chapter 7. Fees

§701. Definitions

Application Fee? an amount payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, by industries under the jurisdiction of the Office of Conservation.

Application for Automatic Custody Transfer? an application for authority to measure and transfer custody of liquid hydrocarbons by the use of methods other than customary gauge tanks, as authorized by Statewide Order No. 29-G-1 (LAC 43:XIX.2301 et seq.), or successor regulations.

Application for Commercial Class I Injection Well? an application to construct and/or operate a commercial Class I injection well, as authorized by Statewide Order No. 29-N-1 (LAC 43:XVII.101 et seq.), Statewide Order No. 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Application for Commercial Class I Injection Well (Additional Wells)? an application to construct and/or operate additional Class I injection wells within the same filing, as authorized by Statewide Order No. 29-N-1 (LAC 43:XVII.101 et seq.), Statewide Order No. 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Application for Commercial Class II Injection Well? an application to construct and/or operate a commercial Class II injection well, as authorized by Statewide Order No. 29-B (LAC 43:XIX.401 et seq.), Statewide Order No. 29-M-2 (LAC 43:XVII.3101 et seq.), or successor regulations.

Application for Commercial Class II Injection Well (Additional Wells)? an application to construct and/or operate additional commercial Class II injection wells within the same filing, as authorized by Statewide Order 29-B (LAC 43:XIX.401 et seq.), Statewide Order No. 29-M-2 (LAC 43:XVII.3101 et seq.), or successor regulations.

Application for Multiple Completion? an application to multiply complete a new or existing well in separate common sources of supply, as authorized by Statewide Order No. 29-C-4 (LAC 43:XIX.1301 et seq.), or successor regulations.

Application for Noncommercial Injection Well? an application to construct and/or operate a Class I, II or III noncommercial injection well, as authorized by Statewide Order Nos. 29-B (LAC 43:XIX.401 et seq.), 29-M (LAC 43:XVII.301 et seq.), 29-N-1 (LAC 43:XVII.101 et seq.), 29-N-2 (LAC 43:XVII.201 et seq.), 29-M-2 (LAC 43:XVII.3101 et seq.), or successor regulations.

Application for Permit to Drill (Minerals)? an application to drill in search of minerals, as authorized by R.S. 30:28.

Application for Public Hearing? an application for a public hearing as authorized by R.S. 30:1, et seq.

Application for Substitute Unit Well? an application for a substitute unit well as authorized by Statewide Order No. 29-K-1 (LAC 43:XIX.2901 et seq.), or successor regulations.

Application for Surface Mining Development Operations Permit? an application to remove coal, lignite, or overburden for the purpose of determining coal or lignite quality or quantity or coal or lignite mining feasibility, as authorized by Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

Application for Surface Mining Exploration Permit? an application to drill test holes or core holes for the purpose of determining the location, quantity, or quality of a coal or lignite deposit, as authorized by Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

Application for Surface Mining Permit? an application for a permit to conduct surface coal or lignite mining and reclamation operations, as authorized by Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

Application for Unit Termination? an application for unit termination as authorized by Statewide Order No. 29-L-2 (LAC 43:XIX.3100 et seq.), or successor regulations.

Application to Amend Permit to Drill (Injection or Other)? an application to alter, amend, or change a permit to drill, construct and/or operate an injection, or other well after its initial issuance, as authorized by R.S. 30:28.

Application to Amend Permit to Drill (Minerals)? an application to alter, amend, or change a permit to drill for minerals after its initial issuance, as authorized by R.S. 30:28.*

*Application to Amend Operator (transfer of ownership) for any multiply completed well which has reverted to a single completion, any non-producing well which is plugged and abandoned within the time frame directed by the Commissioner, as well as any stripper crude oil well or incapable gas well so certified by the Department of Revenue shall not be subject to the *application fee* provided herein.

Application to Commingle? an application for authority to commingle production of gas and/or liquid hydrocarbons and to use methods other than gauge tanks for allocation, as authorized by Statewide Order No. 29-D-1 (LAC 43:XIX.1500 et seq.), or successor regulations.

Application to Process Form R-4? application for authorization to transport oil from a lease as authorized by Statewide Order No. 25 (LAC 43:XIX.900 et seq.), or successor regulations.

BOE? annual barrels oil equivalent. Gas production is converted to BOE by dividing annual mcf by a factor of 7.5.

Capable Gas? natural and casing head gas not classified as incapable gas well gas or incapable oil well gas by the Department of Revenue.

Capable Oil? crude oil and condensate not classified as incapable oil or stripper oil by the Department of Revenue.

Class I Well? a Class I injection well used to inject hazardous or nonhazardous, industrial, or municipal wastes into the subsurface, which falls within the regulatory purview of Statewide Order No. 29-N-1 (LAC 43:XVII.101 et seq.), Statewide Order No. 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Class I Well Fee? an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on Class I wells in an amount not to exceed \$400,000 for Fiscal Year 2000-2001 and thereafter.

Class II Well? a Class II injection well which injects fluids which are brought to the surface in connection with conventional oil or natural gas production, for annular disposal wells, for enhanced recovery of oil or natural gas, and for storage of hydrocarbons. For purposes of administering the exemption provided in R.S. 30:21(B)(1)(c), such exemption is limited to operators who operate Class II wells serving a stripper oil well or an incapable gas well certified pursuant to R.S. 47:633 by the Severance Tax Section of the Department of Revenue and located in the same field as such Class II well.

Class III Well? a Class III injection well which injects for extraction of minerals or energy.

Emergency Clearance? emergency authorization to transport oil from lease.

Production Fee? an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, by oil and gas operators on capable oil wells and capable gas wells based on a tiered system to establish parity on a dollar amount between the wells. The tiered system shall be established annually by Rule on capable oil and capable gas production, including nonexempt wells reporting zero production during the annual base period, in an amount not to exceed \$2,450,000 for Fiscal Year 2002 - 2003 and thereafter.

Production Well? any well which has been permitted by and is subject to the jurisdiction of the Office of Conservation, excluding wells in the permitted and drilling in progress status, Class II injection wells, liquid storage cavity wells, commercial salt water disposal wells, Class V injection wells, wells which have been plugged and abandoned, wells which have reverted to landowner for use as a fresh water well (Statewide Order No. 29-B, LAC 43:XIX.137.G, or successor regulations), multiply completed wells reverted to a single completion, and stripper oil wells or incapable oil wells or incapable gas wells certified by the Severance Tax Section of the Department of Revenue.

Regulatory Fee? an amount payable annually to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on Class II wells, Class III wells, storage wells, Type A facilities, and Type B facilities in an amount not to exceed \$875,000 for Fiscal Year 2000-2001 and thereafter. No fee shall be imposed on a Class II well of an operator who is also an operator of a stripper crude oil well or incapable gas well certified pursuant to R.S. 47:633

by the Severance Tax Section of the Department of Revenue and located in the same field as such Class II well. Operators of Record, excluding operators of wells and including, but not limited to, operators of gasoline/cycling plants, refineries, oil/gas transporters, and/or certain other activities subject to the jurisdiction of the Office of Conservation are required to pay an annual registration fee of \$105. Such payment is due within the time frame prescribed by the Office of Conservation.

Type A Facility? commercial E&P waste disposal facilities within the state that utilize technologies appropriate for the receipt, treatment, storage, or disposal of oilfield waste solids and liquids for a fee or other consideration, and fall within the regulatory purview of Statewide Order No. 29-B (LAC 43:XIX.501 et seq.), Statewide Order No. 29-M-2 (LAC 43:XVII.3101 et seq.), or successor regulations.

Type B Facility? commercial E&P waste disposal facilities within the state that utilize underground injection technology for the receipt, treatment, storage, or disposal of only produced saltwater, oilfield brine, or other oilfield waste liquids for a fee or other consideration, and fall within the regulatory purview of Statewide Order No. 29-B (LAC 43:XIX.501 et seq.), or successor regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:542 (August 1988), amended LR 15:551 (July 1989), LR 21:1249 (November 1995), LR 24:458 (March 1998), LR 24:2127 (November 1998), LR 25:1873 (October 1999), LR 26:2302 (October 2000), LR 27:1919 (November 2001), LR 28:2366 (November 2002), LR 29:2499 (November 2003).

§703. Fee Schedule for Fiscal Year 2003-2004

A. Fee Schedule

Application Fees	Amount
Application for Unit Termination	\$ 252
Application for Substitute Unit Well	\$ 252
Application for Public Hearing	\$ 755
Application for Multiple Completion	\$ 126
Application to Commingle	\$ 252
Application for Automatic Custody Transfer	\$ 252
Application for Noncommercial Injection Well	\$ 252
Application for Commercial Class I Injection Well	\$ 1,264
Application for Commercial Class I injection Well (Additional Wells)	\$ 631
Application for Commercial Class II Injection Well	\$ 631
Application for Commercial Class II Injection Well (Additional Wells)	\$ 314
Application for Permit to Drill - Minerals: 0' - 3,000'	\$ 126
Application for Permit to Drill - Minerals: 3,001' - 10,000'	\$ 631
Application for Permit to Drill - Minerals: 10,001' +	\$ 1,264
Drill Minerals Deeper (> 3,000')	\$ 504
Drill Minerals Deeper (> 10,000')	\$ 632
Application to Amend Permit to Drill - Minerals	\$ 126
Application to Amend Permit to Drill - Injection or Other	\$ 126
Application for Surface Mining Exploration Permit	\$ 65
Application for Surface Mining Development Operations Permit	\$ 94
Application for Surface Mining Permit	\$ 2,212
Application to Process Form R-4	\$ 36
Application to Reinstate Suspended Form R-4	\$ 65
Application for Emergency Clearance Form R-4	\$ 65

B. Regulatory Fees

1. Operators of each permitted Type A Facility are required to pay an annual Regulatory Fee of \$6,426 per facility.

2. Operators of each permitted Type B Facility are required to pay an annual Regulatory Fee of \$3,213 per facility.

3. Operators of record of permitted non-commercial Class II injection/disposal wells are required to pay \$654 per well.

4. Operators of record of permitted Class III and Storage wells are required to pay \$654 per well.

C. Class I Well Fees. Operators of permitted Class I wells are required to pay \$9,876 per well.

D. Production Fees. Operators of record of capable oil wells and capable gas wells are required to pay according to the following annual production fee tiers.

Tier	Annual Production (Barrel Oil Equivalent)	Fee (\$ per Well)
Tier 1	0	16
Tier 2	1-5,000	84
Tier 3	5,001-15,000	237
Tier 4	15,001-30,000	397
Tier 5	30,001-60,000	634
Tier 6	60,001-110,000	873
Tier 7	110,001-9,999,999	1,070

E. Exceptions

1. Operators of record of each Class I injection/disposal well and each Type A and B commercial facility that is permitted, but has not yet been constructed, are required to pay an annual fee of 50 percent of the applicable fee for each well or facility.

2. Operators of record of each inactive Type A and B facility which have voluntarily ceased the receipt and disposal of E&P waste and are actively implementing an Office of Conservation approved closure plan are required to pay an annual Regulatory Fee of 50 percent of the annual fee for each applicable Type A or B facility.

3. Operators of record of each inactive Type A or B facility which have voluntarily ceased the receipt and disposal of E&P waste, have completed Office of Conservation approved closure activities and are conducting a post-closure maintenance and monitoring program, are required to pay an annual Regulatory Fee of 25 percent of the annual fee for each applicable Type A or B facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:543 (August 1988), amended LR 15:552 (July 1989), LR 21:1250 (November 1995), LR 24:458 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2304 (October 2000), LR 27:1920 (November 2001), LR 28:2368 (November 2002), LR 29:350 (March 2003), LR 29:2501 (November 2003).

§705. Failure to Comply

A. Operators of operations and activities defined in §701 are required to timely comply with this order. Failure to comply by the due date of any required fee payment will subject the operator to civil penalties provided in Title 30 of

the Louisiana Revised Statutes of 1950, including but not limited to R.S. 30:18.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:459 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2304 (October 2000), LR 27:1921 (November 2001), LR 28:2368 (November 2002), LR 29:2501 (November 2003).

§707. Severability and Effective Date

A. The fees set forth in §703 are hereby adopted as individual and independent rules comprising this body of Rules designated as Statewide Order No. 29-R-03/04 and if any such individual fee is held to be unacceptable, pursuant to R.S. 49:968(H)(2), or held to be invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This Order (Statewide Order No. 29-R-03/04) supercedes Statewide Order No. 29-R-02/03 and any amendments thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:459 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2305 (October 2000), LR 27:1921 (November 2001), LR 28:2368 (November 2002), LR 29:2502 (November 2003).

James H. Welsh
Commissioner

0311#051

RULE

Department of Public Safety and Corrections Corrections Services

Crime Victims Services Bureau (LAC 22:I.Chapter 23)

The Department of Public Safety and Corrections, Corrections Services, in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., hereby amends LAC 22:I.Chapter 23, Crime Victims Services Bureau.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 23. Crime Victims Services Bureau

§2301. Purpose

A. To establish the primary functions of the Crime Victims Services Bureau, a public service implemented through the Secretary's Office, which enables victims of crime and others directly affected by that crime to register for notification of key events specified in law and policy, facilitates general access to information helpful to crime victims, and supports development of programming responsive to the needs and wishes of crime victims and others injured by the criminal acts of persons under the state's authority.

AUTHORITY NOTE: Promulgated by the Secretary of the Department of Public Safety and Corrections in accordance with R.S. 36, Chapter 9.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 27:409 (March 2001), amended LR 29:2502 (November 2003).

§2303. Applicability

A. Deputy Secretary, Undersecretary, Assistant Secretaries, all Wardens, Director/Probation and Parole? Adult, Director/Probation and Parole? Juvenile, Board of Parole, and Board of Pardons.

AUTHORITY NOTE: Promulgated by the Secretary of the Department of Public Safety and Corrections in accordance with R.S. 36, Chapter 9.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 27:409 (March 2001), amended LR 29:2502 (November 2003).

§2305. Definitions

Designated Family Member? a family member or a legal guardian of a minor *victim*, a homicide *victim*, or a person who is disabled, such designation usually made by local authorities.

Inmate? in this context, anyone committed to the custody of the department whether as an adult or a juvenile.

Other Designated Persons? persons not included above who wish to register because of a relationship or other circumstances involving the *inmate*, e.g., estranged or ex-spouse, previously battered companion, concerned neighbor, arresting officer, prosecuting district attorney.

Victim? a person against whom a felony offense or a felony-grade delinquent offense has been committed.

Victim Notice and Registration Form? a form promulgated by the Louisiana Commission on Law Enforcement (LCLE) and provided by a judicial or law enforcement agency, or a form available from the department (attached), on which a person may indicate a request to be afforded the rights prescribed in law and/or policy for *victims*, *witnesses*, and *other designated persons*. In the context of this regulation, the term also includes letters requesting notification about an *inmate's* movement through the system and can include *victim* requests made by telephone or identified in presentence, preparole, or other investigative reports in the department's possession.

Victim's Family? spouse, parent, child, stepchild, sibling, or legal representative of the *victim*, except when that person is in custody for an offense or is the defendant.

Witness? a person who has relevant information about a crime that was committed and who, consequently, could be or has been called as a witness for the prosecution.

AUTHORITY NOTE: Promulgated by the Secretary of the Department of Public Safety and Corrections in accordance with R.S. 36, Chapter 9.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 27:409 (March 2001), amended LR 29:2502 (November 2003).

§2307. Policy

A. For many years correctional systems focused primarily on the custody, care, and control of the sentenced adults and adjudicated juveniles placed under its authority. During the 1990s, victim advocacy groups came forward to remind justice system officials that crime does not injure only or even primarily the state. Crime injures individual human beings. So, to be truly effective, the justice system must include the fact that a crime has hurt someone and then

must develop appropriate ways to respond to and mitigate that injury. This is our challenge. It is the secretary's policy to ensure compliance with all laws governing the rights of victims and witnesses and, through operations of the Crime Victims Services Bureau, to facilitate access to those rights and encourage programming throughout the agency to enhance responsiveness to victims by staff and inmates. This policy will be supported by staff education and will include new programming in the areas of victim impact classes for inmates and victim-initiated victim-offender dialogue. To achieve these ends the department will collaborate with other justice system agencies, victim advocacy groups, and other community-based organizations, and will incorporate responsiveness to the victim's role into CORE (Corrections Organized for Re-entry), the department's offender re-entry initiative.

AUTHORITY NOTE: Promulgated by the Secretary of the Department of Public Safety and Corrections in accordance with R.S. 36, Chapter 9.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 27:410 (March 2001), amended LR 29:2502 (November 2003).

§2309. General Procedures

A. The department will maintain a toll-free telephone line to the Crime Victims Services Bureau. The bureau will help callers register for notification and find answers to questions, and will refer callers to other units within the agency, the Board of Parole, the Board of Pardons, the prosecuting district attorney, and/or other crime victim programs and agencies.

B. When a victim notice and registration form is received in any unit of the department, staff will respond timely and in a manner consistent with the requirements of this and other department regulations governing release of information and victims' and witnesses' rights. However, the filing of a victim notice and registration form by an incarcerated adult or a juvenile in secure care shall not enable that individual to receive information about another individual incarcerated or in secure care under the department's authority.

C. As provided by law, a victim or a designated family member may use the victim notice and registration form promulgated by LCLE to indicate their wish to review and comment on information in the postsentence report relating to the crime against the victim. The Division of Probation and Parole? Adult will oversee access to this information.

D. Additional assistance is available to employees who are victimized while on duty or on personal time, as described in Department Regulation No. A-02-024 "Critical Incident Stress Management Program."

E. Persons receiving unsolicited communications by telephone or mail from inmates in state custody may contact the Crime Victims Services Bureau for assistance in having the contacts stopped. The bureau will work with the appropriate warden to see that reasonable and necessary steps are taken to address the situation. This may involve disciplinary action, including loss of good time.

AUTHORITY NOTE: Promulgated by the Secretary of the Department of Public Safety and Corrections in accordance with R.S. 36, Chapter 9.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 27:410 (March 2001), amended LR 29:2503 (November 2003).

§2311. Confidentiality

A. Both the information contained in a victim notice and registration form and the fact that a notification request has been made are confidential. Pursuant to provisions of R.S. 15:574.12, staff may answer inquiries from judicial and law enforcement agencies. Any other inquiries from outside the department about who is registered or whether a particular inmate has a registered victim should be referred to the Crime Victims Services Bureau.

AUTHORITY NOTE: Promulgated by the Secretary of the Department of Public Safety and Corrections in accordance with R.S. 36, Chapter 9.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 27:410 (March 2001), amended LR 29:2503 (November 2003).

§2313. Restitution

A. When restitution is required as a condition of probation, parole, or work release, such cash or service shall be monitored and/or collected by the Division of Probation and Parole? Adult or Juvenile, as appropriate.

AUTHORITY NOTE: Promulgated by the Secretary of the Department of Public Safety and Corrections in accordance with R.S. 36, Chapter 9.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 27:410 (March 2001), amended LR 29:2503 (November 2003).

§2315. Parole and Pardon Hearings and Related Matters

A. The Board of Parole and the Board of Pardons will comply with all laws regarding written notification prior to scheduled hearings, including the requirement that notice be given to all persons who file a victim notice and registration form and to the appropriate district attorney. Notifications regarding pending hearings shall be made through action of the Division of Probation and Parole? Adult or directly, as appropriate.

B. As provided in law, when a hearing is scheduled by either board, the victim or victim's family shall be allowed to make written and oral statements concerning the impact of the crime and to rebut statements or evidence introduced by the inmate. The victim or victim's family, a representative of a victim advocacy group, and the district attorney or his representative may appear before the boards in person or by telephone from the district attorney's office.

C. As provided in law, the Pardon Board will notify the Crime Victims Services Bureau before hearing an applicant.

D. Wherever Parole Board or Pardon Board hearings are held, all reasonable steps will be taken to see that victims and their family members and inmates and their family members do not have direct contact before or after the hearing. This practice should, where possible, begin at the entrance to the hearing site and include provision of a separate waiting area and access to separate restroom facilities. Hearing sites are also encouraged to provide victim access to a staff person who can explain the hearing process and answer other questions.

NOTE: Parole Board and Pardon Board procedures provide detailed information about each board's policies and practices.

AUTHORITY NOTE: Promulgated by the Secretary of the Department of Public Safety and Corrections in accordance with R.S. 36, Chapter 9.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 27:410 (March 2001), amended LR 29:2503 (November 2003).

§2317. Notifications Regarding Adult Inmates

A. When a victim notice and registration form is received at an institution, it shall become part of the inmate's permanent record, and the notes section of the stamp format shall be marked to indicate the existence of a notification request.

B. The Crime Victims Services Bureau will acknowledge receipt of each victim notice and registration form with a letter that includes the possible release dates of the inmate named on the form.

C. When the department receives a victim notice and registration form regarding an inmate sentenced on or after August 15, 1997, the department must provide the inmate's projected release dates to the victim and the sentencing court within 90 days of the inmate's commitment date. If those dates are not available when the bureau receives the registration form, the bureau will flag appropriate inmate records staff about the response deadline and will send projected release dates as soon as they are available.

D. If a mistaken calculation is discovered after projected release dates have been sent to a victim, the unit that makes the correction will send a letter providing corrected release dates to all registered victims. This provision does not include changes to an inmate's diminution of sentence date resulting from earning or losing good time credits. However, if educational good time is credited after letters have been sent to inform registered victims of an inmate's imminent release, a second letter should be sent to inform them of the new, closer release date. The second letter need not be certified.

E. In the event an inmate named on a victim notice and registration form makes a court appearance that subsequently affects sentence length or is approved for furlough, placed on a Risk Review Panel docket, transferred to work release, or released from prison, persons who have filed a victim notice and registration form shall be notified by mail. Release from prison includes parole, diminution of sentence to parole supervision, diminution of sentence, full term, court ordered release (which includes release to another jurisdiction, including parish jail), and death while incarcerated. These notifications, except in the case of Risk Review consideration and transfer to work release, shall be made by certified mail.

1. Notice of transfer to work release should be mailed on the day of the inmate's approval or transfer. If the inmate is a sex offender, law requires notice 10 days prior to transfer.

2. Notice of furlough and scheduled release from prison should be mailed in time to allow persons requesting notice to receive the notice before the inmate is furloughed or released to supervision. If the inmate is a sex offender, law requires notice 10 days prior to furlough or release.

3. Notice involving an inmate due for immediate release should be by telephone, followed by a letter confirming release.

F. In the event that an inmate named on a victim notice and registration form escapes from institutional custody, registered persons shall be notified immediately at the most current address or phone number on file by the most reasonable and expedient means possible. When the inmate

is recaptured, written notice shall be sent within 48 hours of regaining custody. (Notifications required by Department Regulation No. C-02-001 "Reporting and Documenting Escapes, Absconding and AWOLs" also apply.)

G Responsibility for notifications included in Subsections D-F above shall be as follows.

1. The warden of the state-owned institution where the inmate is assigned.

2. The warden of Elayn Hunt Correctional Center, David Wade Correctional Center, or Louisiana Correctional Institute for Women, as appropriate, if the inmate is assigned to the State Police Barracks, a local jail facility, a correctional institution in another jurisdiction, or a non-secure adult contract work release program.

3. The Assistant Secretary/Adult or his designee if the inmate is in a local jail facility and is transferred to a non-contract (sheriff's) work release program.

4. The Risk Review Panel chairman or his designee, if an inmate is placed on a Risk Review docket.

H. When an institution receives an inmate whose file already contains a victim notice and registration form, the institution is encouraged to send an acknowledgment letter to all registered victims in the file.

I. In the event that an inmate is recommended for a regular or medical furlough, medical parole, or work release, the Warden shall determine whether there is a victim notice and registration form on file and shall so note when submitting a recommendation to the secretary. The warden should indicate the city or town of residence of any registered victim.

J. If an inmate named in a victim notice and registration form was sentenced for a sex offense, the provisions of Department Regulation No. B-08-009 "Sex Offender Notification and Registration Requirements" also apply.

AUTHORITY NOTE: Promulgated by the Secretary of the Department of Public Safety and Corrections in accordance with R.S. 36, Chapter 9.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 27:411 (March 2001), amended LR 29:2504 (November 2003).

§2319. CAJUN II Procedures? Adult Inmates

A. Any addition of or modification to a victim record in CAJUN must be supported by written documentation filed with the Crime Victims Services Bureau and included in the inmate's institutional record or, if the inmate is under supervision when a new form or a revision is received, in the inmate's master record in the supervising district.

B. The unit or office that receives an initial victim notice and registration form or a revision shall be responsible for entering the victim information in CAJUN and sending a copy of the form to the Crime Victims Services Bureau. Forms received first by the Crime Victims Services Bureau or directed there from the Parole Board will be entered by the bureau and copied to the appropriate units.

C. Any victim notice and registration form, promulgated by LCLE and received by the bureau, will also be copied by the bureau to the probation and parole district serving the court in which the inmate was sentenced.

D. If a person who has previously filed a victim notice and registration form withdraws his request, he must do so in writing, after which his individual victim record in CAJUN will be modified so that CAJUN will not generate notification letters.

E. When a victim notice and registration form is on record, the following applies.

1. The request will remain active until the inmate's CAJUN file is inactivated. When the file is inactivated, CAJUN will automatically code existing victims "I" (inactive). The inactive flag will prevent CAJUN from generating letters to those victims. If the inmate is sentenced to additional time before his file is inactivated, registered victims will remain active on the record.

2. If an inmate is released before his full term date and subsequently returned to institutional custody, the victim will not be notified of the return but will be notified of subsequent actions as provided in §2317 of this regulation.

NOTE: A "Y" in the CVNR field on the master inquiry screen does not necessarily mean that there is a victim who must be notified. It indicates only that a victim has been entered on the CAJUN victim screen.

AUTHORITY NOTE: Promulgated by the Secretary of the Department of Public Safety and Corrections in accordance with R.S. 36, Chapter 9.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 27:411 (March 2001), amended LR 29:2504 (November 10, 2003).

§2321. Rights of Victim's Family When an Inmate's Sentence is Death

A. At least 10 days prior to an execution, the secretary shall give written notice or verbal notice (followed by written notice placed in the United States mail within five days thereafter) of the time, date, and place of the execution to the victim's parents or guardian, spouse, and any adult children who have indicated they desire notice. A minimum of two representatives of the victim's family shall have the right to be present.

B. A complete explanation of the department's responsibilities in instances where an inmate has been sentenced to death appears in Department Regulation No. C-03-001 "Death Penalty."?

AUTHORITY NOTE: Promulgated by the Secretary of the Department of Public Safety and Corrections in accordance with R.S. 36, Chapter 9.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 27:412 (March 2001), amended LR 29:2505 (November 2003).

§2323. Processing of Requests for Notification Regarding Juveniles

A. Victim notification laws apply only when a juvenile is placed in secure care.

B. A request for notice involving an inmate adjudicated as a juvenile must be filed using a victim notice and registration form promulgated by LCLE, in compliance with Ch. C. Art. 811.1 and R.S. 46:1842(8) and 1844(N)(2).

C. When the Crime Victims Services Bureau receives a victim notice and registration form regarding a juvenile, the bureau will retain a copy and forward the original to the Office of Youth Development (OYD). OYD will verify the offender information in the juvenile database tracking system (JIRMS), enter the victim request in JIRMS, and forward the request to the juvenile institution where the inmate is housed.

D. When an institution receives a victim request involving a juvenile, staff will file it in the inmate's case file and track the case according to regulation and policy.

AUTHORITY NOTE: Promulgated by the Secretary of the Department of Public Safety and Corrections in accordance with R.S. 36, Chapter 9.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 27:412 (March 2001), amended LR 29:2505 (November 2003).

§2325. Notifications Concerning Juvenile Inmates in Secure Care

A. In the event of an escape, the assigned institution shall notify the registered victim immediately by the most reasonable and expedient means possible.

B. In the event of recapture, the Juvenile Reception and Diagnostic Center at Jetson Correctional Center for Youth (JCCY) shall notify the registered victim within 48 hours of the youth's return to custody.

C. In the event of parole, transfer to a non-secure program, or discharge, the assigned institution shall notify the registered victim by certified mail.

D. If a juvenile with a registered victim is released directly to adult custody because of a crime committed as an adult, the juvenile institution shall inform the receiving adult unit of the victim notification request on file.

E. The Warden of the institution where the inmate is assigned is responsible for required notifications, except in the case of recapture, when the Warden of JCCY is responsible.

AUTHORITY NOTE: Promulgated by the Secretary of the Department of Public Safety and Corrections in accordance with R.S. 36, Chapter 9.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 27:412 (March 2001), amended LR 29:2505 (November 2003).

Richard L. Stalder
Secretary

0311#047

RULE

Department of Public Safety and Corrections Gaming Control Board

Code of Conduct of Licensees, Permittees, Casino Operator, and Casino Manager; Methods to Prevent Minors from Gaming Area; Licensees and Permittees; Age Restrictions for the Casino; Surveillance Personnel Employment Provisions; Approval of New Electronic Gaming Devices; Enforcement Actions of the Board (LAC 42:VII.2901, 2915 and 4209; IX.2901, 2935, 4103 and 4209; XIII.2901, 2915, 3304 and 4209)

The Louisiana Gaming Control Board amends LAC 42:VII.2901, 2915, 4209, IX.2901, 2935, 4103, 4209, XIII.2901, 2915, 4209 and repeals LAC 42:XIII.3304.B in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part VII. Pari-Mutuel Live Racing Facility Slot Machine Gaming

Chapter 29. Operating Standards

§2901. Code of Conduct of Licensees and Permittees

A. - B.3. ...

4. Any person required to be found suitable or approved in connection with the granting of any license or permit shall have a continuing duty to notify the division of his/her/its arrest, summons, citation or charge for any criminal offense or violation including D.W.I.; however, minor traffic violations need not be included. All licensees and permittees shall have a continuing duty to notify the division of any fact, event, occurrence, matter or action that may affect the conduct of gaming or the business and financial arrangements incidental thereto or the ability to conduct the activities for which the licensee or permittee is licensed or permitted. Such notification shall be made within fifteen calendar days of the arrest, summons, citation, charge, fact, event, occurrence, matter or action.

B.5. - C.1.j. ...

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 26:763 (April 2000), amended LR 27:58 (January 2001), LR 29:2505 (November 2003).

§2915. Age Restrictions for the Casino; Methods to Prevent Minors from Gaming Area

A. No persons under the age of 21 shall:

1. play or be allowed to play any game or gaming device in the designated gaming area;
2. loiter or be permitted to loiter in or about any room, premises, or designated area where any game or gaming device is located;
3. be employed as a gaming employee.

B. The Type A licensee must implement methods to prevent minors from entering the designated gaming area of the eligible facility. Such methods shall be part of the licensee's system of internal controls and shall include, but shall not be limited to the following:

1. posting signs at all entrances to the gaming area notifying patrons that persons under 21 years of age are not permitted to loiter in or about the gaming area. The signs shall be displayed in English, Spanish, and Vietnamese;
2. posting signs or other approved means displaying the date of birth of a person who is 21 years old that date.

C. Type A licensees shall each quarter report and remit to the division all winnings withheld from customers who are determined to be under the age of 21.

D. The Type A license of any person issued pursuant to the provisions of the act, who is found by the board to have intentionally allowed a person under the age of 21 to play or operate a slot machine, shall be revoked.

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 26:764 (April 2000), amended LR 29:2506 (November 2003).

Chapter 42. Racetracks: Electronic Gaming Devices

§4209. Approval of New Electronic Gaming Devices

A. - A.2.k.x. ...

l. Accounting Meters

i. - iii. ...

iv. The required electronic meters are as follows.

(a). ...

(b). The coin-out meter shall cumulatively count the number of coins or credits that are paid as a result of a win, or credits that are won, or both.

iv.(c). - v. ...

vi. EGDs shall have meters which continuously display the following information relating to the current play or monetary transaction:

(a). - (b). ...

(c). the number of coins or credits paid for a credit cash out or a direct pay from a winning outcome;

l.vi.(d). - n. ...

o. Hopper

i. If a hopper is utilized on an EGD it shall be designed to detect the following and force the EGD into a tilt condition if one of the following occurs:

(a). jammed coins;

(b). extra coins paid out;

(c). hopper runaways;

(d). hopper empty conditions.

ii. The EGD control program shall monitor the hopper mechanism, if utilized, for these error conditions in all game states in accordance with this LAC 42:XIII.Chapter 42.

iii. All coins paid from the hopper mechanism, if utilized, shall be accounted for by the EGD including those paid as extra coins during hopper malfunction.

o.iv. - kk. ...

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 26:721 (April 2000), amended LR 29:2506 (November 2003).

Part IX. Landbased Casino Gaming

Subpart 1. Economic Development and Gaming Corporation

Chapter 29. Operating Standards Generally

§2901. Code of Conduct of the Casino Operator, Casino Manager, Licensees and Permittees

A. - A.3. ...

B. Unsuitable Conduct

1. - 3. ...

4. Any person required to be found suitable or approved in connection with the granting of the casino operating contract or any permit shall have a continuing duty to notify the division of his/her/its arrest, summons, citation or charge for any criminal offense or violation including D.W.I.; however, minor traffic violations need not be included. The casino operator, casino manager and any permittee shall have a continuing duty to notify the division of any fact, event, occurrence, matter or action that may affect the conduct of gaming or the business and financial arrangements incidental thereto or the ability to conduct the activities for which the casino operator, casino manager or permittee is approved or permitted. Such notification shall be made within 15 calendar days of the arrest, summons, citation, charge, fact, event, occurrence, matter or action.

B.5. - D.4. ...

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 25:1950 (October 1999), amended LR 27:59 (January 2001), LR 29:2506 (November 2003).

§2935. Age Restrictions for the Casino; Methods to Prevent Minors from Gaming Area

A. - A.4. ...

B. The casino operator shall draft and implement policies and procedures designed to satisfy the requirements of this Section, including policies and procedures pertaining to documentation relating to proof of age and the examination of such document by a responsible casino employee or employees of security service providers and to provide suitable security to enforce the policies and procedures. These methods shall be in writing and include, but shall not be limited to:

1. posting signs at all entrances to the gaming area notifying patrons that persons under 21 years of age are not permitted to loiter in or about the gaming area. The signs shall be displayed in English, Spanish, and Vietnamese;

2. posting signs or other approved means displaying the date of birth of a person who is 21 years old that date.

C. The casino operator shall provide copies of all methods implemented in accordance with this Rule to the division and the board. The methods implemented by the casino operator are subject to the approval by the board.

D. The casino operator shall each quarter report and remit to the division all winnings withheld from customers who are determined to be under the age of 21.

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 25:1954 (October 1999), amended LR 29:2506 (November 2003).

Chapter 41. Enforcement Actions

§4103. Enforcement Actions of the Board

- A. - B. ...
- C. Penalty Schedule

Penalty Schedule			
Section Reference	Description	Base Fine	Proscriptive Period (Months)
***	***	***	***
2935	Age Restrictions for the Casino	\$10,000	12
***	***	***	***

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 25:1974 (October 1999), amended LR 26:2307 (October 2000), LR 27:2255 (December 2001), repromulgated LR 28:344 (February 2002), amended LR 28:1029 (May 2002), LR 29:2507 (November 2003).

Chapter 42. Electronic Gaming Devices

§4209. Approval of New Electronic Gaming Devices

- A. - A.2.k.x. ...
 - 1. Accounting Meters
 - i. - iii. ...
 - iv. The required electronic meters are as follows.
 - (a). ...
 - (b). The coin-out meter shall cumulatively count the number of coins or credits that are paid as a result of a win, or credits that are won, or both.
 - (c) - (h). ...
 - (i). EGDs shall have meters which continuously display the following information relating to the current play or monetary transaction:
 - (i). - (ii). ...
 - (iii). the number of coins or credits paid for a credit cash out or a direct pay from a winning outcome;

l.iv.(i).(iv). - n. ...

o. Hopper

i. If a hopper is utilized on an EGD it shall be designed to detect the following and force the EGD into a tilt condition if one of the following occurs:

- (a). jammed coins;
- (b). extra coins paid out;
- (c). hopper runaways;
- (d). hopper empty conditions.

ii. The EGD control program shall monitor the hopper mechanism, if utilized, for these error conditions in all game states in accordance with this LAC 42:XIII.Chapter 42.

iii. All coins paid from the hopper mechanism, if utilized, shall be accounted for by the EGD including those paid as extra coins during hopper malfunction.

o.iv. - 36.a. ...

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 26:721 (April 2000), amended LR 29:2507 (November 2003).

Part XIII. Riverboat Gaming

Chapter 29. Operating Standards

§2901. Code of Conduct of Licensees and Permittees

A. - B.3. ...

4. Any person required to be found suitable or approved in connection with the granting of any license or permit shall have a continuing duty to notify the division of his/her/its arrest, summons, citation or charge for any criminal offense or violation including D.W.I.; however, minor traffic violations need not be included. All licensees and permittees shall have a continuing duty to notify the division or any fact, event, occurrence, matter or action that may affect the conduct of gaming or the business and financial arrangements incidental thereto or the ability to conduct the activities for which the licensee or permittee is licensed or permitted. Such notification shall be made within 15 calendar days of the arrest, summons, citation, charge, fact, event, occurrence, matter or action.

B.5. - C.1.j. ...

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 State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 27:60 (January 2001), LR 29:2507 (November 2003).

§2915. Age Restrictions for the Casino; Methods to Prevent Minors from Gaming Area

A. No persons under the age of 21 shall:

- 1. play or be allowed to play any game or gaming device in the designated gaming area;
- 2. loiter or be permitted to loiter in or about any room, premises, or designated area where any game or gaming device is located;
- 3. be employed as a gaming employee.

B. Each licensee must implement methods to prevent minors from entering the designated gaming area of the eligible facility. Such methods shall be part of the licensee's system of internal controls and shall include, but shall not be limited to the following:

1. posting signs at all entrances to the gaming area notifying patrons that persons under 21 years of age are not permitted to loiter in or about the gaming area. The signs shall be displayed in English, Spanish, and Vietnamese;

2. posting signs or other approved means displaying the date of birth of a person who is 21 years old that date.

C. Each licensee shall each quarter report and remit to the division all winnings withheld from customers who are determined to be under the age of 21.

AUTHORITY NOTE: Promulgated in accordance with R.S.4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:705 (July 1995), amended LR 29:2507 (November 2003).

Chapter 33. Surveillance and Security

§3304. Surveillance Personnel Employment Provisions

A. ...

B. Repealed.

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 27:1559 (September 2001), amended LR 29:2508 (November 2003).

Chapter 42. Electronic Gaming Devices

§4209. Approval of New Electronic Gaming Devices

A. - 11.j. ...

12. Accounting Meters

a. - c. ...

d. The required electronic meters are as follows.

i. ...

ii. The coin-out meter shall cumulatively count the number of coins or credits that are paid as a result of a win, or credits that are won, or both.

d.iii. - e. ...

f. EGDs shall have meters which continuously display the following information relating to the current play or monetary transaction:

i. - ii. ...

iii. the number of coins or credits paid for a credit cash out or a direct pay from a winning outcome;

12.f.iv - 14. ...

15. Hopper

a. If a hopper is utilized on an EGD it shall be designed to detect the following and force the EGD into a tilt condition if one of the following occurs:

i. jammed coins;

ii. extra coins paid out;

iii. hopper runaways;

iv. hopper empty conditions.

b. The EGD control program shall monitor the hopper mechanism, if utilized, for these error conditions in all game states in accordance with this LAC 42:XIII.Chapter 42.

c. All coins paid from the hopper mechanism, if utilized, shall be accounted for by the EGD including those paid as extra coins during hopper malfunction.

15.d. - 36.a. ...

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 26:721 (April 2000), amended LR 29:2508 (November 2003).

Hillary Crain
Chairman

0311#017

RULE

Department of Public Safety and Corrections Liquefied Petroleum Gas Commission

General Requirements
(LAC 55:IX.103, 105, 107, 113,
129, 139, 175, 183, and 1547)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1846 and R.S. 3:1354 relative to the authority of the Liquefied Petroleum Gas Commission to make and enforce reasonable rules and regulations governing the storage, sale, and transportation of liquefied petroleum gases and anhydrous ammonia, the commission amends existing Rules. The effective date of these changes is December 1, 2003.

Title 55

PUBLIC SAFETY

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

Subchapter A. New Dealers

§103. Definitions

* * *

Reseller or Wholesaler?

a. a person, firm, or corporation who:

i. holds title or ownership of liquefied petroleum gas as it leaves the facility or plant of a manufacturer of liquefied petroleum gas, or the facility or plant of a manufacturer of products of which liquefied petroleum gas form a component part, or of a commercial storage facility;

ii. transfers such title or ownership to another without substantially changing the form of the liquefied petroleum gas;

iii. transfers such title or ownership to another reseller, or to a liquefied petroleum gas dealer for sale at retail.

b. This definition shall include a manufacturer of liquefied petroleum gas or a manufacturer of products of which liquefied petroleum gas forms a component part, if title or ownership transfers directly from the manufacturer to a liquefied petroleum gas dealer for sale at retail.

c. This definition shall not include a manufacturer of liquefied petroleum gas or a manufacturer of products of which liquefied petroleum gas forms a component part, if title or ownership transfers to another manufacturer of liquefied petroleum gas, to another manufacturer of products of which liquefied petroleum gas forms a component part or to a reseller.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:459 (March 1998), LR 29:2508 (November 2003).

§105. Applications

A. Any person, firm, or corporation desiring to enter the liquefied petroleum gas business in the state of Louisiana must file formal application with the Liquefied Petroleum Gas Commission. In the case of Class VI and Class VIII a formal application must be filed for each location. Other classes of permits and registrations require only one formal application to be filed. Formal application(s) must be filed for Class I, 90 days, and for Classes II, III, IV, V, VI, VII, VIII, and IX, 30 days prior to the date of the commission meeting which the application is to be heard. Application for Classes VI-X, VII-E, and R-1, R-2 registrations have no delay prior to the granting of the permit. These permits will be granted by the office of the director, upon complying with all commission requirements, and ratified by the Liquefied Petroleum Gas Commission at the first subsequent commission meeting. Presence of applicant or his authorized representative is required at the commission meeting when the application is heard, except in the cases of Class VI-X, VII-E, and R-1, R-2 registrations where appearance is waived. In no case will the applicant's supplier be the authorized representative. Only with special approval of the commission, under extenuating circumstances, will the commission allow the applicant to be represented by another party other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the commission upon request.

B. No person, firm or corporation engaged in selling of liquefied petroleum gas only in small consumer quantities in U.S. Department of Transportation specification 2Q containers shall be required to obtain a permit as required by R.S. 40:1847. These quantities shall not exceed one liter per container.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 24:460 (March 1998), LR 25:1262 (July 1999), LR 29:2509 (November 2003).

§107. Requirements

A. -A.2. ...

3. Must have on file in the office of the director, proof of insurance, issued by a Louisiana licensed agent, in the minimum sum of \$1,000,000, in the classes of insurance as required by the commission. This proof of insurance must show kinds and amounts in force. A certificate of insurance will meet the proof of insurance requirement. Said certificate shall be considered evidence of liability insurance coverage: said certificate must bear the clause that in the event the insurance company intends to cancel, the insurance company will notify the director of the Liquefied Petroleum Gas Commission 10 days prior to date of cancellation. A binder of insurance coverage, within date, will be acceptable as proof of insurance until the policy is issued. The \$1,000,000 requirement shall be effective on the first proof of insurance required after November 1, 2003.

a. In lieu of such liability insurance coverage the applicant may post with the commission bonds or other securities issued by the United States of America or the state of Louisiana, or certificates of deposit or similar instruments issued by a lending institution regulated by an agency of this state or by the federal government, in the minimum sum of \$1,000,000, which bonds or securities shall be held in trust by the commission for the benefit of any person, firm or corporation to which such legal liability may accrue;

3.b. - 15. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 24:461 (March 1998), LR 24:2311 (December 1998), LR 25:1262 (July 1999), LR 25:2410 (December 1999), LR 26:1487 (July 2000), LR 27:2256 (December 2001), LR 28:2553 (December 2002), LR 29:2509 (November 2003).

§113. Classes of Permits and Registrations

A. -A.1. ...

a. Must furnish evidence of liability insurance in the minimum sum of \$1,000,000 covering each of the following classes of insurance, covering applicant's legal liability:

1.a.i. - 2. ...

a. Must furnish evidence of liability insurance in the minimum sum of \$1,000,000 covering each of the following classes of insurance, covering applicant's legal liability:

2.a.i. - 3. ...

a. Must furnish evidence of liability insurance in the minimum sum of \$1,000,000 covering each of the following classes of insurance, covering applicant's legal liability:

3.a.i. - 4. ...

a. Must furnish evidence of liability insurance in the minimum sum of \$1,000,000 covering each of the following classes of insurance, covering applicant's legal liability:

4.a.i. - 5. ...

a. Must furnish evidence of liability insurance in the minimum sum of \$1,000,000 covering each of the following classes of insurance, covering applicant's legal liability:

5.a.i. - 6. ...

a. Must furnish evidence of liability insurance in the minimum sum of \$1,000,000 covering each of the following classes of insurance, covering applicant's legal liability:

6.a.i. - 7. ...

a. Must furnish evidence of liability insurance in the minimum sum of \$1,000,000 covering each of the following classes of insurance, covering applicant's legal liability:

7.a.i. - 8. ...

a. Must furnish evidence of liability insurance in the minimum sum of \$1,000,000 covering each of the following classes of insurance, covering applicant's legal liability:

8.a.i. - 9. ...

a. Must furnish evidence of liability insurance in the minimum sum of \$1,000,000 covering each of the following classes of insurance, covering applicant's legal liability:

9.a.i. - 10. ...

a. Must furnish evidence of liability insurance in the minimum sum of \$1,000,000 covering each of the following classes of insurance, covering applicant's legal liability:

10.a.i. - 11.a. ...

b. Must furnish evidence of liability insurance in the minimum sum of \$1,000,000 covering each of the following classes of insurance, covering applicant's legal liability:

11.b.i. - 12. ...

a. Must furnish evidence of liability insurance in the minimum sum of \$1,000,000 covering each of the following classes of insurance, covering applicant's legal liability:

12.a.i. - 13. ...

a. Must furnish evidence of liability insurance in the minimum sum of \$1,000,000 covering each of the following classes of insurance, covering applicant's legal liability:

13.a.i. - c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated LR 3:315 (July 1977), amended LR 7:633 (December 1981), LR 8:53 (January 1982), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 12:841 (December 1986), LR 15:855 (October 1989), LR 16:1063 (December 1990), LR 19:904 (July 1993), LR 20:1400 (December 1994), LR 21:704 (July 1995), LR 24:464 (March 1998), LR 25:2411 (December 1999), LR 29:2509 (November 2003).

Subchapter B. Dealers

§129. Odorizing Gases

A. Odorization and verification of odorization in liquefied petroleum gases shall be in accordance with the following provisions.

1. Except as otherwise provided in this subchapter, each refinery, commercial storage facility, natural gas processing plant, pipeline, or other person which sell liquefied petroleum gas to a transporter, dealer, or distributor for distribution into the distribution chain to consumers shall odorize the liquefied petroleum gas in accordance with the provisions of this Subchapter.

2. Liquefied petroleum gas shall not be required to be odorized if it is to be delivered to a manufacturer of products of which liquefied petroleum gas forms a component part, to any facility for further processing, to a commercial storage facility, a natural gas processing plant, a refinery, a pipeline, or when odorization would be harmful in further use or processing of the gas and would not serve a useful purpose as a warning agent in further use or processing of the gas.

3. Liquefied petroleum gas which is required to be odorized shall be effectively odorized by an approved agent

of such character as to positively, by a distinctive odor, the presence of gas down to concentrations in air of not over one-fifth the lower limit of flammability. The presence of odorization, when required, shall be positively verified by the dealer by a sniff test or other means, and the results shall be documented prior to delivery into his bulk plant, or when a shipment bypasses a bulk plant, prior to delivery to a consumer. It is the intent of this Paragraph to prohibit the sale or delivery of liquefied petroleum gas by a dealer to a consumer without the required odorization.

4. - 5. ...

6. The only approved odorants are those specified in Paragraph 4 of this Subsection; however, the commission may authorize, by Rule, the use of other odorants which are equal in effectiveness to the odorants specified in Paragraph 4 of this Subsection.

7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:558 (May 1985), LR 29:2510 (November 2003).

§139. Liquefied Petroleum Gas Systems

A. - F.1. ...

2. Failure to properly odorize gas or to verify the presence of odorant as require by R.S. 40:1846 and §129 of this Subchapter.

G. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 15:860 (October 1989), LR 24:465 (March 1998), LR 29:2510 (November 2003).

Subchapter G. Systems Utilizing ASME Containers

§175. Pressure Test and Inspection Required

A. - A.1.a. ...

b. with openings capped, test piping at 40 pounds per square inch air pressure for a period of at least 15 minutes. There shall be no loss of pressure;

1.c. - 2.a. ...

b. with openings capped, test piping at 40 pounds per square inch air pressure for a period of at least 15 minutes. There shall be no loss of pressure;

2.c. - 3.a. ...

b. with openings capped, test piping at 40 pounds per square inch air pressure for a period of at least 15 minutes. There shall be no loss of pressure;

3.c. - 4.a. ...

b. with openings capped, test piping at 40 pounds per square inch air pressure for a period of at least 15 minutes. There shall be no loss of pressure;

4.c. - 5.a. ...

b. with openings capped, test piping at 40 pounds per square inch air pressure for a period of at least 15 minutes. There shall be no loss of pressure;

5.c. - 6.a. ...

b. with openings capped, test piping at 40 pounds per square inch air pressure for a period of at least 15 minutes. There shall be no loss of pressure;

6.c. - 9.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), amended LR 24:468 (March 1998), LR 24:2312 (December 1998), LR 29:2510 (November 2003).

Subchapter I. Adoption of Standards

§183. Use of Liquefied Petroleum Gas as a Refrigerant Prohibited

A. No person, firm, or corporation shall use, sell, or distribute liquefied petroleum gas for use in mobile air conditioning systems.

B. *Mobile Air Conditioning System?* mechanized vapor compression equipment which is used to cool the driver's or passenger's compartment of any motor vehicle.

C. To determine if a refrigerant is liquefied petroleum gas, the proper shipping name shall be used. Proper shipping names with a U.N. number and a hazard class and division number of liquefied petroleum gas per the U.S. Department of Transportation hazardous materials tables shall be prima facie evidence that the refrigerant is liquefied petroleum gas and is prohibited.

D. Any advertising or other literature published by the manufacturer of a refrigerant promoting it as a replacement or drop-in for CFR-12 or HFC 134a, or both, shall be prima facie evidence that it is being sold for mobile air conditioning systems and is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 23:990 (August 1997), amended LR 29:2511 (November 2003).

Chapter 15. Sale, Storage, Transportation and Handling of Anhydrous Ammonia

Subchapter D. Adoption of Standard

§1547. National Standard

A. ...

B. The commission may adopt subsequent editions of these standards by a Rule change in accordance with the Administrative Procedure Act.

C. ...

D. The commission reserves the right to make exceptions to any Rule adopted in §1547.A as it applies to local conditions as it may deem necessary in the interest of public safety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1354.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19:903 (July 1993), LR 29:2511 (November 2003).

Charles M. Fuller
Director

0311#031

RULE

Department of Social Services Office of Family Support

TANF Initiatives? Community Supervision Program (LAC 67:III.5573)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, has adopted LAC 67:III.5573, Community Supervision Program (CSP) as a new TANF Initiative.

This Rule was effected June 17, 2003, by a Declaration of Emergency published in the July issue of the *Louisiana Register*.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5573. Community Supervision Program

A. OFS shall enter into a Memorandum of Understanding (MOU) with the Department of Public Safety and Corrections (DPSC), Office of Youth Development (OYD), to provide services to youth and their families as a result of an adjudication and disposition by a court that orders DPSC/OYD to supervise youth in their communities in an effort to prevent removal from the home.

B. OYD/CSP will complete an intake/assessment and develop a case plan for addressing the needs of the youth. The case plan will contain goals for all need areas and when indicated, include referrals to community programs for both youth and parents. These referrals may include but are not limited to:

1. case management, counseling, and in-home services;
2. parenting education and training, either in-home or out-of-home;
3. diagnostic and evaluation services provided in an attempt to make the most appropriate out-of-home placement;
4. supervision or non-residential programs for youth who remain in the home.

C. The agency will identify eligibility retroactive to October 1, 2002.

D. These services meet the TANF goal to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives by providing services to youth, who are in jeopardy of removal from their homes, and their families.

E. Financial eligibility for those services attributable to TANF/Maintenance of Effort (MOE) funds is limited to eligible families, which include a minor child living with a custodial parent, an adult caretaker relative, or a legal guardian. An eligible family is one in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title XIX (Medicaid) Medical

Assistance Program benefits, Louisiana Children's Health Insurance Program (LACHIP) benefits, or Supplemental Security Income (SSI).

F. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:2511 (November 2003).

Gwendolyn P. Hamilton
Secretary

0311#054

RULE

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

2004 Turkey Season
(LAC 76:XIX.113, 115, and 117)

The Wildlife and Fisheries Commission amends the turkey rules and regulations for the 2004 season.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§113. Turkey Hunting Regulations

A. Daily limit is one gobbler, two gobblers per season. Taking of hen turkeys, including bearded hens, is illegal. Still hunting only. Use of dogs, baiting, electronic calling devices and live decoys is illegal. Turkeys may be hunted with shotguns, including muzzleloading shotguns, using shot not larger than #2 lead or BB steel shot, and bow and arrow but by no other means. Shooting turkeys from a moving or stationary vehicle is prohibited. Shotguns capable of holding more than three shells prohibited.

B. No person shall hunt, trap or take turkeys by the aid of baiting or on or over any baited area. Baiting means placing, exposing, depositing or scattering of corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed so as to constitute a lure, attraction or enticement to, on or over any areas where hunters are attempting to take turkeys.

C. A baited area is any area where corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed capable of luring, attracting or enticing turkeys is directly or indirectly placed, exposed, deposited, distributed or scattered. Such areas remain baited areas for 15 days following complete removal of all such corn, wheat or other grain, salt, or other feed.

D. Wildlife agents are authorized to close such baited areas and to place signs in the immediate vicinity designating closed zones and dates of closure.

E. The Department of Wildlife and Fisheries strongly discourages feeding agricultural grains to wild turkeys as this practice increases the risk of birds contracting potentially lethal diseases. Repeatedly placing grain in the same area may expose otherwise healthy birds to disease contaminated soils, grain containing lethal toxins and other diseased turkeys using the same feeding site. Properly distributed food plots (clovers, wheat, millet and chufa) are

far more desirable for turkeys and have the added benefit of appealing to a wide variety of wildlife.

F. It is unlawful to take from the wild or possess in captivity any live wild turkeys or their eggs. No pen raised turkeys from within or without the state shall be liberated (released) within the state.

G. All licensed turkey hunters are required to have a Turkey Stamp in their possession while turkey hunting in addition to basic and big game hunting licenses. Additionally, a WMA Hunting Permit is required of any person (age 18-59) who hunts on land administered by the Department of Wildlife and Fisheries, including Wildlife Management Areas, Wildlife Refuges, and Habitat Conservation Areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2263 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:2375 (November 2002), LR 29:2512 (November 2003).

§115. Statewide Turkey Hunting Areas-Resident Game Birds and Animals

A. Shooting hours? one-half hour before sunrise to one-half hour after sunset.

Species	Season Dates	Daily Bag Limit	Possession Limit
Turkey	See Schedule	1	2/Season

B. Turkey season will open in designated areas on the fourth Saturday in March. The Area A turkey season will be 30 consecutive days in length, the Area B turkey season will be 23 consecutive days in length, and the Area C turkey season will be 9 consecutive days in length. Wildlife Management Areas, National Forests, National Wildlife Refuges, and U.S. Army Corps of Engineers land may vary from this framework.

C. Statewide Youth Turkey Season on private lands shall be the weekend prior to the statewide turkey season. Only youths younger than 16 years of age may hunt. Youth must possess a hunter safety certification or proof of successful completion of a hunter safety course. Each youth must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm or bow. Youths may possess only one firearm or bow while hunting. Legal weapons and shot are the same as described for the turkey season. The supervising adult shall maintain visual and voice contact with the youth at all times. An adult may supervise only one youth during this special hunt. Only one gobbler per day may be taken and any gobbler taken by the youth during this special season counts towards their seasonal bag limit of 2.

D. 2004 Turkey Hunting Schedule

Area	Season Dates
A	March 27-April 25
B	March 27-April 18
C	March 27-April 4
Private Lands Youth Hunt	March 20-21

E. 2004 Turkey Hunting Season? Open only in the following Areas

1. Area A? March 27-April 25
 - a. All the following parishes are open:
 - i. Beauregard;
 - ii. East Baton Rouge;
 - iii. East Feliciana;
 - iv. LaSalle;
 - v. Livingston;
 - vi. Natchitoches (Exception? See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
 - vii. Sabine;
 - viii. St. Helena;
 - ix. St. Tammany;
 - x. Tangipahoa;
 - xi. Vernon (Exception? See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
 - b. Portions of the following parishes are also open.
 - i. Allen? north of LA 104, west of LA 26 south of junction of LA 104 to US 190, north of US 190 east of Kinder, west of US 165 south of Kinder;
 - ii. Avoyelles? that portion bounded on the east by the Atchafalaya River, on the north by Red River to the Brouillette Community, on the west by LA 452 from Brouillette to LA 1, on the south by LA 1, eastward to Hamburg, thence by the West Atchafalaya Basin Protection levee southward;
 - iii. Calcasieu? north of I-10;
 - iv. Caldwell? west of Ouachita River southward to Catahoula Parish line, east of LA 165 from LaSalle Parish line to the junction of LA 126, north of LA 126 westward to the Winn Parish line;
 - v. Catahoula? west of Ouachita River southward to LA 559 at Duty Ferry, north of LA 559 to LA 124, south and west of LA 124 from Duty Ferry to LA 8 at Harrisonburg and north of LA 8 to LA 126, north and east of LA 126. Also that portion lying east of LA 15;
 - vi. Concordia? that portion east of LA 15 and west of US 65 from its juncture with LA 15 at Clayton;
 - vii. Evangeline? north and west of LA 115, north of LA 106 from St. Landry to LA 13, west of LA 13 from Pine Prairie to Mamou and north of LA 104 west of Mamou;
 - viii. Franklin? that portion lying east of LA 17 and east of LA 15 from its juncture with LA 17 at Winnsboro;
 - ix. Grant? all the parish except that portion of land that lies north of the Red River between US 71 and LA 8. Exception? See Federal Lands Hunting Schedule for Kisatchie National Forest dates;
 - x. Iberville? west of LA 1. Exception? see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;
 - xi. Jefferson Davis? north of US 190 from junction with LA 26 to Kinder, west of US 165 and north of I-10 west from junction of US 165;

xii. Madison? that portion lying west of US 65 and south of US 80;

xiii. Pointe Coupee? all the parish except that portion bounded on the north by LA Hwy. 1, from Innis to the junction of LA Hwy 417, on the west by LA Hwy. 417 southward toward McCrea, on the south by LA Hwy. 417 from McCrea to its junction with Delhi Lane, then by Delhi Lane to LA Hwy. 418, then LA Hwy. 418 northward to LA Hwy. 1 at Innis. Exception? see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;

xiv. Rapides? all the parish except that portion of lands that lies north of the Red River and south of US 71 from its juncture with the Red River northward to the Grant Parish line. Exception? See Federal Lands Hunting Schedule for Kisatchie National Forest season dates;

xv. Richland? that portion south of US 80 and east of LA 17;

xvi. St. Landry? that portion bounded on the west by the West Atchafalaya Basin Protection Levee and on the east by the Atchafalaya River. Exception? the Indian Bayou Area, see Federal Lands Hunting Schedule for Indian Bayou Area dates;

xvii. Upper St. Martin? all within the Atchafalaya Basin. Exceptions? Sherburne WMA and Indian Bayou Area, see WMA Turkey Hunting Schedule for special season dates on all state, federal and private lands within Sherburne WMA boundaries and see Federal Lands Hunting Schedule for Indian Bayou dates;

xviii. Tensas? that portion west of US 65 from the Concordia Parish line to its juncture with LA 128, north of LA 128 to St. Joseph; west and north of LA 605, 604 and 3078 northward to Port Gibson Ferry. Also all lands east of the main channel of the Mississippi River.

2. Area B? March 27-April 18

- a. All the following parishes are open:
 - i. Bienville;
 - ii. Bossier;
 - iii. Caddo;
 - iv. Claiborne (Exception? See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
 - v. DeSoto;
 - vi. Jackson;
 - vii. Lincoln;
 - viii. Red River;
 - ix. Union;
 - x. Webster (Exception? See Federal Lands Hunting Schedule for Kisatchie National Forest dates).
- b. Portions of the following parishes are open:
 - i. East Carroll? east of US 65 from Arkansas state line to Madison Parish line;
 - ii. Ouachita? east of LA 143 from Union Parish line to US 80 in West Monroe, north of US 80 to LA 139, west of LA 139 to the Morehouse Parish line;
 - iii. Madison? south of US 80 and east of US 65 to Tensas Parish line and all lands lying east of the main channel of the Mississippi River;
 - iv. Morehouse? west of US 165 from the Arkansas line to Bonita, north and west of LA 140 to junction of LA

830-4 (Cooper Lake Road), west of LA 830-4 to US 165, north of US 165 to LA 139, west of LA 139 to Ouachita Parish line.

3. Area C? March 27-April 4

- a. Portions of the following parishes are open:
 - i. Ascension? all east of the Mississippi River;
 - ii. Catahoula? that portion lying south of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to LA 8 at Harrisonburg, west of LA 8 to LA 913, west of LA 913 and LA 15 to Deer Creek;
 - iii. Concordia? north and east of Sugar Mill Chute (Concordia Parish) from the state line westward to Red River, east of Red River northward to Cocodrie Bayou, east of Cocodrie Bayou northward to US 84, south of US 84 eastward to LA 15 (Ferriday), east of LA 15 northward to US 65 (Clayton), east of US 65 northward to Tensas Parish line;
 - iv. Franklin? that portion lying west of LA 17, from Richland Parish line to LA 577 at Crowville, north of LA 577 to LA 15 at Baskin, east of LA 15 to Big Creek, and south and east of Big Creek to Richland Parish line;
 - v. Iberville? all east of the Mississippi River;
 - vi. Richland? west of LA 17 from Franklin Parish line to Ringle Rd., south of Ringle Rd. to Ferguson Rd., south of Ferguson Rd. to Little Rd., south of Little Rd. to Big Creek, east of Big Creek to Franklin Parish line;
 - vii. Tensas? east and south of US 65 from Concordia Parish line to LA 128, south of LA 128 to St. Joseph, east and south of LA 605, 604 and 3078 northward to Port Gibson Ferry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2264 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:2376 (November 2002), LR 29:2513 (November 2003).

§117. 2004 Wildlife Management Area Turkey? Hunting Regulations

A. General

1. The following rules and regulations concerning management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject the individual to citation and/or expulsion from the management area.

2. Only those Wildlife Management Areas listed are open to turkey hunting.

3. ATVs, ATCs and motorcycles cannot be left overnight on WMAs EXCEPT in designated camping areas. ATVs are prohibited from two hours after sunset to 3:00 a.m. All roads including trails and roads designated as ATV only trails shall be closed to ATVs from March 1 through August 31 unless otherwise specified. ATV off-road or off-trail travel is prohibited. Certain trails may be open during this time period to provide access for fishing or other purposes.

These trails will be marked by signs at the entrance of the trail. Otherwise, only walk-in hunting is permitted (bicycles permitted).

4. Bag limits on WMAs are part of the season bag limit. Only one turkey is allowed to be taken during special lottery hunts.

B. Permits

1. Self-Clearing Permits. All turkey hunts, including lottery hunts, are self-clearing. Hunters must check in daily by obtaining a permit from a self-clearing station prior to hunting. The self-clearing permit must be in the hunter's possession while hunting. Upon completion of each days hunt, the hunter must check out by completing and depositing the hunter report portion of the permit in the check-out box at a self-clearing station before exiting the WMA.

2. Lottery Hunts. Bayou Macon, Boise-Vernon, Loggy Bayou, Sabine, Sherburne, Sicily Island, Tunica Hills, Union and West Bay WMAs are restricted to those persons selected as a result of the pre-application lottery. Special youth only lottery hunts will be held on Big Lake, Bens Creek, Fort Polk/Peason Ridge, Jackson-Bienville, Loggy Bayou, Sherburne, and West Bay WMAs. Deadline for receiving applications for all lottery hunts is February 13, 2004. An application fee of \$5 must be sent with each application. Applicants may submit only one application and will be selected for one WMA Turkey Lottery Hunt annually. Submitting more than one application will result in disqualification. Contact any district office for applications. Hunters must abide by self-clearing permit requirements. Youths chosen for special youth only hunts will be guided by members of the Louisiana Chapter of the National Wild Turkey Federation. One family member may accompany the youth and guide, but may not hunt.

C. Wildlife Management Area Turkey Hunting Schedule*

WMA	Season Dates	Permit Requirements	Lottery Dates**
Bayou Macon	April 10-11	Self-Clearing	April 10-11
Bens Creek ¹	March 27-April 18	Self-Clearing	None
Big Lake	March 27-April 4	Self-Clearing	None
Bodcau	March 27-April 11	Self-Clearing	None
Boeuf	March 27-April 4	Self-Clearing	None
Boise Vernon	March 27-28 April 3-25	Self-Clearing	March 27-28 April 3-4
Camp Beauregard	March 27-April 11	Self-Clearing	None
Fort Polk	March 27-April 25	Self-Clearing	None
Grassy Lake	March 27-April 11	Self-Clearing	None
Hutchinson Creek	March 27-April 25	Self-Clearing	None
Jackson-Bienville	March 27-April 11	Self-Clearing	None
Lake Ramsey	March 27-April 11	Self-Clearing	None
Little River	March 27-April 11	Self-Clearing	None
Loggy Bayou	April 17-18	Self-Clearing	April 17-18
Pearl River	March 27-April 18	Self-Clearing	None
Peason Ridge	March 27-April 25	Self-Clearing	None

Pomme de Terre	March 27-April 11	Self-Clearing	None
Red River	March 27-April 4	Self-Clearing	None
Sabine	March 27-28 April 3-4	Self-Clearing	March 27-28 April 3-4
Sandy Hollow ¹	March 27-April 18	Self-Clearing	None
Sherburne ²	March 27-April 4	Self-Clearing	March 27-28 March 29-31
Sicily Island	March 27-April 4	Self-Clearing	March 27-29 March 30- April 1 April 2-4
Three Rivers	March 27-April 4	Self-Clearing	None
Tunica Hills South Tract	March 27-28 April 3-4 April 10-11 April 17-18	Self-Clearing	March 27-28 April 3-4 April 10-11 April 17-18
Tunica Hills Angola Tract ³	March 27-28 April 3-4 April 10-11 April 17-18	Self-Clearing	March 27-28 April 3-4 April 10-11 April 17-18
Union	April 10-11	Self-Clearing	April 10-11
Walnut Hills	March 27-April 25	Self-Clearing	None
West Bay	March 27-28 April 3-4	Self-Clearing	March 27-28 April 3-4

*Only those Wildlife Management Areas listed have a turkey hunting season. All other areas are closed.

**The deadline for receiving applications for all turkey Lottery Hunts on WMAs is February 13, 2004.

¹No turkey hunting within 100 yards of food plots identified by two yellow paint rings around the nearest tree.

²All turkeys harvested on Sherburne WMA must be weighed and checked at WMA headquarters.

³Scouting access limited. Contact Region 7 office for details (225) 765-2360.

D. Wildlife Management Area Youth Hunts

WMA	Lottery Youth Hunt Date
Bens Creek	March 20
Big Lake	March 20
Fort Polk/Peason Ridge	March 20
Jackson-Bienville	March 20
Loggy Bayou	April 10
Sherburne	March 20
West Bay	March 20

E. Federal Lands Turkey Hunting Schedule

1. Kisatchie National Forest (KNF) Turkey Hunting Schedule? Caney Ranger District, March 27-April 11; all remaining KNF lands, March 27-April 18 (including

Catahoula and Red Dirt National Wildlife Management Preserves).

2. Indian Bayou Area (U.S. Army Corps of Engineers), Turkey Hunting Schedule? March 20 handicap only hunt, March 27- April 4, lottery hunt only on March 27-28 and March 29-31. Contact USCOE at 337-585-0853 for further information.

3. National Wildlife Refuges? Bogue Chitto NWR, March 27? April 25; Lake Ophelia NWR, March 27-29 (lottery only), April 3-25; Tensas NWR, March 20-21 (youth lottery only), March 27? April 11. Contact the U.S. Fish and Wildlife Service for information regarding NWR hunts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 25:2265 (November 1999), amended LR 26:2636 (November 2000), LR 27:2272 (December 2001), LR 28:2377 (November 2002), LR 29:2514 (November 2003).

James H. Jenkins, Jr.
Secretary

0311#039

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Oyster Harvest Area Grid System
(LAC 76:VII.519)

The Wildlife and Fisheries Commission does hereby amend the oyster harvest area grid system pursuant to R.S. 56:430.1.

Title 76

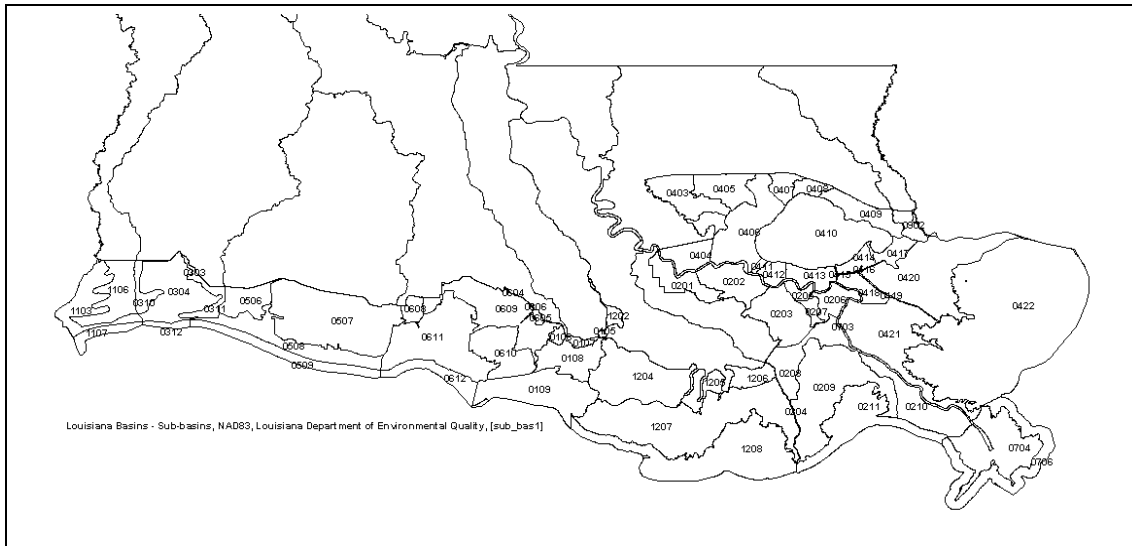
WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oysters

§519. Establishment of an Oyster Harvest Area Grid System

A. For the purpose of submission of oyster leaseholder production information, as required in R.S. 56:430.1, the oyster harvest area grid system is established as those grid areas detailed on the map which is attached hereto and made a part hereof.



AUTHORITY NOTE: Promulgated in accordance with R.S. 56:430.1.B.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 28:524 (March 2002), amended LR 29:2515 (November 2003).

Terry D. Denmon
Chairman

0311#038

RULE

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

**Responsibilities and Powers of Enforcement Officers
(LAC 76:I.305)**

The Wildlife and Fisheries Commission amends the responsibilities and powers of enforcement officers within the department.

**Title 76
WILDLIFE AND FISHERIES
Part I. Wildlife and Fisheries Commission and
Agencies Thereunder
Chapter 3. Special Powers and Duties
Subchapter B. Enforcement Officers
§305. Responsibilities and Powers of Enforcement
Officers**

- A. - B.2. ...
- C. Nets, Traps, Guns, Boats, Lights and other Equipment
 - 1. - 3. ...
 - 4. Rods, Reels, Tackle and Nets. In addition to the other allowable methods of disposal provided for in this Subsection, and notwithstanding any other provisions of this Subsection, all rods, reels, fishing poles, tackle and nets may, upon the passage or occurrence of all pertinent time periods or events provided for in Subparagraph C.1.a supra, be donated to bona fide charitable organizations, youth groups or schools. This disposition may be exercised in lieu of other dispositions when the secretary determines it is in the best interest of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:60.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 15:554 (July 1989), amended LR 29:2516 (November 2003).

James H. Jenkins, Jr.
Secretary

0311#037

Notices of Intent

NOTICE OF INTENT

Department of Economic Development Office of Business Development Business Resources Division

Research and Development Tax Credit (LAC 13:I.Chapter 29)

The Department of Economic Development, Office of Business Development, pursuant to the authority of R.S. 47:6015 and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., hereby gives notice of its intent to adopt the following Rule for the Research and Development Tax Credit. The purpose of this Chapter is to implement the Research and Development Tax Credit Program as established by R.S. 47:6015 as enacted by Acts 2002, 1st Extra Session, No. 9. The tax credit is intended to encourage the development, growth, and expansion of the private sector within the state by encouraging new and continuing efforts to conduct research and development activities within this state. A person may earn a credit against income or corporation franchise tax liability for expenses qualifying for a federal income tax credit under 26 U.S.C. §41(a) for increasing research activities and for amounts received as a federal Small Business Innovation Research (SBIR) Grant. The credit is equal to eight percent of the state's apportioned share of the taxpayer's expenditures for increasing research activities; or twenty-five percent of the state's apportioned share of the federal research credit claimed for research expenditures in the state if the taxpayer claims the alternative incremental tax credit under 26 U.S.C. §41; and eight percent of an amount awarded as an SBIR Grant.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 29. Research and Development Tax Credit

§2901. Purpose and Application

A. The purpose of this Chapter is to implement the Research and Development Tax Credit Program as established by R.S. 47:6015.

B. This Chapter shall be administered to achieve the following purposes:

1. encourage the development, growth, and expansion of the private sector within the state; and

2. encourage new and continuing efforts to conduct research and development activities within this state.

C. This Chapter shall apply to any Person claiming a credit; selling or otherwise transferring a credit; or purchasing or otherwise acquiring a credit under this program.

D. A person may earn a credit against income or corporation franchise tax liability for the following:

1. any person who claims for the taxable year a federal income tax credit under 26 U.S.C. §41(a) for

increasing research activities may receive a credit in the amount of either;

a. eight percent of the state's apportioned share of the taxpayer's expenditures for increasing research activities; or

b. twenty-five percent of the state's apportioned share of the federal research credit claimed for research expenditures in the state if the taxpayer claims the alternative incremental tax credit under 26 U.S.C. §41; and

2. a person who receives a federal Small Business Innovation Research Grant as created by the Small Business Innovation Development Act of 1982 (P.L. 97- 219), reauthorized by the Small Business Research and Development Enhancement Act (P.L. 102-564), and reauthorized again by the Small Business Reauthorization Act of 2000 (P.L. 106-554), may receive a credit in an amount equal to eight percent of the award.

B. The credit may be carried forward for up to ten years, or under certain circumstances may be sold pursuant to the provisions of R.S. 47:6015 and this Chapter..

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:

§2903. Definitions

A. Capitalized term not otherwise defined in this Chapter shall have the same meaning given to them in R.S. 51:2352 unless the context clearly requires otherwise.

B. In this Chapter, the following terms shall have the meaning provided in this Section, unless the context clearly requires otherwise.

Credit Certification? a certification by *DED* of the amount of the Research and Development Tax Credit earned by a *person* for a particular tax year.

DED? Louisiana Department of Economic Development.

Person? any natural *person* or legal entity including an individual, corporation, partnership, or limited liability company.

Qualified Research Expenses in the State? expenses that are Qualified research expenses under 26 U.S.C §41(b) and meet the following requirements:

a. wages described in 26 U.S.C. §41(b)(2)(A)(i) shall be paid to individuals who are residents of Louisiana and perform their services in Louisiana;

b. supplies described in 26 U.S.C. §41(b)(2)(A)(ii) shall be consumed in Louisiana;

c. expenses for the right to use computers as described in 26 U.S.C. §41(b)(2)(A)(iii) shall be for the use of computers located in Louisiana; and

d. contract research expenses as described in 26 U.S.C. §41(b)(3) shall be for services performed in Louisiana.

Research and Development Tax Credits? credits against Louisiana income or corporation franchise taxes that are

earned by a *person* pursuant to the provisions of the Research and Development Tax Credit Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:

§2905. Certification of Amount of Credit

A. Prior to claiming a research and development tax credit on any tax return or selling any research and development tax credit, a person must apply for and obtain a Credit Certification from DED.

B. The application for a credit certification shall be submitted on a form provided by the DED and provide all information requested on the application. DED may request additional information if necessary.

C. DED shall review the application and issue a credit certification in the amount determined to be eligible and provide a copy to the Department of Revenue. the credit certification and the amount of such certification shall be considered preliminary and shall be subject in all respects to audit by the Louisiana Department of Revenue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:

§2907. Sale of Research and Development Tax Credits

A. Research and development tax credits may be transferred only by sale approved by DED. No sale or other transfer of a research and development tax credit shall be valid until the proposed sale or transfer is submitted to DED for approval and approved by DED.

B. A request for the approval of a sale or transfer shall be to the DED in writing and shall include the following information:

1. a copy of the proposed sale or transfer detailing all of its terms;
2. a reference to the original credit certification that authorized the research and development tax credit; and
3. copies of the taxpayer's last two LDOL Quarterly Report of Wages.

C. The taxpayer's business must be within one of the following clusters as described in Louisiana Vision 2020, 2003 Update:

1. advanced materials;
2. agriculture and food products;
3. entertainment;
4. environmental technologies;
5. food technologies;
6. health care;
7. information technologies;
8. life sciences (including biomedical and biotechnology);
9. micro- and nano technologies;
10. oil, gas and energy technologies;
11. chemicals/petrochemicals;
12. shipbuilding and other durable goods manufacturing;
13. transportation and logistics;
14. tourism;
15. wood, lumber, and paper.

D. DED shall review the proposed sale and if the sale complies with the criteria established by law, DED shall issue an approval certification. DED shall maintain a record of all credits sold and provide a copy of all approved sales to the Department of Revenue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:

§2909. Application Fee

A.1. An Application Fee shall be submitted with the each application based on the following formula:

$$\text{APPLICATION FEE} = \text{TOTAL ESTIMATED TAX RELIEF} \times 0.2\% (.002)$$

$$\text{Total Estimated Tax Relief} = \text{Estimated four year expenditure} \times 15\% (.15)$$

$$\text{Application Fee} = \text{Total Estimated Tax Relief} \times .2\% (.002)$$

(Minimum fee is \$200 and the maximum fee is \$5,000 application per Program.

2. The Estimated four year expenditure is the total amount projected by the Taxpayer to be spent on Commercialization Costs over four tax years.

3. All fees shall be made payable to: Louisiana Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:

§2911. Recapture of Credits

A. An application for Credit Certification shall constitute:

1. a consent by the Taxpayer that Credits granted under this Section, but later disallowed in whole or in part, may be recovered by the secretary of the Department of Revenue from the taxpayer applicant through any collection remedy authorized by the provisions of R.S. 47:6015(H); and

2. a consent by the Taxpayer that the Department of Revenue may disclose to DED, any tax information of the Taxpayer related to the earning of, or use of Research and Development Tax Credits by the taxpayer or any other information required by DED for the effective administration of this program, provided that such tax information, shall remain confidential in the possession of DED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:

Family Impact Statement

The proposed adoption of Rules for 13:I.Chapter 29 regarding the Research and Development Tax Credit 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 the children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rule to Daryl Manning through the close of business on December 20, 2003, at P.O. Box 94185, Baton Rouge, LA 70804-9185; 1051 North Third Street, Baton Rouge, LA 70802; FAX (225) 342-9448; or email to manning@lded.state.la.us.

Don J. Hutchinson
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Research and Development Tax Credit**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no incremental cost or savings due to the implementation of this program. The staff that processes all LED programs will be sufficient to process and monitor this program.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be a decrease of General Fund collections of \$2,530,000 in FY 03/04, \$5,051,000 in FY 04/05, and \$7,591,000 in FY 05/06. There will be no impact on local sales tax collection.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no anticipated additional costs to persons or nongovernmental groups. There may be increase employment in the beneficiary business due to lower costs or increase in working capital.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no anticipated impact on competition. There may be increased employment in the beneficiary business due to lower costs or increase in working capital.

Michael Williams
Director
0311#059

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Office of Business Development
Business Resources Division**

Technology Commercialization Credit
(LAC 13:I:Chapter 27)

The Department of Economic Development, Office of Business Development, pursuant to the authority of R.S. 47:6015 and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., hereby gives notice of its intent to adopt the following Rules for the technology and commercialization credit. The purpose of this Chapter is to

implement the Technology and Commercialization Credit Program as established by R.S. 51:2351 et seq. as enacted by Acts 2002, 1st Extra Session, No. 8. The tax credit is intended to induce companies purchasing the rights to commercialize technology produced at a Louisiana university to locate and grow their businesses in Louisiana; to expand the economy of the state by enlarging its base of technology and research-based businesses; to enlarge the number of quality jobs available to an educated workforce to retain the presence of young people educated in Louisiana colleges and universities; and to attract and retain the finest research faculty to Louisiana universities. Businesses may earn tax credits for costs associated with commercializing technology resulting from research sponsored by Louisiana institutions. Eligible costs include investments in machinery and equipment and expenditures associated with obtaining the rights to use technology. The credit is 15 percent of eligible costs for at least four years and up to eight years.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 27. Technology Commercialization Credit

§2701. Purpose and Application

A. The purpose of this Chapter is to implement the Technology Commercialization Credit Program as established by R.S. 51:2351 et seq.

B. This Chapter shall be administered to achieve the following purposes:

1 to induce companies purchasing the rights to commercialize technology produced at a Louisiana university to locate and grow their businesses in Louisiana;

2 to expand the economy of the state by enlarging its base of technology and research-based businesses;

3 to enlarge the number of quality jobs available to an educated workforce to retain the presence of young people educated in Louisiana colleges and universities; and

4 to attract and retain the finest research faculty to Louisiana universities.

C. This Chapter shall apply to any person seeking to become qualified to claim a credit; claiming a credit; selling or otherwise transferring a credit; or purchasing or otherwise acquiring a credit under this program.

D. An individual or business may earn a credit on any income or corporation franchise tax liability equal to fifteen percent of the amount of money invested in commercialization costs of qualified technology. The credit may be carried forward for up to twenty years, or under certain circumstances may be sold.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351 and 2353.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:

§2703. Definitions

A. Capitalized term not otherwise defined in this Chapter shall have the same meaning given to them in R.S. 51:2352 unless the context clearly requires otherwise.

B. In this Chapter, the following terms shall have the meaning provided in this Section, unless the context clearly requires otherwise:

Commercialization? the development of a technology into a commercial product by going through the process of prototyping, securing funding, and other steps necessary to

get the final product to the marketplace. *Commercialization* begins after a technology has been reduced to practice and the company is proceeding to develop a commercial market.

Credit Certification? a certification by *DED* of the amount of the *technology commercialization credit* earned by a Taxpayer for a particular tax year.

DED? Louisiana Department of Economic Development.

Eligibility Certification? a certification by the *DED* that a taxpayer is eligible to earn *technology commercialization credits*.

Technology Commercialization Credits? credits against Louisiana income or corporation franchise taxes that are earned by a taxpayer pursuant to the provisions of the Technology Commercialization Credit Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2353.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:

§2705. Determination of Eligibility to Earn Technology Commercialization Credits

A. Prior to earning any credits pursuant to the Technology Commercialization Credit Program, a taxpayer must apply for and obtain an eligibility certification from *DED* that the taxpayer is eligible to earn such credits.

B. The application for eligibility certification must be submitted prior to the end of the taxpayer's tax year for which the taxpayer first seeks to earn a technology commercialization credit.

C. A taxpayer shall apply for an eligibility certification by submitting an application on a form specified by the *DED* and provide at a minimum, the following information:

1. a description of the technology to be commercialized;

2. a description of how and from whom (what university) the technology was acquired including the terms of the acquisition;

3. if the technology is not owned by a university, in what manner research was sponsored by the university or what significant development or enhancement to the technology occurred at the university;

4. a pro forma statement of the company's planned investment to commercialize the technology showing at least \$250,000 in the first taxable year and \$2,000,000 by the end of the fourth taxable year;

5. any other information requested by *DED*.

E. *DED* shall review the application and, if *DED* determines that the taxpayer is eligible under the provisions of the Technology Commercialization Credit Program to earn technology commercialization credits, *DED* shall issue an eligibility certificate. *DED* shall maintain a record of all eligibility certificates issued and shall provide a copy of each certificate to the Louisiana Department of Revenue.

F. An eligibility certification shall be valid for a period of four tax years of the taxpayer.

G. An eligibility certification may be renewed for an additional four tax years on the following conditions:

1. the taxpayer has complied with all requirements of the program for the initial four tax years; and

2. an application for renewal is filed with *DED* not sooner than the end of the fourth tax and no later than the end of the fifth tax year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2353.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:

§2707. Certification of Amount of Credit

A. Prior to claiming a technology commercialization credit on any tax return or selling any technology commercialization credit, a taxpayer must apply for and obtain a credit certification from *DED*. A taxpayer must have been issued an eligibility certification before a credit certification may be issued.

B. The application for a credit certification shall be submitted on a form provided by the *DED*. The application shall include a detailed itemization of all commercialization costs incurred during the tax year.

C. *DED* shall review the application and issue a credit certification in the amount determined to be eligible and provide a copy to the Department of Revenue. The credit certification and the amount of such certification shall be considered preliminary and shall be subject in all respects to audit by the Louisiana Department of Revenue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2353.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:

§2709. Sale of Technology Commercialization Credits

A. Technology commercialization credits may be transferred only by sale approved by *DED*. No sale or other transfer of a technology commercialization credit shall be valid until the proposed sale or transfer is submitted to *DED* for approval and approved by *DED*.

B. A request for the approval of a sale or transfer shall be to the *DED* in writing and shall include the following information:

1. a copy of the proposed sale or transfer detailing all of its terms;

2. a reference to the original eligibility certification and credit certification that authorized the technology commercialization credit; and

3. copies of the taxpayer's last two LDOL Quarterly Report of Wages.

C. The taxpayer's business must be within one of the following clusters as described in Louisiana Vision 2020, 2003 Update:

1. advanced materials;
2. agriculture and food products;
3. entertainment;
4. environmental technologies;
5. food technologies;
6. health care;
7. information technologies;
8. life sciences (including biomedical and biotechnology);
9. micro- and nano technologies;
10. oil, gas and energy technologies;
11. chemicals/petrochemicals;
12. shipbuilding and other durable goods manufacturing;
13. transportation and logistics;
14. tourism;
15. wood, lumber, and paper.

D. DED shall review the proposed sale and if the sale complies with the criteria established by law, DED shall issue an approval certification. DED shall maintain a record of all credits sold and provide a copy of all approved sales to the Department of Revenue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2353.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:

§2709. Application Fee

A.1. An application fee shall be submitted with the each application based on the following formula:

$$\text{APPLICATION FEE} = \text{TOTAL ESTIMATED TAX RELIEF} \times 0.2\% (.002)$$

$$\text{Total Estimated Tax Relief} = \text{Estimated four year expenditure} \times 15\% (.15)$$

$$\text{Application Fee} = \text{Total Estimated Tax Relief} \times .2\% (.002)$$

(Minimum fee is \$200 and the maximum fee is \$5,000 application per Program.)

2. the estimated four year expenditure is the total amount projected by the taxpayer to be spent on commercialization costs over four tax years.

3. All fees shall be made payable to: Louisiana Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2353.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:

§2711. Eligible Commercialization Costs

A. Investment in Machinery and Equipment shall include:

1. the purchase price, including any taxes and costs of delivery and installation, and any lease payments on a capitalized lease, less any sales taxes rebated under any tax incentive program, such as the enterprise zone or quality jobs programs;

2. the machinery and equipment must remain in use at the business location during the four tax years the taxpayer is eligible to earn the credit or its expected useful life, whichever is less. The sales price, trade in value, or other value received in the sale or disposition of the machinery or equipment shall be deducted from the commercialization costs for that year.

B. Other expenditures must be associated with obtaining the rights to use or the use of technology, and may include;

1. any transaction costs incurred in obtaining technology rights such as attorney fees for negotiation of licensing agreements, accounting, or other fees;

2. costs incurred for the use of technology such as royalties or licensing fees; and

3. costs incurred in protecting the rights to technology such as costs for filing or obtaining patents, recordation fees.

C. No expenditures for which a research and development tax credit was claimed pursuant to R.S. 47:6015 shall be eligible as a commercialization cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2353.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:

§2713. Recapture of Credits

A. An application for eligibility certification or credit certification shall constitute:

1. a consent by the taxpayer that in the event the taxpayer must repay any technology commercialization credits or the sales price of any technology commercialization credits pursuant to the provisions of R.S. 51:2353(E)(1) or (E)(2):

a. the secretary of the Department of Revenue may recover any such amounts as authorized by R.S. 47:1561.2; and

b. such amounts will be deemed to constitute a rebate or refundable tax credit: and

2. a written agreement between the taxpayer and the secretary of the Department of Revenue for the suspension of the running of prescription for any technology commercialization credits claimed by the taxpayer or the sales proceeds of any technology commercialization credits until one year after the end of the fourth tax year of the eligibility certification.

3. a consent by the taxpayer that the Department of Revenue may disclose to DED, any tax information of the taxpayer related to the earning of, or use of technology commercialization credits by the taxpayer or any other information required by DED for the effective administration of this program, provided that such tax information, shall remain confidential in the possession of DED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2353.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:

Family Impact Statement

The proposed adoption of Rules for 13:I. Chapter 27 regarding the Technology and Commercialization Credit 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 the children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rules to Daryl Manning through the close of business on December 20, 2003, at Post Office Box 94185, Baton Rouge, LA 70804-9185; 1051 North Third Street, Baton Rouge, LA 70802; FAX (225) 342-9448; or email to manning@lded.state.la.us.

Don J. Hutchinson
Secretary

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

RULE TITLE: Technology Commercialization Credit

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

There will be no incremental cost or savings due the implementation of this program. The staff that processes all LED programs will be sufficient to process and monitor this program.

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

There will be a decrease of General Fund collections of \$100,000 in FY 03/04, FY 04/05, and in FY 05/06.

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

There are no anticipated additional cost to persons or non-governmental groups. It is anticipated there will be an increase in receipts or income derived by Louisiana companies that apply for this program as a result of the benefit of lower taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition. There may be increase employment in the beneficiary business due to lower costs or increase in working capital.

Michael Williams
Director
0311#058

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? American Sign Language I and II as a Foreign Language (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to *Bulletin 741? The Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The standard for foreign language has not changed; only the addition of American Sign Language I and II has been added to the list of courses. Students who are deaf and wish to apply for the TOPS scholarship program have to request a waiver for the foreign language requirement. With the approval of ASL I and II as a foreign language, this waiver will not be required. In addition, students who successfully complete these courses would not need a waiver when applying to universities that have foreign language entrance requirements.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§901. School Approval Standards and Regulations
A. Bulletin 741**

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 28:269-271 (February 2002), LR 28:272-273 (February 2002), LR 28:991-993 (May 2002), LR 28:1187 (June 2002), LR 30:

* * *

Foreign Languages

2.105.07. The foreign language course offerings shall be as follows.

Course Title	Unit(s)	Refer to Bulletin
French I, II, III, IV, V	1 each	1876
German I, II, III, IV, V	1 each	1876
Italian I, II, III, IV, V	1 each	1876
Latin I, II, III, IV, V	1 each	1876
Russian I, II, III, IV, V	1 each	1876
Spanish I, II, III, IV, V	1 each	1876
American Sign Language I, II		

* * *

Interested persons may submit comments until 4:30 p.m., January 9, 2004, to Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

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

RULE TITLE: Bulletin 741? Louisiana Handbook for School Administrators? American Sign Language I and II as a Foreign Language

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

The estimated implementation costs to state and local government units is the cost to print the advertisement in the register.

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)

There are no costs and/or economic benefits to directly affected persons or non-governmental groups. American Sign Language I and II are courses, which would be taken by a student on a voluntary basis as one of the foreign language courses to be considered for Carnegie units for a high school diploma.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0311#090

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741? Louisiana Handbook for School Administrators? Guidelines for Nonpublic and Home Schooling Students Transferring to the Public School Systems (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to *Bulletin 741? The Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). At the September 2003 meeting of the State Board of Elementary and Secondary Education (SBESE), the board approved revisions to the "Guidelines for Nonpublic and Home Schooling Students Transferring to the Public School System: Participation in LEAP 21." These guidelines are contained in *Bulletin 741? The Louisiana Handbook for School Administrators*. The proposed changes reflect the new achievement levels ("basic/approaching basic") for fourth grade students. This action was required to clarify the transfer policy as it relates to students transferring from nonpublic schools (both in-state and out-of-state and from home schooling programs).

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 28:269-271 (February 2002), LR 28:272-273 (February 2002), LR 28:991-993 (May 2002), LR 28:1187 (June 2002), LR 30:

* * *

Guidelines for Nonpublic and Home Schooling Students Transferring to the Public School Systems Participation in the LEAP 21

A student who is transferring from an in-state nonpublic school or a home schooling program or a Louisiana resident* who is transferring from an out-of-state school to enroll in the Louisiana public school system at grades 5 or 9 shall be required to take the 4th- or 8th-grade LEAP 21 English Language Arts and Mathematics tests. Fourth-grade students must score *Basic* or above on either the LEAP 21 English Language Arts test or the LEAP 21 Mathematics test and *Approaching Basic* or above on the other one. Eighth-grade students must score *Approaching Basic* or above on both the English Language Arts and Mathematics tests. Beginning in spring 2006, the achievement level for 8th grade students will be raised to the *Basic/Approaching Basic* combination level. The following guidelines shall apply.

1. Students may take LEAP 21 during either a spring or a summer administration prior to enrollment. It is the responsibility of the parent(s) to contact the local school system, or Local Education Agency (LEA), District Test Coordinator to register for the test.

2. The nonpublic school and the parent(s) [or home schooling parent(s)] are responsible for providing to the LEA District Test Coordinator, at least 10 working days prior to the testing date, appropriate documentation required for requested standard testing accommodations.

3. Students with disabilities who have a current 1508 evaluation will participate in LEAP 21 testing. Promotion decisions for these students will adhere to the High Stakes Testing Policy.

4. LEAs may charge a fee for the testing of nonpublic and home schooling students. This fee shall be refunded upon the student's enrollment in that public school system the semester immediately following the testing.

5. Students who participate in a spring administration and fail to score at the required achievement level(s) are eligible to retake the LEAP 21 at the following summer administration.

6. LEAs shall offer LEAP 21 summer remediation to nonpublic/home schooling 4th- and 8th-grade students who fail to score at the required LEAP 21 achievement level(s), as well as to nonpublic/home schooling 4th- and 8th-grade students who did not test in the spring but wish to prepare for the summer administration. LEAs may charge a fee, not to exceed \$100 per student, for such remediation. The summer remediation fee shall be refunded upon the student's enrollment in that public school system the semester immediately following summer remediation.

7. Students who fail to score at the required achievement level(s) are not required to attend the summer remediation offered by the LEA to be eligible to take the summer retest. However, students must attend the LEA-offered summer remediation to be eligible for the appeal process or the policy override.

8. Only students who fail to score at the required achievement level(s) after participation in both the spring and summer administration of LEAP 21 and who attend the summer remediation offered by the LEA are eligible for the appeals process or the policy override, provided all criteria are met (see the High-Stakes Testing Policy).

9. Students who participate only in the spring administration or only in the summer administration and fail to score at the required achievement level(s) *are not eligible* for the appeals process or the policy override. These students *are not eligible* to take The Iowa Tests for placement purposes.

10. Students transferring into local school systems after the LEAP 21 summer retest but prior to February 15 are required to take the state-selected form of The Iowa Tests for grade placement if the students have not taken LEAP 21.

11. Students taking The Iowa Tests are not eligible for a retest or for the appeals process. These students may be eligible for the policy override based upon a decision by the School Building Level Committee.

12. The High Stakes Testing Policy and the local Pupil Progression Plan shall govern grade placement of students transferring to the local school systems.

*A Louisiana resident transferring from any out-of-state school is defined as a student who lives in Louisiana but attends school in an adjacent state.

* * *

Interested persons may submit comments until 4:30 p.m., January 9, 2004, to Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

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

**RULE TITLE: Bulletin 741? Louisiana Handbook for
School Administrators? Guidelines for Nonpublic
and Home Schooling Students
Transferring to the Public School Systems**

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

There should be no additional implementation costs (savings) to state or local governmental units. The revision clarifies testing procedures for out-of-state students and for Louisiana residents transferring from any out-of-state school.

**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.

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

There should be no costs and/or economic benefits to directly affected persons or non-governmental groups.

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

There should be no affect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0311#092

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

**Bulletin 741? Louisiana Handbook for School
Administrators? Pre-GED/Skills Option Program
(LAC 28:I.901)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to *Bulletin 741? The Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The proposed revision is technical in nature to bring BESE policy into alignment with current accountability policy.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations**

§901. School Approval Standards and Regulations

A. Bulletin 741

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 28:269-271 (February 2002), LR 28:272-273 (February 2002), LR 28:991-993 (May 2002), LR 28:1187 (June 2002), LR 30:

* * *

Pre-GED/Skills Option Program

1.151.05. A school system shall implement the Pre-GED/Skills Option Program and shall obtain approval from the State Department of Education at least 60 days prior to the establishment of the program. (See High Stakes Testing Policy in Bulletin 1566.)

A program application describing the Pre-GED/Skills Option Program shall be submitted and shall address the following program requirements:

1. Students shall be 16 years of age or older and meet one or more of the following criteria:
 - *Shall have failed LEAP 21 English language arts and/or math 8th grade test for one or two years;
 - *Shall have failed English language arts, math, science and/or social studies portion of the GEE;
 - *Shall have participated in alternate assessment;
 - *Shall have earned not more than 5 Carnegie units by age 17, not more than 10 Carnegie units by age 18, or not more than 15 Carnegie units by age 19;
 - *Students with Limited English Proficiency shall be considered eligible for the Pre-GED/Skills Option Program.
2. Enrollment is voluntary and requires parent/guardian consent.
3. Counseling is a required component of the program.
4. The program shall have both a Pre-GED/academic component and a skills/job training component. Traditional Carnegie credit course work may be offered but is not required. Districts are encouraged to work with local postsecondary institutions, youth-serving entities, and/or businesses in developing the skills component.
5. BESE will require the Pre-GED/Skills Option Program to be on a separate site. Exceptions will be considered based on space availability, transportation or a unique issue.
6. Students who complete only the skills section will be given a Certificate of skills completion.
7. Students will count in the October 1st MFP count.
8. Students will be included in School Accountability. While enrolled, they shall be required to take the 9th grade Iowa Test or alternate assessment. All programs will be considered Option 1 for alternative education purposes, and the score for every alternative education student at a given alternative school shall be returned to ("sent back") and included in the home-based school's SPS. (See Standard 20.002.00 of Bulletin 741.)

Refer to the Guidelines and Application Packet provided by the Louisiana Department of Education for the requirements to establish a Pre-GED/Skills Option Program.

* * *

Interested persons may submit comments until 4:30 p.m., January 9, 2004, to Nina Ford, State Board of Elementary

and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

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

**RULE TITLE: Bulletin 741? Louisiana Handbook for
School Administrators? Pre-GED/Skills Option Program**

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

There will be no implementation costs (savings) to state or local governmental units.

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

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

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

There will be no estimated costs or economic benefits to directly affected persons or non-governmental groups.

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

There will be no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0311#091

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746? Louisiana Standards for State Certification
of School Personnel? Middle School PRAXIS Exams
(LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to *Bulletin 746? Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy establishes content-specific Praxis exams as the certification requirement for middle school grades 4-8. This aligns the middle school certification testing requirement with the No Child Left Behind Act of 2001, which specifies that middle school teachers must have passed a content specialty exam for each core academic content area in which the teacher teaches.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations**

**§903. Teacher Certification Standards and Regulations
A. Bulletin 746**

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 28:2505-2508 (December 2002), LR 29:117-119 (February 2003), LR 29:119-121 (February 2003), LR 29:121-123 (February 2003), LR 30:

* * *

Middle School Certification Testing Policy

For Louisiana middle school certified teachers to have "highly qualified" status, the state's middle school Praxis content exam certification requirements must conform with the No Child Left Behind Act of 2001. The Act specifies that middle school teachers must have passed a content specialty exam for each core academic content area in which the teacher teaches.

The following exams are specified for use by teachers of grades 4-8 in seeking certification in a subject area:

Middle School Subject Area	Exam Number
Mathematics	0069
English/Language Arts	0049
Science	0439
School Social Studies	0089

* * *

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit comments until 4:30 p.m., January 9, 2004, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

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

**RULE TITLE: Bulletin 746? Louisiana Standards
for State Certification of School Personnel
Middle School PRAXIS Exams**

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

This policy establishes content-specific Praxis exams as the certification requirement for middle school grades 4-8. This aligns the middle school certification testing requirement with the No Child Left Behind Act of 2001, which specifies that middle school teachers must have passed a content specialty exam for each core academic content area in which the teacher teaches. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

The new middle school certification testing policy requiring content-specific exams will mean an additional testing cost for middle school teachers who become certified in more than one content area.

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

This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0311#098

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746? Louisiana Standards for
State Certification of School Personnel
New Certification Structure Revisions
(LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to *Bulletin 746? Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy aligns Bulletin 746 certification policy with the No Child Left Behind Act of 2001 by specifying grade levels for early childhood (PK-3), elementary (1-5), middle school (4-8), and secondary (6-12) certification in Louisiana. Additionally, it revises the middle school structure to delete the generic certification option and to require middle school certification in each of the core academic subject areas in which the individual will teach. This action aligns the certification structure with the

definition of middle school grades under the No Child Left Behind Act of 2001.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations**

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975); LR 28:2505 (December 2002); LR 29:117 (February 2003); LR 29:119 (February 2003); LR 29:121 (February 2003), LR 30:

* * *

New Certification Structure

A. Recommended Changes

1. Have the universities recommend that teachers be issued Level 1 Teaching Certificates when they have met state certification requirements and hold the universities accountable for the success of the teachers that they recommend for certification.

This would eliminate the need for the Louisiana Department of Education to count hours on transcripts and allow the department to become more involved in providing support to universities to improve the quality of teacher preparation programs. (Note: The Louisiana Department of Education would still continue to review transcripts and issue certificates to out-of-state teachers.)

2. Change the certification structure to allow teachers to develop more content knowledge in the grade levels in which they are expected to teach and provide them with more flexible hours to add special education and other grade levels to their certification areas. This would allow new teachers to be certified in one or two areas when completing a 124 credit hour undergraduate degree program.

See B "New Certification Areas and Courses" for the areas of certification that are more content specific.

See C "Additional Certifications" for requirements to add additional areas of certification.

3. Require all new teachers to receive mentoring during their first year of the Louisiana Teacher Assistance and Assessment Program and have them undergo the assessment during the second year.

4. Require all teachers to pass the teacher assessment and teach for a total of three years before being issued a Level 2 teaching certificate.

5. Require all new teachers to undergo a predetermined amount of professional development during a five year time period in order to have their teaching certificates renewed for 5 years. Have the Blue Ribbon Commission on Teacher Quality develop the details for the professional development system during 2000-2001.

B. New Certification Areas And Courses

1. Common Elements of Basic Certification for All Grade Levels:

- a. General Education Coursework Same general coursework areas and hours (e.g., 54 hours) for Grades 1-5 and 4-8.
- b. Knowledge of the Learner and The Learning Environment Same general coursework areas and hours (e.g., 15 hours) for all PK-12 teachers.
- c. Teaching Methodology Varying requirements based upon focus areas.
- d. Student Teaching Same requirements and hours (e.g., 9 hours) for all PK-12 teachers.

2. Differing Elements of Basic Certification:

- a. Focus Areas Four new focus areas:
 - (1) Preschool to Grade 3 (Focus: Greater Depth in Early Childhood, Reading/Language Arts, and Mathematics)
 - (2) Grades 1-5 (Focus: Greater Depth in Reading/Language Arts and Mathematics)
 - (3) Grades 4-8 (Focus: Greater Depth in Content—Two In-depth Teaching Areas)
 - (4) Grades 6-12 (Focus: Greater Depth in Content—Primary Teaching Area and Secondary Teaching Area)

Primary Teaching Area: Pre-service teachers must complete at least 31 credit hours in a specific content area (e.g., English, Mathematics, etc.).

AND

Secondary Teaching Area: Pre-service teachers must complete at least 19 credit hours in a second content area (e.g., Science, Social Studies, etc.).

- b. Flexible University Hours Flexible hours that may be used by the universities to create quality teacher preparation programs.

3. Additional Certifications:

Additional grade level certifications within the undergraduate teacher education program that would require approximately 12-15 credit hours. Universities could create programs that would allow teachers to obtain more than one type of certification within the 124 total hours by using the "flexible hours" to add additional grade level or special education certifications.

B. New Certification Areas and Courses (Cont'd)

AREAS		GRADES PK-3 BASIC CERTIFICATION (FOCUS: GREATER DEPTH IN EARLY CHILDHOOD, READING/LANGUAGE ARTS, AND MATHEMATICS)		GRADES 1-5 BASIC CERTIFICATION (FOCUS: GREATER DEPTH IN READING/LANGUAGE ARTS AND MATHEMATICS)		GRADES 4-8 BASIC CERTIFICATION (FOCUS: GREATER DEPTH IN CONTENT -TWO IN- DEPTH TEACHING AREAS)		GRADES 6-12 BASIC CERTIFICATION (FOCUS: GREATER DEPTH IN CONTENT- PRIMARY TEACHING AREA AND SECONDARY TEACHING AREA	
GENERAL EDUCATION COURSE WORK	English	12 Hours		12 hours		12 hours		6 hours	
	Mathematics	9 Hours		12 hours		12 hours		6 hours	
	Sciences	9 Hours		15 hours		15 hours		9 hours	
	Social Studies	6 Hours		12 hours		12 hours		6 hours	
	Arts	3 Hours		3 hours		3 hours		3 hours	
FOCUS AREAS		Young Child		Reading/Language Arts and Mathematics		Two In-depth Teaching Areas		Primary Teaching Area and Secondary Teaching Area	
		Nursery School and Kindergarten	12 hours	Reading/ Language Arts (Additional Content and Teaching Methodology)	12 hours	In-depth Teaching Area #1 English/ Social Studies/ Mathematics OR Science <i>General Education and Focus Area hours should equal 19 total hours.</i>	7 or more hours OR 4 or more hours	Primary Teaching Area <i>General Education (if applicable) and Focus Area hours should equal 31 total hours.</i>	22 or more hours if in Science OR 25 or more hours if in English, Social Studies, or Math. OR 31 or more hours if in other areas
		Reading/Language Arts (Additional Content and Teaching Methodology)	12 hours						
		Mathematics (Additional Content and Teaching Methodology)	9 hours	Mathematics (Additional Content and Teaching Methodology)	9 hours	In-depth Teaching Area #2: English/ Social Studies/ Mathematics OR Science <i>General Education and Focus Area hours should equal 19 total hours.</i>	7 or more hours OR 4 or more hours	Secondary Teaching Area <i>General Education (if applicable) and Focus Area hours should equal 19 total hours.</i>	13 or more hours if in English, Social Studies, or Math OR 10 or more hours if in Science OR 19 or more hours if in other areas
		KNOWLEDGE OF LEARNER AND THE LEARNING ENVIRONMENT (These hours may be integrated into other areas when developing new courses.)		15 hours	15 hours	15 hours	15 hours	15 hours	15 hours
		Emphasis Upon Early Childhood	Emphasis Upon Elementary School Student	Emphasis Upon Middle School Student	Emphasis Upon Middle and High School Student				
METHODOLOGY AND TEACHING	Reading			6 hours	3 hours				
	Teaching Methodology	6 hours	6 hours	9 hours	6 hours				
	Student Teaching**	9 hours	9 hours	9 hours	9 hours				
FLEXIBLE HOURS FOR THE UNIVERSITY'S USE		22 hours***		19 hours		17-23 hours		17-26 hours	
TOTAL HOURS****		124 hours		124 hours		124 hours		124 hours	

- * If students do not possess basic technology skills, they should be provided coursework or opportunities to develop those skills early in their program.
- ** Students must spend a minimum of 270 clock hours in student teaching with at least 180 of such hours spent in actual teaching. A substantial portion of the 180 hours of actual student teaching shall be on an all-day basis.
- *** Three of the flexible hours must be in the humanities. This must occur to meet General Education Requirements for the Board of Regents.
- **** In addition to the student teaching experience, students should be provided actual teaching experience (in addition to observations) in classroom settings during their sophomore, junior, and senior years within schools with varied socioeconomic and cultural characteristics. It is recommended that pre-service teachers be provided a minimum of 180 hours of direct teaching experience in field-based settings prior to student teaching.

Notes: Minimum credit hours have been listed. Programs may use the flexible hours to add more content hours to the various elements of the program.

The Board of Regents defines a "major" as being 25% of the total number of hours in a degree program; thus, 25% of 124 credit hours is 31 credit hours.

The Board of Regents defines a "minor" as being 15% of the total number of hours in a degree program; thus 15% of 124 credit hours is 19 credit hours.

No final grade below a "C" will be accepted by the State Department of Education in any coursework within the undergraduate program, with the exception of the general education requirements.

C. ADDITIONAL CERTIFICATIONS WITHIN THE UNDERGRADUATE PREPARATION PROGRAM

It is recommended that universities consider using their flexible hours to provide pre-service teachers opportunities to select additional areas to add to their certification—either special education or extended grade level certifications—when they obtain the baccalaureate degree. The additional hours would provide pre-service teachers with the necessary core knowledge to teach the additional content necessary for the new certification areas.

BASIC CERTIFICATIONS	ADD-ON CERTIFICATIONS		TOTAL HOURS
	NEW CERTIFICATIONS	ADDITIONAL COURSES AND HOURS	
GRADES PK - 3	GRADES 1-5	Content Emphasis: Sciences 6 Hours Social Studies 6 Hours Mathematics 3 Hours	15 Hours
GRADES 1-5	GRADES PK - 3	Content Emphasis: Nursery School and Kindergarten 12 Hours	12 Hours
GRADES 4-8	GRADES 1-5	Reading and Math Emphasis (Additional Content and Teaching Methodology): Accumulate a total of Reading 12 Hours Mathematics 21 Hours	Up to 15 Hours
GRADES 1-5, GRADES 4-8, OR GRADES 6-12	Mild/Moderate Special Education	Special Education Emphasis*: Methods and Materials for Mild/Moderate Exceptional Children, Assessment and Evaluation of Exceptional Learners, Behavioral Management of Mild/Moderate Exceptional Children, and Vocational and Transition Services for Students with Disabilities 12 Hours Practicum in Assessment and Evaluation of Mild/Moderate Exceptional Children (Note: This should not be required if students participate in student teaching that combines regular and special education teaching experiences.) 3 Hours * General knowledge of exceptional students and classroom organization should be addressed in the curriculum for all teachers under "Knowledge of Learner and the Learning Environment."	12 Hours (Additional 3 Hour Practicum if not Integrated Into Other Field-Based Experiences and Student Teaching)

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit comments until 4:30 p.m., January 9, 2004, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 746? Louisiana Standards for State Certification of School Personnel New Certification Structure Revisions**

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

This policy aligns Bulletin 746 certification policy with the No Child Left Behind Act of 2001 by specifying grade levels for early childhood (PK-3), elementary (1-5), middle school (4-8), and secondary (6-12) certification in Louisiana. Additionally, it revises the middle school structure to delete the generic certification option and to require middle school certification in each of the core academic subject areas in which the individual will teach. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Marlyn J. Langley,
Deputy Superintendent
Management and Finance
0311#097

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746? Louisiana Standards for
State Certification of School Personnel
Revisions to Alternate Certification Programs
(LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to *Bulletin 746? Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy revises the alternate program descriptions to include content-specific PRAXIS exams as an entry requirement for middle school grades 48 candidates. This aligns the alternate program

requirements with the No Child Left Behind Act of 2001 specifying that middle school teachers must have passed a content specialty exam for each core academic content area in which the teacher teaches. This policy also specifies the grade levels for early childhood, elementary, middle, and secondary certification in Louisiana, as revised to align with the No Child Left Behind Act of 2001.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 28:2505-2508 (December 2002), LR 29:117-119 (February 2003), LR 29:119-121 (February 2003), LR 29:121-123 (February 2003), LR 30:

* * *

Louisiana Alternate Certification Programs

Practitioner Teacher Program? Alternative Path to Certification

State-approved private providers and Louisiana colleges or universities with an approved teacher education program may choose to offer a Practitioner Teacher Program. Practitioner Teacher Programs may offer certification in grades 1-5, grades 4-8, or grades 6-12 (regular or special education). The Practitioner Teacher Program is a streamlined certification path that combines intensive coursework and full-time teaching.

1. Admission to the Program. Program providers will work with district personnel to identify Practitioner Teacher Program candidates who will be employed by districts during the fall and spring. To be admitted, individuals should:

a. possess a baccalaureate degree from a regionally accredited university;

b. have a 2.50 GPA on undergraduate work. Appropriate, successful work experience can be substituted for the required GPA, at the discretion of the program provider. However, in no case may the GPA be less than 2.20. (Note: State law requires that upon completion of the program, the teacher candidate has a 2.50 GPA for certification.);

c. pass the PRAXIS Pre-Professional Skills Test (e.g., reading, writing, and mathematics). (Individuals who already possess a graduate degree will be exempted from this requirement.);

d. pass the PRAXIS content specific examinations:

(1) candidates for grades 1-5 (regular and special education): pass the *Elementary Education: Content Knowledge* (#0014) specialty examination;

(2) candidates for grades 4-8 (regular and special education): pass the middle school PRAXIS examination(s) in the content area(s) in which they intend to teach;

(3) candidates for grades 6-12 (regular and special education): pass the PRAXIS content specialty

examination(s) in the content area(s) in which they intend to teach. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area;

(4) candidates for all-level K-12 areas of art, dance, foreign language, health and physical education, and music: pass the content specialty examination. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area. Provider must develop a process to assure that candidates demonstrate necessary performance skills in the all-level certification area;

e. meet other non-course requirements established by the college or university.

2. Teaching Preparation (Summer)

9 credit hours

(or equivalent 135 contact hours)

All teachers will participate in field-based experiences in school settings while completing the summer courses (or equivalent contact hours.

GRADES 1-5, 4-8, and 6-12 practitioner teachers will successfully complete courses (or equivalent contact hours) pertaining to child or adolescent development or psychology, the diverse learner, classroom management/organization, assessment, instructional design, and instructional strategies before starting their teaching internships.

Mild/Moderate Special Education 1-12 practitioner teachers will successfully complete courses (or equivalent contact hours) that focus on special needs of the mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods and materials for mild/moderate exceptional children, and vocational and transition services for students with disabilities.

All-Level K-12 practitioner teachers will successfully complete courses (or equivalent contact hours) pertaining to child AND adolescent psychology, the diverse learner, classroom management and organization, assessment; instructional design, and instructional strategies across grade levels K-12 before starting their teaching internships.

3. Teaching Internship and First-Year Support

12 credit hours

(or equivalent 180 contact hours)

Practitioner teachers will assume full-time teaching positions in districts. During the school year, these individuals will participate in two seminars (one seminar during the fall and one seminar during the spring) that address immediate needs of the Practitioner Teacher Program teachers and will receive one-on-one supervision through an internship provided by the program providers. The practitioner teacher will also receive support from school-based mentor teachers provided by the Louisiana Teacher Assistance and Assessment Program (LaTAAP) and principals. NOTE: For all-level areas (art, dance, foreign language, health and physical education, and music), experiences should be provided across grades K-12.

4. Teaching Performance Review (End of First Year)

Program providers, principals, mentors, and practitioner teachers will form teams to review first-year teaching performance of practitioner teachers and determine the extent to which the practitioner teachers have demonstrated

teaching proficiency. If practitioner teachers demonstrated proficiency, they will enter into the assessment portion of the Louisiana Teacher Assistance and Assessment Program during the next fall. (If a practitioner teacher who passed the assessment portion of the Louisiana Teacher Assistance and Assessment program prior to entering the Practitioner Teacher Program continues to demonstrate the Louisiana Components of Effective Teaching at the "competent" level, the team may, by unanimous decision, exempt the teacher from completing the assessment part of the Louisiana Teacher Assistance and Assessment Program.)

If weaknesses are cited, teams will identify additional types of instruction needed to address the areas of need. Prescriptive plans that require from one to nine credit hours (or 15 to 135 equivalent contact hours) of instruction will be developed for practitioner teachers. In addition, teams will determine whether practitioner teachers should participate in the new teacher assessment during the fall or whether the practitioner teachers should receive additional mentor support and be assessed after the fall.

5. Prescriptive Plan Implementation (Second Year)

1-9 credit hours

(15 to 135 contact hours)

Practitioner teachers who demonstrate areas of need will complete prescriptive plans.

6. Louisiana Assessment Program (Second Year)

Practitioner teachers will be assessed during the fall or later, depending upon their teaching proficiencies.

7. PRAXIS Review (Second Year)

Program providers will offer review sessions to prepare practitioner teachers to pass remaining components of the PRAXIS.

8. Certification Requirements

(Requirements must be met within a three-year time period. A practitioner teacher's license will not be renewed if all course requirements are not met with these three years.)

Private providers and colleges or universities will submit signed statements to the Louisiana Department of Education that indicate that the student completing the *Practitioner Teacher Program* alternative certification path met the following requirements:

A. passed the PPST components of the PRAXIS (Note: This test was required for admission.);

B. completed the Teaching Preparation and Teaching Internship segments of the program with an overall 2.50 or higher GPA;

C. passed the Louisiana Teacher Assistance and Assessment Program;

D. completed prescriptive plans (if weaknesses were demonstrated);

E. passed the specialty examination (PRAXIS) for the area(s) of certification. (Note: This test was required for admission.);

(1) grades 1-5 (regular and special education): Elementary Education: Content Knowledge Examination #0014;

(2) grades 4-8 (regular and special education): Middle school PRAXIS content specialty examination in each area in which a candidate intends to teach;

(3) grades 6-12 (regular and special education): PRAXIS *content specialty examination(s)* in the content area(s) in which they intend to teach. (Note: This

examination was required for admission. If no examination was adopted for Louisiana in the certification area, candidates were required to present a minimum of 31 semester hours of coursework specific to the content area for admission to the program.);

(4) all-Level K-12 areas (art, dance, foreign language, health and physical education, and music): Content specialty examination in area(s) in which candidate intends to teach. (Note: This examination was required for admission. If no examination was adopted for Louisiana in the certification area, candidates were required to present a minimum of 31 semester hours of coursework specific to the content area for admission to the program.) Provider must develop a process to assure that candidates for all-level certification demonstrate necessary performance skills in the area of certification;

F. passed the *pedagogy* examination (PRAXIS):

- a. grades PK-3: Early Childhood Education (#0020);
- b. grades 1-5: Principles of Learning and Teaching K-6;
- c. grades 4-8: Principles of Learning and Teaching 5-9;
- d. grades 6-12, all-level K-12 Certification: *Principles of Learning and Teaching 7-12*;
- e. mild/moderate special education 1-12: special education examinations.

9. Ongoing Support (Second and Third Year)

Program providers will provide support services to practitioner teachers during their second and third years of teaching. Types of support may include on-line support, Internet resources, special seminars, etc.

10. Professional License (Practitioner License to Level 2)

Practitioner teachers will be issued a practitioner license when they enter the program. They will be issued a level 1 professional license once they have successfully completed all requirements of the program; after three years of teaching, they will be eligible for a level 2 license.

Undergraduate/Graduate Courses and Graduate Programs

Universities may offer the courses at undergraduate or graduate levels. Efforts should be made to allow students to use graduate hours as electives if the students are pursuing a graduate degree.

Masters Degree Program Alternative Path to Certification

A Louisiana college or university with an approved teacher education program may choose to offer an alternative certification program that leads to a master's degree. The college or university may choose to offer the masters degree program as either a master of education or a master of arts in teaching. Masters Degree Programs may offer certification in grades PK-3, 1-5, 4-8, 6-12, all-level K-12 (art, dance, foreign language, health and physical education, and music), or mild-moderate special education.

Admission to the Program

To be admitted, individuals should:

1. possess a baccalaureate degree from a regionally accredited university;
2. have a 2.50 GPA, or higher, on undergraduate work;

3. pass the Pre-Professional Skills Test (e.g. reading, writing, and mathematics) on the PRAXIS (individuals who already possess a graduate degree will be exempted from this requirement);

4. pass the PRAXIS content-specific subject area examination:

a. candidates for PK-3 (regular and special education): pass the Elementary Education: Content Knowledge (#0014) specialty examination;

b. candidates for grades 1-5 (regular and special education): pass the Elementary Education: Content Knowledge (#0014) specialty examination;

c. candidates for grades 4-8 (regular and special education): pass middle school PRAXIS content specialty examination in each area in which a candidate intends to teach;

d. candidates for grades 6-12 (regular and special education): pass the PRAXIS content specialty examination(s) in the content area(s) in which they intend to teach. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area;

e. candidates for all-level K-12 areas of art, dance, foreign language, health and physical education, and music: pass the content specialty examination. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area. Provider must develop a process to assure that candidates demonstrate necessary performance skills in the all-level certification area.

5. Meet other non-course requirements established by the college or university.

Program Requirements

1. Knowledge of Learner and the Learning Environment

15 credit hours

Grades PK-3, 1-5, 4-8, and 6-12: Child or adolescent development or psychology, the diverse learner, classroom management/organization, assessment, instructional design and instructional strategies.

Mild/Moderate Special Education 1-12: Special needs of the mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods and materials for mild/moderate exceptional children, vocational and transition services for students with disabilities.

All-Level (grades K-12): Child AND adolescent psychology, the diverse learner, classroom management/organization, assessment, instructional design and instructional strategies, across grade levels K-12.

2. Methodology and Teaching 12-15 credit hours

Methods courses and field experiences. NOTE: For all-level K-12 areas (art, dance, foreign language, health and physical education, and music), experiences should be provided across grades K-12.

3. Student Teaching or Internship 6-9 credit hours

Note: For all-level K-12 areas (art, dance, foreign

language, health and physical education, and music), experiences should be provided across grades K-12.

TOTAL: 33-39 credit hours

Certification Requirements

Colleges or universities will submit signed statements to the Louisiana Department of Education which indicate that the student completing the *Masters Degree Program* alternative certification path met the following requirements:

1. Passed PPST components of the PRAXIS. (Note: This test was required for admission.)
2. Completed coursework (undergraduate and masters program) with an overall 2.50 or higher GPA.
3. Passed the specialty examination (PRAXIS) for the area of certification. (Note: This test was required for admission.)
 - a. Grades PK-3 (regular and special education): *Elementary Education: Content Knowledge (#0014)* specialty examination.
 - b. Grades 1-5 (regular and special education): *Elementary Education: Content Knowledge (#0014)* specialty examination.
 - c. Grades 4-8 (regular and special education): Middle school PRAXIS content specialty examination in each area in which a candidate intends to teach.
 - d. Grades 6-12 (regular and special education) and all-level K-12 Certification: *Specialty content examination in areas to be certified*. (Note: This examination was required for admission.) If no examination was adopted for Louisiana in the certification area, for admission purposes, candidates were required to present a minimum of 31 semester hours of coursework specific to the content area.
4. Passed the *pedagogy* examination (PRAXIS):
 - a. grades PK-3: Early Childhood Education (#0020);
 - b. grades 1-5: Principles of Learning and Teaching K-6;
 - d. grades 4-8: Principles of Learning and Teaching 5-9;
 - e. grades 6-12, all-level K-12 Certification: *Principles of Learning and Teaching 7-12*;
 - f. mild/moderate special education 1-12: special education examinations.

Non-Masters/Certification-Only Program Alternative Path to Certification

This program is designed to serve those candidates who may not elect participation in or be eligible for certification under either the Practitioner Teacher Alternate Certification Program or the Master's Degree Alternate Certification Program. The program may also be accessible in some areas of the state in which the other alternate certification programs are not available. A college or university may offer this program only in those certification areas in which that institution has a state-approved teacher education program. Non-Master's/Certification-Only Programs may offer certification in PK-3, 1-5, 4-8, and 6-12, all-level K-12 (art, dance, foreign language, health and physical education, and music), or mild-moderate special education.

Admission to the Program

To be admitted, individuals should:

1. possess a baccalaureate degree from a regionally accredited university;
2. have a 2.20 GPA, or higher, on undergraduate coursework. [An overall 2.50 GPA is required for certification; those candidates with a GPA lower than 2.50 may have to take additional courses in the program to achieve a 2.50 GPA];
3. pass the PRAXIS Pre-Professional Skills Test (PPST) (Individuals who already possess a graduate degree will be exempted from this requirement.); and
4. pass the PRAXIS content-specific subject area examination:
 - a. candidates for PK-3 (regular and special education): pass the elementary education: content knowledge (#0014) specialty examination;
 - b. candidates for grades 1-5 (regular and special education): pass the elementary education: content knowledge (#0014) specialty examination;
 - c. candidates for grades 4-8 (regular and special education): pass the middle school PRAXIS *content specialty examination* in each area in which a candidate intends to teach;
 - d. candidates for grades 6-12 (regular and special education): pass the PRAXIS content specialty examination(s) in the content area(s) in which they intend to teach. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area.
 - e. candidates for all-level K-12 areas of art, dance; foreign language, health and physical education, and music: pass the content specialty examination. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area. Provider must develop a process to assure that candidates demonstrate necessary performance skills in the all-level certification area.

Program Requirements

This program will provide the same rigor as other certification routes provided by aligning with such empirically-based standards as National Council for the Accreditation of Teacher Education (NCATE), Interstate New Teacher Assessment and Support Consortium (INTASC), Louisiana Components of Effective Teaching (LCET), and the Louisiana Content Standards. This program will also emphasize collaboration between the university and the school districts in order to share and exchange strategies, techniques, and methodologies; and integrate field-based experiences into the curriculum.

Program Structure

1. Knowledge of Learner and the Learning Environment*
12 hours
Grades PK-3, 1-5, 4-8, and 6-12: Child or adolescent development/psychology, the diverse learner, classroom management/organization/environment, assessment,

instructional design, and reading/instructional strategies that are content- and level-appropriate.

Mild/Moderate Special Education 1-12: Special needs of the special education mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods and materials for Special Education Mild/Moderate exceptional children, vocational and transition services for students with disabilities.

All-level K-12 Areas: Child psychology and adolescent psychology; the diverse learner; classroom management/organization/environment; assessment; instructional design, and reading/instructional strategies across grade levels K-12.

*All courses for regular and special education will integrate effective teaching components, content standards, technology, reading, and portfolio development. Field-based experiences will be embedded in each course.

2. Methodology and Teaching 6 hours

Methods courses to include case studies and field experiences. Note: For all-level K-12 areas (art, dance, foreign language, health and physical education, and music), experiences should be provided across grades K-12.

3. Internship or Student Teaching 6 hours

Will include methodology seminars that are participant-oriented. Note: For all-level K-12 areas (art, dance, foreign language, health and physical education, and music), internship or student teaching experiences should be provided across grades K-12.

4. Prescriptive Plan 1-9 hours

The prescriptive plan can be pre-planned courses for individual programs or can be individualized courses for the candidate who demonstrates areas of need, not to exceed 9 semester hours.

Total 24-33 hours

Certification Requirements

Colleges or universities will submit signed statements to the Louisiana Department of Education that indicate the student completing the Non-Master's/Certification-Only alternative certification path met the following requirements:

1. Passed the PPST components of the PRAXIS. (*Note: This test was required for admission.*) (Individuals who already possess a graduate degree will be exempted from this requirement).

2. Completed all coursework (including the certification program) with an overall 2.5 or higher GPA.

3. Passed the specialty examination (PRAXIS) for the area(s) of certification. (*Note: This test was required for admission.* If no examination was adopted for Louisiana in the certification area, candidates were required to present a minimum of 31 semester hours of coursework specific to the content area for admission to the program.)

a. Grades PK-3: elementary education: content knowledge (#0014) specialty examination.

b. Grades 1-5: elementary education: content knowledge (#0014) specialty examination.

c. Grades 4-8: middle school content specialty examination in each area in which a candidate intends to teach.

d. Grades 6-12 and all-level K-12 certification: specialty content examination in areas to be certified.

4. Passed the pedagogy examination (PRAXIS):

a. grades PK-3: early childhood education (#0020);

b. grades 1-5: principles of learning and teaching k-6;

c. grades 4-8: principles of learning and teaching 5-9;

d. grades 6-12 and all-level k-12 certification: principles of learning and teaching 7-12;

e. mild/moderate special education 1-12: special education examinations.

Deadline Dates for Louisiana Alternate Programs

No students should be accepted into an old post-baccalaureate alternate certification program in the areas of PK-3, 1-5, 4-8, 6-12, and mild/moderate special education after Spring Semester 2003. Candidates in these areas who are already in the old alternative certification programs would be allowed until August 31, 2006, to complete their programs.

No students should be accepted into an old post-baccalaureate alternate certification program in the all-level (K-12) areas of art, dance, foreign language, H&PE, and music after Spring Semester 2004. Candidates in these areas who are already in the old alternative certification programs would be allowed until August 31, 2007, to complete their programs.

* * *

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed rule affect the stability of the family? No.

2. Will the proposed rule affect the authority and rights or parents regarding the education and supervision of their children? No.

3. Will the proposed rule affect the functioning of the family? No.

4. Will the proposed rule affect family earnings and family budget? No.

5. Will the proposed rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed rule? No.

* * *

Interested persons may submit comments until 4:30 p.m., January 9, 2004, to Nina A. Ford, 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 746? Louisiana Standards for
State Certification of School Personnel
Revisions to Alternate Certification Programs**

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746? Louisiana Standards for State Certification of
School Personnel? Temporary Employment Permit Policy
(LAC 28:I.903)

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

This policy revises the alternate program descriptions to include content-specific Praxis exams as an entry requirement for middle school grades 4-8 candidates. This aligns the alternate program requirements with the No Child Left Behind Act of 2001 specifying that middle school teachers must have passed a content specialty exam for each core academic content area in which the teacher teaches. This policy also specifies the grade levels for early childhood, elementary, middle, and secondary certification in Louisiana, as revised to align with the No Child Left Behind Act of 2001. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

The new middle school testing policy requiring content-specific exams will mean an additional testing cost for middle school teachers who become certified in more than one content area.

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

This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0311#099

H. Gordon Monk
Staff Director
Legislative Fiscal Office

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to *Bulletin 746? Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy aligns Bulletin 746 certification policy for Temporary Employment Permits with R.S. 17.7(6)(c-ii)(d-e) in limiting the maximum number of times the certificate may be issued to three years. It also aligns policy with other Louisiana temporary licensure categories as to number of years (3) a teacher can remain employed on a temporary basis.

Title 28

EDUCATION

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans**

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), LR 28:2505-2508 (December 2002), LR 29:117-119 (February 2003), LR 29:119-121 (February 2003), LR 29:121-123 (February 2003), LR 30:

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Types of Teaching Authorizations and Certifications

Non-Standard Temporary Authorizations to Teach			
		Conditions	Requirements To Renew Temporary Authorization To Teach And/Or Move To Another Certification Level
<p>Temporary Authority to Teach (A teacher may hold a one-year Temporary Authorization to Teach for a maximum of three years while pursuing a specific certification area. He/she may not be issued another Temporary Certification at the end of the three years for the same certification unless the Louisiana Department of Education designates the certification area as one that requires extensive hours for completion.)</p>	<p>Districts may recommend that teachers be given one-year temporary authorizations to teach according to the stipulated conditions. Districts must provide a signed affidavit by the local superintendent that "there is no regularly certified, competent, and suitable person available for that position" and that the applicant is the best qualified person for the position.</p>	a. Individual who graduates from teacher preparation program but does not pass PRAXIS	Teacher must prepare for the PRAXIS and take the necessary examinations at least twice a year.
		b. Individual who holds a minimum of a baccalaureate degree from a regionally-accredited institution and who applies for admission to a Practitioner Teacher Program or other alternate program but does not pass the PPST or the content specialty examination of the PRAXIS required for admission to the program.	Teacher must successfully complete a minimum of six credit hours per year in the subject area(s) that they are attempting to pass on the PRAXIS; candidate must reapply for admission to a Practitioner Teacher Program or other alternate program.
		c. Individual who holds a minimum of a baccalaureate degree from a regionally-accredited institution and who is hired after the start of the Practitioner Teacher Program	Teacher must apply for admission to a Practitioner Teacher Program or other alternate program and pass the appropriate PRAXIS examinations required for admission to the program.
<p>Practitioner Teacher License</p> <p>One-year license that can be held a maximum of three years, renewable annually.</p>	<p>The District and the alternate certification program provider must identify the individual as a practitioner teacher (PL1), a non-master's alternate certification program teacher (PL2), or a master's alternate certification program teacher (PL3).</p>	<p>Teacher must be admitted to and enrolled in a State-approved Practitioner Teacher Program (PL1), Non-Master's Alternate Certification Program (PL2), or Master's Degree Alternate Certification Program (PL3), which necessitates meeting all program requirements including baccalaureate degree, stipulated GPA, and passing scores on the Praxis PPST and content area exams.</p>	<p>The alternate certification teacher (PL1, PL2, and PL3) must remain enrolled in the respective program and fulfill all coursework, teaching assignments, and prescribed activities as identified by the program provider. Program requirements must be completed within the three-year maximum that the license can be held. PL2 and PL3 teachers must demonstrate progress toward program requirements by successfully completing at least 9 semester hours each year to remain on the PL license.</p>

<p>Out-of-Field Authorization to Teach</p> <p>(A teacher may hold a one-year Out-of-Field Authorization to Teach, renewable annually, for a maximum of three years.</p> <p>If the teacher is actively pursuing certification in the field and LDE designates the certification area as one requiring extensive hours for completion, two additional years of annual renewability may be granted.)</p>	<p>District submits application to LDE; renewable annually for maximum of three years.</p> <p>Superintendent of employing district must provide a signed statement that certifies that "there is no regularly certified, competent and suitable person available for the position" and that the applicant is the best - qualified person available for the position.</p>	<p>a. Individual holds a Louisiana teaching certificate, but is teaching outside of the certified area.</p>	<p>Teacher must obtain a prescription/outline of course work required for add-on certification in the area of the teaching assignment.</p> <p>Teacher must successfully complete a minimum of six credit hours per year of courses that lead toward certification in the area in which he/she is teaching; or the secondary-certified teacher who is teaching out-of-field may opt to take and pass the required PRAXIS content specialty examination for the specific 7-12 academic certification area, if the area has been declared as a primary or secondary teaching focus area. The district must support a teacher's efforts in this area.</p>
<p>Temporary Employment Permit</p>	<p>Under condition (a) the district submits application to LDE; renewable annually for a period not to exceed three total years.</p> <p>Under condition (b) the Individual submits application to LDE; renewable annually for a period not to exceed three total years.</p>	<p>a. Individual meets all certification requirements, with the exception of passing all portions of the NTE examination, but scores within 10 percent of the composite score required for passage of all exams. (Formerly classified as EP)</p> <p>b. Individual meets all certification requirements, with the exception of passing one of the components of the PRAXIS, but has an aggregate score equal to or above the total required on all tests. (Formerly classified as TEP)</p>	<p>Superintendent and President of the school board to which the individual has applied for employment must submit a signed affidavit to the LDE stipulating that there is no other applicant who has met all of the certification requirements available for employment for a specific teaching position. Such permit shall be in effect for not more than one year, but may be renewed annually, twice. One can remain on this temporary certificate for a period not to exceed three years. Such renewal of the permit shall be accomplished in the same manner as the granting of the original permit. The granting of such emergency teaching permit shall not waive the requirement that the person successfully complete the exam. While employed on an emergency teaching permit, employment period does not count toward tenure.</p> <p>Temporary Employment Permits are issued at the request of individuals. All application materials required for issuance of a regular certificate must be submitted to LDE with the application for a TEP. An individual can be re-issued a permit two times only if evidence is presented that the required test has been retaken within one year from the date the permit was last issued. One can remain on this temporary certificate for a period not to exceed three years.</p>

Standard Teaching Certifications

Out of State Certificate	Individual submits application to LDE; valid for three years, non-renewable.	a. A teacher certified in another state who meets all requirements for a Louisiana certificate, except for the PRAXIS examinations.	Teacher must take and pass the appropriate PRAXIS examinations -OR- Teacher provides evidence of at least four years of successful teaching experience in another state, completes one year of employment as a teacher in Louisiana public school systems, and secures recommendation of the local superintendent of the employing school system for continued employment.
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**Professional Level Certificates
(effective for all new certificates issued after July 1, 2002)**

Level 1 Professional Certificate (Three-year term)	Teachers must graduate from a State-approved teacher preparation program (traditional or alternative path), pass PRAXIS, and be recommended by a university to receive a Level 1 Professional Certificate. -OR- Teacher must complete a State-approved Practitioner Teacher Program, pass PRAXIS, and be recommended by the Practitioner Teacher Program provider to receive a Level 1 Professional Certificate. -OR- Teacher must meet the requirements of an out-of-state certified teacher.	A lapsed Level 1 certificate may be extended once for an additional three years, subject to the approval of the Division of Teacher Standards, Assessment, and Certification or upon the presentation of six semester hours of resident, extension, or correspondence credit directly related to the area of certification. However, if the holder of the Level 1 certificate has not been employed regularly as a teacher for at least one semester during a period of five years, his certificate can be reinstated for three years only upon the presentation of 150 hours of professional development.
Level 2 Professional Certificate	Teachers with a Level 1 Professional Certificate must pass the Louisiana Assistance and Assessment Program and teach for three years to receive a Level 2 Professional Certificate.	Teachers must complete 150 clock hours of professional development over a five-year time period in order to have a Level 2 Professional License renewed.
Level 3 Professional Certificate	Teachers with a Level 1 or Level 2 Certificate are eligible for a Level 3 Certificate if they complete a Masters Degree, teach for five years, and pass the Louisiana Assistance and Assessment Program.	Teachers must complete 150 clock hours of professional development over a five-year time period in order to have a Level 3 Professional License renewed.

**Standard Teaching Certificates
(issued prior to July 1, 2002)**

Type C Certificate	Type C certificates will not be issued after July 1, 2002.
Type B Certificate	Candidates currently holding Type A or Type B certificates will continue to hold these certificates, which are valid for life, provided the holder does not allow any period of five or more consecutive years of disuse to accrue and/or the certificate is not revoked by the State Board of Elementary and Secondary Education, acting in accordance with law.
Type A Certificate	

Process for Renewing Lapsed Professional Certificates

Type C, B, and A Certificates
 Type B and Type A certificates will lapse for disuse if the holder thereof allows a period of five consecutive calendar years to pass in which he is not a regularly employed teacher for at least one semester (90 consecutive days). Reinstatement of a lapsed certificate shall be made only on evidence that the holder has earned six semester hours of resident, extension, or correspondence credit in courses approved by the Division of Teacher Standards, Assessment, and Certification or a dean of a Louisiana college of education. The six semester credit hours of extension must be earned during the five-year period immediately preceding reinstatement.

A lapsed Type C certificate may be renewed for an additional three years, subject to the approval of the Division of Teacher Standards, Assessment, and Certification or upon the presentation of six semester hours of credit directly related to the area(s) of certification. Such credit hours shall be resident, extension, or correspondence credit in courses approved by the Division of Teacher Standards, Assessment, and Certification or a dean of a Louisiana college of education. However, if the holder of a Type C certificate has not been employed regularly as a teacher for at least one semester during a period of five years, his certificate can be reinstated for three years only upon the presentation of the six semester hours of credit as described previously in the paragraph.

Level 2 and 3 Certificates
 Level 2 and Level 3 professional certificates will lapse (a) for disuse if the holder thereof allows a period of five consecutive calendar years to pass in which he is not a regularly employed teacher for at least one semester [90 consecutive days], or (b) if the holder fails to complete the required number of professional development hours during his employ. Reinstatement of a lapsed certificate shall be made only on evidence that the holder has earned six semester hours of resident, extension, or correspondence credit in courses approved by the Division of Teacher Standards, Assessment, and Certification or a dean of a Louisiana college of education. The six semester credit hours of extension must be earned during the five-year period immediately preceding reinstatement.

* * *

Interested persons may submit comments until 4:30 p.m., January 9, 2004, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 746? Louisiana Standards
for State Certification of School Personnel
Temporary Employment Permit Policy**

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

This policy aligns Bulletin 746 certification policy for Temporary Employment Permits with Louisiana R.S. 17.7(6)(c-ii)(d-e) in limiting the maximum number of times the certificate may be issued to three years. It also aligns policy with other Louisiana temporary licensure categories as to number of years (3) a teacher can remain employed on a temporary basis. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Marlyn Langley
Deputy Superintendent
for Management and Finance
0311#093

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1566? Guidelines for Pupil Progression
High Stakes Testing Policy
(LAC 28:XXXIX.503, 505, 905, 911, 1301, and 1501)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement an amendment to *Bulletin 1566? Guidelines for Pupil Progression*. The State Board of Elementary and Secondary Education at its June, August, and September 2003 meetings made revisions to the High Stakes Testing Policy, which is an addendum to *Bulletin 1566? Guidelines for Pupil Progression*, and to Bulletin 1566 itself. The Rule changes include:

1. A revision in the student retention policy as contained in the High Stakes Testing Policy. As a result of the policy change, a student who has been retained in the fourth grade may only be promoted to the fifth grade. A

district may apply for a waiver from this part of the policy if their specific plan is presented to the Department of Education and it is approved by the State Superintendent of Education. However, students who have been retained in the fourth grade who are 12 years old on or before September 30th may be promoted according to the local Pupil Progression Plan.

2. The adoption of the transitional program (4.5) waiver policy and criteria for a school system desiring to request a waiver of the above policy and offer a program in which certain students may be promoted from the transitional program to the sixth grade the following year.

3. The elimination of the LAA-B testing program (formally out-of-level testing) for students with disabilities.

4. A revision of the High Stakes Testing Policy as it relates to the passing standards for fourth grade students. Beginning in the spring of 2004, fourth graders will have to score "basic" on either the English language arts or mathematics component of LEAP 21 and "approaching basic" on the other to move to the fifth grade. The achievement levels for eighth graders will remain the same until 2006, when they too will have to achieve a score of "basic" on rather mathematics or English language arts and "approaching basic" on the other.

5. The appeals process as contained in the High Stakes Testing Policy was revised. At the fourth and eighth grade levels, school systems were mandated to review student eligibility and consider granting appeals. Prior to this revision, systems had the option of not considering an appeal on behalf of students who met certain criteria. The level at which a fourth grade student must score before an appeal can be considered was raised from 20 scaled score points from "approaching basic" to 20 scaled score points from "basic."

Title 28

EDUCATION

Part XXXIX. Bulletin 1566? Guidelines for Pupil Progression

Chapter 5. Placement Policies; State Requirements §503. Regular Placement¹

A. - A.1.b.

ii.(a). No fourth grade student shall be promoted until he or she has scored at or above the "basic" achievement level on the English language arts or mathematics components of the LEAP for the 21st century (LEAP 21) and at the "approaching basic" achievement level on the other (hereafter referred to as the "basic/approaching basic" combination).

(b). No eighth grade student shall be promoted until he or she has scored at or above the "approaching basic" achievement level on the English language arts and mathematics component of the LEAP for the 21st century (LEAP 21). Exceptions to this policy include the following.

(i). Policy Override. A given student scores at the "unsatisfactory" level in English language arts or mathematics and scores at the "mastery" or "advanced" level in the other; and participates in the summer school and retest offered by the LEA. The decision to override is made in accordance with the local Pupil Progression Plan, which may include referral to the School Building Level Committee (SBLC).

(ii). Retention Limit (Fourth Grade). The decision to retain a student in the fourth grade more than once as a result of failure to score at or above the "basic/approaching basic" combination on the English language arts and mathematics components of LEAP 21 shall be made by the LEA in accordance with the local Pupil Progression Plan.

[a]. A student who has repeated the fourth grade and who is 12 years old on or before September 30th may be promoted according to the local pupil progression plan.

[b]. Any other student who has repeated the fourth grade may be promoted to only the fifth grade. A district may apply for a waiver from this part of the policy if their specific plan is presented to the Department of Education and it is approved by the State Superintendent of Education. (See Appendix)

[c]. Students retained in the fourth grade shall retake all four components of the LEAP 21.

[d]. For promotional purposes, a student must score at or above the "basic/approaching basic" combination on the English language arts and mathematics components of the LEAP 21 only one time.

(iii). Retention Limit (Eighth Grade). The decision to retain an eighth grade student more than once as a result of his/her failure to score at or above the "approaching basic" achievement level in English language arts and/or mathematics on LEAP 21 shall be made by the LEA in accordance with the local Pupil Progression Plan which shall include the following: An eighth grade student who has repeated the entire grade (Option 1) may be either retained again in the eighth grade; promoted to the ninth grade provided that the student has passed either the English language arts or mathematics component of LEAP 21, has attended at least one LEAP 21 summer remediation program and taken the summer retest, and will enroll in a remedial high school course (English or mathematics) in which an "unsatisfactory" achievement level was attained; or placed in a Pre-GED/Skills Program (Option 3). An eighth grade student attending class on a high school campus and earning some carnegie credit(s) (Option 2) may be either promoted or retained in accordance with the local pupil progression plan, or placed in a Pre-GED/Skills Program (Option 3).

[a]. If promoted without passing the failed component (English language arts or mathematics) on LEAP 21, the student must pass a high school remedial course in English language arts or mathematics before enrolling in or earning carnegie credit for English or mathematics.

[b]. (Pre-GED/Skills Program (Option 3) shall be available to students who meet criteria as outlined in Bulletin 741? Louisiana Handbook for School Administrators, standard 1.151.05.

(iv). Students with disabilities eligible under the Individuals with Disabilities Education Act (IDEA) participating in LEAP 21 Alternate Assessment (LAA). Students with disabilities who participate in the LEAP 21 Alternate Assessment (LAA) shall have promotion decisions determined by the SBLC.

(v). Waiver for Limited English Proficient (LEP) Student. LEP Students shall participate in statewide assessment. The SBLC shall be granted the authority to

waive the state's grade promotion policy for a LEP student. A LEP student who was granted a waiver at the fourth grade level is ineligible for a waiver at the eighth grade level.

(vi). Appeals Process. A school system, through its superintendent, must review student eligibility and consider granting an appeal on behalf of individual fourth and eighth grade students who have not scored at or above the required achievement levels on the English language arts and/or mathematics components of LEAP 21 after retesting provided that certain criteria are met. (Refer to Appendix B.)

(vii). - (viii). ...

iii. School systems shall design and implement additional instructional program options for these fourth and eighth grade students being retained

(a). The purpose of the additional instructional options is to move the students to grade level proficiency by providing focused instruction in the area(s) on which they failed to achieve the required level and by providing ongoing instruction using locally developed curricula based on state level content standards.

(b). Examples of instructional options may include alternative learning settings, individual tutoring, transitional classes or other instructional options appropriate to the student's needs.

(c). LEAs are encouraged to design and implement additional options for students in grades 3, 4, 7 and 8 determined to be at risk of failing to achieve the required level on LEAP 21.

iv. Summer remediation programs and end-of-summer retests must be offered by school systems at no cost to students who did not take the Spring LEAP 21 tests or who failed to achieve the required level on LEAP 21.

(a). All students with disabilities who participate in LEAP 21 testing should receive services along with regular education students in summer programs, with special supports provided as needed.

(b). Students with disabilities who participate in LEAP 21 Alternate Assessment (LAA) are not eligible to attend LEAP 21 summer remediation programs.

v. School Systems must develop and implement non-discriminatory criteria to determine placement of eighth grade students who have not scored "approaching basic" or above on the LEAP 21 into Options 1 or 2.

(a). - (a).(ii). ...

(b). Option 2 Students. Students in Option 2 will participate in a transitional program on the high school campus. Students in Option 2 will retake the eighth grade components of the LEAP 21 previously failed (English and/or mathematics) and all parts of the Iowa Tests at the ninth grade level. For promotional purposes, a student must score at or above the "approaching basic" achievement level on the English language arts and mathematics components of LEAP 21 only one time. In order to be considered for placement into Option 2, a student must:

(i). pass at the "approaching basic" or above achievement level either the English language arts or mathematics component of LEAP 21; and

(ii). participate in both the summer remediation program offered by the LEA and the summer testing.

(c). All Option 2 Students who scored at the "unsatisfactory" achievement level on English language arts or mathematics component of the Grade 8 LEAP 21:

(i). shall take a remediation course in the component (English language arts and/or mathematics) of the Grade 8 LEAP 21 in which an "unsatisfactory" achievement level was attained;

(ii). may earn a maximum of one carnegie unit of remedial elective credit toward graduation provided the student passes a specially designed remediation elective and scores at or above the "basic" achievement level on the component of the eighth grade LEAP 21 that is retaken. For these specially designed remediation courses, the LEA shall record a grade of fail or fail (p/f) on the students transcript;

(iii). may earn carnegie credit in other content areas;

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

vii. The aforementioned policies will be in effect from spring 2004 through spring 2005. Beginning in spring 2006, the achievement level for eighth grade students will be raised to the "basic/approaching basic" combination level. The promotion policy will be reviewed in 2008.

viii. Other Requirements

(a). Each plan shall include the function of the school building level committee/student assistance team as it relates to student promotion. Refer to Appendix B for complete text of the High Stakes Testing Policy.

c. Other Requirements

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

B. - D.1.a. ...

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 2000), amended LR 26:1433 (July 2000), LR 26:1576 (August 2000), LR 27:188 (February 2001), LR 27:1006 (July 2001), LR 27:1682 (October 2001), LR 29:123 (February 2003), LR 30:

§505. Progression? Students Participating in LEAP 21 Alternate Assessment (LAA)

A. Students with disabilities who participate in the LEAP 21 alternate assessment (LAA) shall have promotion decisions determined by the School Building Level Committee.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 2000), amended LR 26:1433 (July 2000), LR 27:189 (February 2001), LR 29:123 (February 2003), LR 30:

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

§905. Definition and Purpose

A. - B.2. ...

3. Beginning in the summer of 2004, remediation in the form of summer school shall be provided to fourth grade

students who score at the "approaching basic" or "unsatisfactory" level on LEAP 21st for the 21st Century (LEAP 21) English language arts or mathematics tests. Summer remediation shall consist of a minimum of 50 hours of instruction per subject.

4. Remediation in the form of summer school shall be provided to eighth grade students who score at the "unsatisfactory" level on LEAP for the 21st Century (LEAP 21) English language arts or mathematics tests. Summer remediation shall consist of a minimum of 50 hours of instruction per subject.

5. Remediation shall be provided to students who score at the "unsatisfactory" level on LEAP for the 21st Century (LEAP 21) science or social studies tests.

6. Remediation is recommended for students who score at the "approaching basic" level on LEAP for the 21st Century (LEAP 21) English language arts, mathematics, science, or social studies tests.

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2173 (November 1999), amended LR 28:1189 (June 2002), LR 30:

§911. Criteria for State Approval

A. - C.3.a. ...

b. Beginning in the Summer of 2004, remediation in the form of summer school shall be provided to fourth grade students who score at the "approaching basic" or "unsatisfactory" level on LEAP for the 21st Century (LEAP 21) English language arts or mathematics tests. Summer Remediation shall consist of a minimum of 50 hours of instructions per subject.

c. Remediation in the form of summer school shall be provided to eighth grade students who score at the "unsatisfactory" level on LEAP for the 21st Century (LEAP 21) English language arts or mathematics tests. Summer Remediation shall consist of a minimum of 50 hours of instructions per subject.

d. Remediation shall be provided to students who score at the "unsatisfactory" level on LEAP for the 21st Century (LEAP 21) Science and Social Studies tests.

e. Remediation is recommended for eighth grade students who score at the "approaching basic" level on LEAP for the 21st Century (LEAP 21) English language arts, mathematics, science, or social studies tests.

C.3.f. - D.4. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2175 (November 1999), amended LR 27:189 (February 2001), LR 30:

Chapter 13. Appendix B

§1301. LEAP for the 21st Century, High Stakes Testing Policy

A. Grade 4

1. A student may not be promoted to the fifth grade until he or she has scored at or above the "basic" achievement level on either the English language arts or mathematics component on the fourth grade leap for the

21st Century (LEAP 21) and at the "approaching basic" achievement level on other (hereafter referred to as the "basic/approaching basic" combination). For promotional purposes, however, a student shall score at or above the "basic/approaching basic" combination on the English language arts and mathematics components of LEAP 21 only one time

2. A parent/student/school compact that outlines the responsibilities of each party will be required for students in grade 3 and grade 4 who have been determined to be at risk of failing to achieve the "basic/approaching basic" combination on the English language arts and mathematics components of the fourth grade LEAP 21, as well as for students who were retained in grade 4.

3. LEAs shall offer a minimum of 50 hours per subject of summer remediation and retest opportunities in English language arts and mathematics at no cost to students who did not take the spring LEAP 21 tests or who failed to achieve the "basic/approaching basic" combination on the spring tests.

a. A student who failed to achieve the "basic/approaching basic" combination is not required to attend the LEA-offered LEAP 21 summer remediation program in order to be eligible for the summer retest.

b. All students with disabilities who participate in LEAP 21 should receive services along with regular education students in summer remediation programs, with special supports provided as needed.

c. Students with disabilities who participate in LEAP Alternate Assessment (LAA) are not eligible to attend the LEAP 21 summer remediation programs.

d. LEAs shall offer remediation services to students who score at the "approaching basic" or "unsatisfactory" level on either the English language arts or mathematics components of the fourth grade LEAP 21.

4. In order to move students toward grade level performance, LEAs shall design and implement additional instructional program options for those fourth grade students being retained. The purpose of the additional instructional options is to move the students to grade level proficiency by providing focused instruction in the subject area(s) on which they failed to achieve the "basic/approaching basic" combination on LEAP 21, and ongoing instruction using locally-developed curricula based on state-level content standards for the core subject areas. Examples of instructional options may include alternative learning settings, individual tutoring, transitional classes, or other instructional options appropriate to the students' needs. LEAs are also encouraged to design and implement additional instructional options for students in grades 3 and 4 who have been determined to be at risk of failing to achieve the "basic/approaching basic" combination on LEAP 21.

5. Retention Limit

a. The decision to retain a student in the fourth grade more than once as a result of his/her failure to achieve the "basic/approaching basic" combination on the English language arts and mathematics components of LEAP 21 shall be made by the LEA in accordance with the local pupil progression plan.

i. A student who has repeated the fourth grade and who is 12 years old on or before September 30th may be promoted according to the local pupil progression plan.

ii. Any other student who has repeated the fourth grade may be promoted to only the fifth grade. A district may apply for a waiver from this part of the policy if its specific plan is presented to the Department of Education and it is approved by the State Superintendent of Education.

iii. Students retained in the fourth grade shall retake all four components of LEAP 21.

6. For promotional purposes, however, a student shall score at or above the "basic/approaching basic" combination on the English language arts and mathematics components of LEAP 21 only one time.

6. Exceptions to the High Stakes Testing policy may include the following.

a. Policy Override

i. The local school system (LEA) may override the State policy for students scoring at the "unsatisfactory" level in English language arts or mathematics if the student scores at the mastery or "advanced" level in the other provided that:

(a). the decision is made in accordance with the local pupil progression plan, which may include a referral to the School Building Level Committee (SBLC);

(b). the student has participated in both the spring and summer administrations of LEAP 21 and has attended the summer remediation program offered by the LEA (The student shall participate in the summer retest only on the subject area(s) that he/she scored at the "unsatisfactory" achievement level during the spring test administration); and

(c). parental consent is granted.

b. Students with Disabilities Eligible under the Individuals with Disabilities Education Act (IDEA) participating in LEAP Alternate Assessments (LAA)

i. Students with disabilities who participate in the LEAP Alternate Assessment (LAA) shall have promotion decisions determined by the SBLC.

(a). A student with a disability must participate in both the summer remediation program offered by the LEA and the summer retesting to be considered for a waiver.

c. Waiver for Limited English Proficient (LEP) Students

i. LEP students shall participate in statewide assessment. The SBLC shall be granted the authority to waive the state's grade promotion policy for a LEP student. A LEP student who was granted a waiver at the fourth grade level is ineligible for a waiver at the eighth grade level.

d. Appeals Process

i. A school system, through its superintendent must review student eligibility and consider granting an appeal on behalf of individual students provided that all of the following criteria have been met.

(a). The student's highest score in English language arts and/or mathematics on either the spring or summer LEAP 21 must fall within 20 scaled score points of the cutoff score for "basic."

(b). The student shall have a 3.0 grade point average on a 4.0 scale in the subject(s) on which he/she scored "approaching basic" on LEAP 21.

(c). The student must have attended the LEAP 21 summer remediation program.

(d). The student must have taken the LEAP 21 retest given after the LEAP 21 summer remediation program has been concluded.

(e). The student must have met state-mandated attendance regulations during the regular school year and any locally mandated regulations during the summer remediation program.

(f). The principal and the School Building Level Committee (SBLC) must review student work samples and attest that the student exhibits the ability of performing at or above the "basic" achievement level in the subject for which the appeal is being considered.

e. Waiver for Extenuating Circumstances

i. A school system through its superintendent may grant a waiver on behalf of individual students who are unable to participate in LEAP 21 testing or unable to attend LEAP 21 summer remediation because of one or more of the following extenuating circumstances as verified through appropriate documentation:

(a). a physical illness or injury that is acute or catastrophic in nature;

(b). a chronic physical condition that is in an acute phase; or

(c). court ordered custody issues.

(i). Documentation

[a]. Physical Illness. Appropriate documentation must include verification that the student is under the medical care of a licensed physician for illness, injury, or a chronic physical condition that is acute or catastrophic in nature. Documentation must include a statement verifying that the illness, injury, or chronic physical condition exists to the extent that the student is unable to participate in testing and/or remediation.

[b]. Custody Issues. Certified copies of the court ordered custody agreements must be submitted to the LEA at least 10 school days prior to summer remediation or retesting.

ii. Student Eligibility/Retest Requirements

(a). Students who meet the criteria for extenuating circumstances under the physical illness, chronic physical condition, or court ordered custody category related to LEAP 21; and

(i). who are unable to participate in both the spring and the summer administration of LEAP 21, or who failed to achieve the "basic/approaching basic" combination on the spring administration of LEAP 21 mathematics and English language arts tests and are unable to participate in LEAP 21 summer retest, shall take the Iowa Tests for grade placement within 10 school days of returning to school, which may include hospital/homebound instruction, in order to ensure the appropriate level of instruction; must score at or above the cutoff score on the selected form of The Iowa Tests for grade placement to be promoted to the fifth grade; and are not eligible for a retest. These students may be eligible for the policy override or appeals process in accordance with the local pupil progression plan.

iii. Students who meet the criteria for extenuating circumstances under the physical illness, chronic physical condition, or court ordered custody category related to LEAP 21; and

(a). who are unable to participate in the spring testing and/or summer remediation including the provision of remediation through hospital/homebound instruction;

(b). are required to take the LEAP 21 summer retest. These students may be eligible for the policy override, or appeals process in accordance with the local pupil progression plan.

f. State-Granted Exceptions

i. A local school superintendent, a parent or guardian, or the State Department of Education may initiate a request for a state-granted waiver from the State Superintendent of Education on behalf of individual students who are not eligible for promotion because of LEA error or other unique situations not covered under extenuating circumstances.

(a). The Department of Education will provide a report to the State Board of Elementary and Secondary Education detailing state-granted waivers.

(i). Documentation

[a]. LEA Error. The LEA superintendent or parent must provide the State Superintendent of Education with school and student level documentation detailing the error, how the error occurred, and how the error will be corrected so that it will not occur again in the future.

[b]. Other Unique Situations. Documentation must be provided to the State Superintendent of Education detailing the unique situation and justifying why a waiver should be granted.

ii. Testing/Promotion Decisions

(a). The Department of Education will communicate to the LEAs the means for establishing promotional decisions for those students who have received a state-granted waiver.

7. The promotion policies outlined above will be reviewed in 2008.

B. Grade Eight

1. A student may not be promoted to the ninth grade until he or she has scored at or above the "approaching basic" level on the English language arts and mathematics components of the eighth grade LEAP for the 21st Century (LEAP 21). For promotional purposes, however, a student shall score at or above the "approaching basic" level on the English language arts and mathematics components of LEAP 21 only one time.

2. A parent/student/school compact that outlines the responsibilities of each party will be required for students in grade 7 and grade 8 who have been determined to be at risk of scoring at the "unsatisfactory" level in English language arts and/or mathematics on the eighth grade LEAP 21, as well as for students who were retained in grade 8.

3. LEAs shall offer a minimum of 50 hours per subject of summer remediation and retest opportunities in English language arts and mathematics at no cost to students who did not take the spring LEAP 21 tests or who score at the "unsatisfactory" level on the spring tests.

a. A student who scores at the "unsatisfactory" achievement level is not required to attend the LEA-offered LEAP 21 summer remediation program in order to be eligible for the summer retest.

b. All students with disabilities who participate in LEAP 21 testing should receive services along with regular education students in summer remediation programs, with special supports provided as needed.

c. Students with disabilities who participate in LEAP Alternate Assessment (LAA) are not eligible to attend the LEAP 21 summer remediation programs.

d. LEAs are encouraged to offer remediation services to students who score at the "approaching basic" level.

4. In order to move students toward grade level performance, LEAs shall design and implement additional instructional program options for those eighth grade students being retained. The purpose of the additional instructional options is to move the students to grade level proficiency by providing the following: focused instruction in the subject area(s) on which they scored at the "unsatisfactory" level on LEAP 21, and ongoing instruction using locally-developed curricula based on state-level content standards for the core subject areas. Examples of instructional options may include alternative learning settings, individual tutoring, transitional classes, or other instructional options appropriate to the students' needs. LEAs are also encouraged to design and implement additional instructional options for students in grades 7 and 8 who have been determined to be at risk of scoring at the "unsatisfactory" level on the LEAP 21.

a. School systems shall develop non-discriminatory criteria for the placement of those eighth grade students who score at the "unsatisfactory" achievement level on the English language arts and/or the mathematics component(s) of the LEAP 21 in either Option 1 or Option 2.

i. Students in Option 1 will repeat grade 8. Students in Option 1 will retake all four components of LEAP 21.

ii. Students in Option 2 will participate in a transitional program on the high school campus. Students in Option 2 will retake the eighth grade components of LEAP 21 previously failed (English or mathematics) and all parts of the Iowa Tests at the ninth grade level.

iii. For promotional purposes, a student must score at or above the "approaching basic" achievement level on the English language arts and mathematics components of the LEAP 21 only one time.

b. In order to be considered for placement into Option 2, a student must:

i. pass at the "approaching basic" or above achievement level either the English language arts or mathematics component of LEAP 21; and

ii. participate in both the summer remediation program offered by the LEA and the summer testing.

5. In accordance with the local Pupil Progression Plan, Option 1 students who scored at the "unsatisfactory" achievement level on English language arts and/or mathematics component(s) of the Grade 8 LEAP 21:

a. may earn carnegie units in accordance with the policy regarding high school credit for elementary students as found in *Bulletin 741? Louisiana Handbook for School Administration*;

b. may earn a maximum of one carnegie unit of remedial elective credit toward graduation provided the students pass a specially designed remediation elective and score at or above the "basic" achievement level on the

components of the eighth grade LEAP 21 that is retaken. The LEAP 21 shall be in lieu of a required credit examination. For these specially designed remediation courses, the LEA shall record a grade of fail or fail (P/F) on the student's transcript;

6. All Option 2 students who scored at the "unsatisfactory" achievement level on English language arts or mathematics component of the Grade 8 LEAP 21:

a. shall take a remediation courses in the component (English language arts or mathematics) of the Grade 8 LEAP 21 in which an "unsatisfactory" achievement level was attained;

b. may earn a maximum of one carnegie unit of remedial elective credit toward graduation provided the students pass a specially designed remediation elective and score at or above the "basic" achievement level on the component of the eighth grade LEAP 21 that is retaken. For these specially designed remediation courses, the LEA shall record a grade of fail or fail (p/f) on the student's transcript;

c. may earn carnegie credit in other content areas.

7. Retention Limit

a. The decision to retain an eighth grade student more than once as a result of his/her failure to score at or above the "approaching basic" achievement level in English language arts and/or mathematics on LEAP 21 shall be made by the LEA in accordance with the local pupil progression plan which shall include the following:

i. An eighth grade student who has repeated the entire grade (Option 1) may be either retained again in the eighth grade; promoted to the ninth grade provided that the student has passed either the English language arts or mathematics component of LEAP 21, has attended at least one LEAP 21 summer remediation program and taken the summer retest, and will enroll in a remedial high school course (English or mathematics) in which an "unsatisfactory" achievement level was attained; or placed in a Pre-GED/Skills Program (Option 3).

ii. An eighth grade student attending class on a high school campus and earning some carnegie credit(s) (Option 2) may be either promoted or retained in accordance with the local pupil progression plan, or placed in a Pre-GED/Skills Program (Option 3).

(a). If promoted without passing the failed component (English language arts or mathematics) on LEAP 21, the student must pass a high school remedial course in English language arts or mathematics before enrolling in or earning carnegie credit for English or mathematics.

b. Pre-GED/Skills Program (Option 3) shall be available to students who meet criteria as outlined in *Bulletin 741? Louisiana Handbook for School Administrators*, standard 1.151.05.

8. Exceptions to the high stakes testing policy may include:

a. Policy Override

i. The local school system (LEA) may override the state policy for students scoring at the "unsatisfactory" level in English language arts or mathematics if the student scores at the "mastery" or "advanced" level in the other provided that

ii. the decision is made in accordance with the local pupil progression plan, which may include a referral to the School Building Level Committee (SBLC);

iii. the student has participated in both the spring and summer administrations of the LEAP 21 and has attended the summer remediation program offered by the LEA (The student shall participate in the summer retest only on the subject that he/she scored at the "unsatisfactory" achievement level during the spring test administration); and

iv. parental consent is granted.

b. Students with disabilities eligible under the Individuals with Disabilities Education Act (IDEA) participating in LEAP Alternate Assessments (LAA)

i. Students with disabilities who participate in the LEAP Alternate Assessment (LAA) shall have promotion decisions determined by the SBLC.

c. Waiver for Limited English Proficient (LEP) Students

i. LEP students shall participate in statewide assessment. The SBLC shall be granted the authority to waive the state's grade promotion policy for an LEP student. An LEP student who was granted a waiver at the fourth grade level is ineligible for a waiver at the eighth grade level.

d. Appeals Process

i. A school system, through its superintendent, must review student eligibility and consider granting an appeal on behalf of individual students provided that all of the following criteria have been met.

(a). The student's highest score in English language arts and/or mathematics on either the spring or summer LEAP 21 must fall within 20 scaled score points of the cutoff score for "approaching basic."

(b). The student shall have a 3.0 grade point average on a 4.0 scale in the subject(s) on which he/she scored "unsatisfactory" on LEAP 21.

(c) The student must have attended the LEAP 21 summer remediation program.

(d). The student must have taken the LEAP 21 retest given after the LEAP 21 summer remediation program has been concluded.

(e). The student must have met state-mandated attendance regulations during the regular school year and any locally mandated regulations during the summer remediation program.

(f). The principal and the School Building Level Committee (SBLC) must review student work samples and attest that the student exhibits the ability of performing at or above the "approaching basic" achievement level in English language arts and/or mathematics.

e. Waiver for Extenuating Circumstances

i. A school system through its superintendent may grant a waiver on behalf of individual students who are unable to participate in LEAP 21 testing or unable to attend LEAP 21 summer remediation because of one or more of the following extenuating circumstances as verified through appropriate documentation:

(a). a physical illness or injury that is acute or catastrophic in nature;

(b). a chronic physical condition that is in an acute phase; or

(c). court ordered custody issues.

(i). Documentation

[a]. Physical Illness. Appropriate documentation must include verification that the student is

under the medical care of a licensed physician for illness, injury, or a chronic physical condition that is acute or catastrophic in nature. Documentation must include a statement verifying that the illness, injury, or chronic physical condition exists to the extent that the student is unable to participate in testing and/or remediation.

[b]. Custody Issues. Certified copies of the court ordered custody agreements must be submitted to the LEA at least 10 school days prior to summer remediation or retesting.

ii. Student Eligibility/Retest Requirements

(a). Students who meet the criteria for extenuating circumstances under the physical illness, chronic physical condition, or court ordered custody category related to LEAP 21; and

(i). who are unable to participate in both the spring and the summer administration of LEAP 21; or

(ii). who score at the "unsatisfactory" achievement level on the spring administration of LEAP 21 mathematics and/or English language arts tests and are unable to participate in LEAP 21 summer retest shall take the Iowa Tests for grade placement within 10 school days of returning to school, which may include hospital/homebound instruction, in order to ensure the appropriate level of instruction; must score at or above the cutoff score on the selected form of the Iowa Tests for grade placement to be promoted to the ninth grade; and are not eligible for a retest. These students may be eligible for the policy override or appeals in accordance with the local pupil progression plan;

(iii). Students who meet the criteria for extenuating circumstances under the physical illness, chronic physical condition, or court ordered custody category related to LEAP 21; and

(iv). who are unable to participate in the spring testing and/or summer remediation including the provision of remediation through hospital/homebound instruction are required to take the LEAP 21 summer retest. These students may be eligible for the policy override or appeals process in accordance with the local pupil progression plan.

f. State-Granted Exceptions

i. A local school superintendent, a parent or guardian, or the State Department of Education may initiate a request for a state-granted waiver from the state Superintendent of Education on behalf of individual students who are not eligible for promotion because of LEA error or other unique situations not covered under extenuating circumstances.

(a). The Department of Education will provide a report to the State Board of Elementary and Secondary Education detailing state-granted waivers.

(i). Documentation

[a]. LEA Error. The LEA superintendent or parent must provide the State Superintendent of Education with school and student level documentation detailing the error, how the error occurred, and how the error will be corrected so that it will not occur again in the future.

[b]. Other Unique Situations. Documentation must be provided to the State Superintendent of Education detailing the unique situation and justifying why a waiver should be granted;

(ii). Testing/Promotion Decisions. The Department of Education will communicate to the LEAs the means for establishing promotional decisions for those students who have received a state-granted waiver.

9. The promotion policies outlined above are in effect from Spring 2004 through Spring 2005; beginning in spring 2006 at the achievement level will be raised to the "basic/approaching basic" combination level. The promotion policies outlined above will be reviewed in 2008.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:1008 (July 2001), amended LR 28:1189 (June 2002), LR 29:123 (February 2003), LR 30:

Chapter 15. Appendix C

§1501. Waiver Request

A. Implementation of a Fourth Grade Transitional Program with a Sixth Grade Promotion Option Pupil Progression Plan Amendment

1. Section I

a. Purpose of a Transitional Program:

i. The State Board of Elementary and Secondary Education (SBESE) requires that school systems develop and implement additional instructional options for those students repeating the fourth grade. A transitional program is one such option. The purpose of a fourth grade transitional program is to provide a class setting to students who have demonstrated the ability to benefit from a combination of intensive fourth grade remedial work and fifth grade regular coursework. Students in the transitional program may be able to progress to the sixth grade the following year.

2. Section II

a. Minimum criteria for placement into a fourth grade transitional program:

i. the student must score at the "approaching basic" or above achievement on level either the English language arts or mathematics component of LEAP 21;

ii. the student must have met all requirements for promotion from the fourth grade as outlined in the local pupil progression plan; and

iii. the student must participate in both the summer remediation program offered by the LEA and the summer retest.

3. Section III

a. Minimum criteria for promotion to the sixth grade from a fourth grade transitional program:

i. the student must meet the required combination achievement level ("basic/approaching basic") on the English language arts and mathematics components of LEAP 21;

ii. the student must have met all requirements for promotion from the fifth grade as outlined in the local Pupil Progression Plan;

iii. the student must obtain a composite score of 1200 on all four components of the fourth grade LEAP 21;

iv. in order to move students toward the required combination achievement level ("basic/approaching basic")

on the English language arts and mathematics components of LEAP 21, the student must be provided remediation in the subject area(s) on which the student scored below "basic" on LEAP 21; and

v. in order for students to attain the required composite score (1200) on LEAP 21, focused instruction should be provided in the subject area(s) (Science and/or Social Studies) on which the student scored "unsatisfactory."

4. Section IV

a. Required Documentation

i. A school system requesting a waiver must submit data to the State Superintendent of Education that supports the effectiveness of their previously operated fourth grade transitional program. This data must include an analysis of sixth grade IOWA Tests scores that compare fourth grade students who repeated the entire grade, fourth grade students who repeated the grade in a transitional program (4.5 program), and fourth grade students who did not repeat any grades.

5. Section V

a. Assurances:

i. I assure that the fourth grade transitional program described in the amended 2003-2004 Pupil Progression Plan meets all of the requirements as outlined in Section III of this document.

ii. Based upon this submitted assurance, the _____ School System is requesting a waiver of the High Stakes Testing Policy to allow for the implementation of a fourth grade transitional program which meets the purpose as described in Section I with the option of promoting students to the sixth grade.

iii. Beginning with the 2004-2005 school year, school systems applying for this waiver must submit all required documentation as listed in Section IV and receive approval from the State Superintendent of Education prior to the implementation of a transitional (4.5) program that provides the option of promotion to the sixth grade. If approved, Sections I, II, and III must be included in the 2004-2005 Pupil Progression Plan.

iv. Signature of School System Superintendent: _____

v. Date: _____

6. Section VI

a. Approved/Denied: (circle one)

Cecil J. Picard

State Superintendent of Education

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

Interested persons may submit comments until 4:30 p.m., January 9, 2004, to Nina A. Ford, 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 1566? Guidelines for Pupil
Progression? High Stakes Testing Policy**

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

There will be an additional implementation cost to state or local government. Because the passing score for LEAP 21 was raised, more students will probably need summer remediation. It is estimated that approximately 10 percent to 15 percent more students will need this remediation. Summer remediation was funded at \$185 per unit for Summer 2003. The exact cost as a result of this Rule change can not be determined at this time. We will need to wait for the 2004 test results to be released.

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

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

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

School Systems personnel, students with disabilities and the general public will be affected by the policies in *Bulletin 1566* because of better accountability and a more informed public.

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

There may be an effect on employment within the local school districts due to the anticipated larger number of students attending summer school.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0311#095

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

**Bulletin 1922? Compliance Monitoring Procedures
(LAC 28:XCI.Chapters 1-5)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement the adoption of *Bulletin 1922? Compliance Monitoring Procedures*. Bulletin 1922 will be printed in codified format as LAC 28:XCI of the Louisiana Administrative Code. The proposed Rule provides the procedures for monitoring all public and participating private schools and other educational agencies for compliance with *Bulletin 1706? The Regulations for Implementation of the Children with Exceptionalities Act*, R.S. 17:1941 et seq., Subpart A? Regulations for Students with Disabilities and Subpart B? Regulations for Gifted/Talented Students, and other applicable federal regulations, state statutes, and standards.

R.S. 17:1944(2) requires the Division of Special Populations to provide general supervision and monitoring and *Bulletin 1706? The Regulations for Implementation of the Children with Exceptionalities Act*, R.S. 17:1941 et seq., Subpart A? Regulations for Students with Disabilities and Subpart B? Regulations for Gifted/Talented Students require

that procedures for monitoring be established at Subsections 302 and 372.

**Title 28
EDUCATION**

**Part XCI. Bulletin 1922? Compliance
Monitoring Procedures**

Chapter 1. Overview

§101. Monitoring

A. Monitoring is a process to ensure a free, appropriate, public education for all children with exceptionalities and to assess and ensure program effectiveness for all children with exceptionalities in public schools. Students with disabilities, ages 3-21, as well as students identified as gifted and talented are included in this process.

B. The monitoring system for Louisiana, through the analysis of various quantitative and qualitative data, will focus State resources on improving educational program outcomes for students with exceptionalities through a comprehensive, data-based process. Annually, the State Department of Education (SDE) will select a list of specific variables and performance indicators for comparative purposes for all local educational agencies providing services to children with exceptionalities.

C. The quantitative data will be used to determine specific performance profiles for school systems using data relative to a set of variables. Performance profiles will be issued annually. The quantitative data will be collected in relation to a set of variables selected by a statewide group of stakeholders from various agencies and entities. This group will meet annually with the Division of Special Populations (DSP) to select only specific variables or "focus indicators" from all of the variables. The variables selected as "focus indicators" will be used to determine a system's performance status.

D. School systems will be placed in one of three performance categories within one of four population groups based on the total population of students attending public schools. Upon validation of quantitative data, school systems will be notified of their performance status. The performance categories are focus, exemplary, and continuous improvement.

1. School systems designated as *Focus* will receive an on-site compliance monitoring visit in order to review qualitative data specific to selected qualitative indicators that focus on the system's lowest performing indicator areas.

2. Systems designated as exemplary will receive recognition, and those systems which are exemplary on a statewide basis will also receive an on-site visit. The findings revealed in on-site visits that could be identified as best program practices will be available to other school systems.

3. The systems designated as continuous improvement will not be targeted to receive an on-site compliance visit. Through the LEA application process and self-review summaries, systems will, for that year, document and track improvement strategies. This documentation will include, not only the allocation of monies in the LEA grant application to target corrective action specific to noncompliance issues revealed in the system's self-review summaries, but also written documentation and tracking of other means of corrective action the school system has taken.

E. Annually, there will also be selected at random a group of systems which the DSP will visit for an on-site compliance review. The on-site review for the systems designated as random will include a review of a sampling of the qualitative indicators for all special education compliance areas. Eight will be chosen from the continuous improvement category.

F. Embodied in this process are proactive measures of self-evaluation, support, and technical assistance to ensure compliance with all regulatory requirements at the federal and state levels. Findings from data analysis, as well as findings from the on-site compliance visit, will be used to determine and allocate various resources for technical assistance and support to the school system by the SDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:

§103. Authority

A. The authority for monitoring is found in the following regulatory documents.

B. Individuals with Disabilities Education Act (IDEA), 20 USC, Chapter 33.

C. Federal Regulations for the Implementation of IDEA, 34 CFR Part 300, 301, and 303.

D. U.S. Education Department General Administrative Regulations (EDGAR).

E. Education of Children With Exceptionalities Act, R.S. 17:1941 et seq.

F. Regulations for Implementation of the Children with Exceptionalities Act, R.S.17:1941, et. seq., Bulletin 1706: Part A, Regulations for Students with Disabilities and Part B, Regulations for Gifted and Talented Students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:

§105. Local Educational Agencies (LEAs)

A. Local Educational Agencies (LEAs) to be monitored are:

1. city or parish school systems;
2. special school district;
3. state board of elementary and secondary special schools;
4. type 2 charter schools with special education programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:

§107. Corrective Action and Sanctions

A. The Division of Special Populations has the responsibility to monitor all public educational agencies with programs for exceptional children within the state for compliance with applicable state and federal laws, regulations, and standards.

B. The Division of Special Populations is authorized to take actions necessary to ensure compliance. Failure on the part of a participating agency to comply may result in the SDE recommending to its governing authority a withholding of funds for the said agency. The affected agency shall be granted an opportunity for a hearing before final actions are taken.

C. Each system monitored and found to have non-compliant findings will be required to develop a corrective action improvement plan in collaboration with the Division of Special Populations. The meeting will be arranged within 30 days of receipt of the report. Based on a one-year timeframe, the plan will address the activities the system will implement to correct the areas of non-compliance identified in the on-site visit. If the corrective action activities extend beyond a one-year timeframe for completion, a plan may be submitted with extended timelines. This plan must still contain annual activities and growth targets which will be submitted on an annual basis to the DSP.

D. The progress toward completing the activities in the plan will be tracked by the DSP to determine if the timelines are being met. Systems will submit evidence and data as requested by the DSP to show completion of activities and evidence of change in the system as a result of the corrective action improvement plan. The DSP will conduct a follow-up, on-site visit to determine if the system has made systemic changes to correct non-compliant issues addressed in the corrective action improvement plan.

E. A written report of the findings from the follow-up visit will be issued to the system by the DSP with 30 days after the on-site visit. When the corrective action follow-up report for a system indicates that the system has remaining non-compliant findings, and there is not sufficient documented evidence provided within the mandated timeframe, the system will receive a letter directing the system to submit additional information within thirty business days to prove the deficiencies have been corrected and to inform the system of the possibility of sanctions if the issues are not corrected.

F. At the end of the 30 days in Subsection E above, if the system has not produced sufficient data to indicate that compliance has been met, the DSP shall initiate and implement a process which imposes further corrective action and sanctions on the system. The DSP will meet with the system to discuss the sanctions that will be issued.

G. Sanctions are implemented on a continuum. A larger number would reflect a more serious consequence.

1. The evidence submitted to and reviewed by the DSP to document that the non-compliant findings were:

- a. addressed and corrected, with documentation to show evidence of change; or
- b. addressed in a plan, which provides evidence for implementing effective corrective action, the system should submit evidence of change by a specified date.

2. The system shall contact the DSP to arrange for a meeting to redesign the Corrective Action Plan (CAP) to more effectively address the non-compliant findings from the previous school year's on-site visit. All CAPs must be written in a collaborative effort between the DSP and the school system. The system should identify and appoint a team to develop the corrective action improvement plan. It may be necessary to include general educators in the improvement planning process. The DSP staff responsible for compliance monitoring will determine from the findings, the additional DSP staff members that need to be in attendance. An approved CAP must include the signatures of the state and local superintendents.

3. The DSP will require that an intensive improvement plan for technical assistance be developed by the system to address non-compliant findings. The plan must be submitted to and approved by the local school board. The plan will be published in order to provide the public with information relative to the non-compliant finding, and the plan the system will use to correct the non-compliant findings. (Local newspapers and websites are methods that may be used for publishing the information.) Local funds will be used to implement the improvement plan.

4. The system will target IDEA Part B flow-through funds to address the identified non-compliant findings. The use of these Part B funds will be tracked by the system to show evidence to the DSP of the specific funds targeted for areas of non-compliance. The system will be required to provide clear and concise evidence of the use of the specific funds to target the deficiencies identified in the improvement plan. The DSP will monitor the expenditure of such funds on a consistent basis.

5. The DSP will require the appointment of a special master, monitor, or management team to oversee the corrective action improvement plan. The appointment is to be made by the state agency and funded at the local level.

6. IDEA Part B flow-through funds will be released on a conditional basis. The conditions will be written into the correction improvement plan with input by the DSP. The conditions will be implemented with the signature of the state superintendent and approval of the State Board of Elementary and Secondary Education (SBESE).

7. IDEA Part B flow-through monies, which could include the partial release of funds, will be withheld with the approval of the SBESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:

§109. Components of the Continuous Improvement Monitoring Process

A. The monitoring system will be implemented as a process that includes various components. This process will be comprehensive and continuous to include the use of various data sources. The monitoring system will be an ongoing process through the use of different components, rather than a cyclical process occurring on a scheduled basis.

B. The monitoring system will incorporate and utilize strategies and components as listed below:

1. analyze self-review summaries at the local level which are integrated to review the appraisal process as it relates to the development and implementation of programming, as well as review programming issues;

2. analyze data elements and databases that are current and captured by the DSP, which are directly related to student outcome;

3. analyze the LEA grant application to track and monitor the allocation and use of Part B funds to address priorities revealed through previous data sources in the monitoring process, as well as policy and procedural assurances;

4. review complaint management logs regarding specific complaints in individual systems;

5. analyze Extended School Year Program data;

6. analyze Annual School Report data;

7. analyze district and school accountability profiles;

8. analyze Louisiana's Automated System of Special Education Records (LANSER);

9. analyze FAPE tables and other mandated Federal data reporting (i.e., personnel tables, child count data);

10. review ongoing fiscal monitoring of the use of Part B funds through on-site visits and project completion reports;

11. review preschool on-site visits and data collection analysis and reporting;

12. analyze pupil progression assurances/reviews;

13. review the comprehensive system of personnel development/staff development plan, trainings conducted, and evaluations;

14. track corrective action on noncompliant issues and validate previous corrective action reviews, documentation, and on-site reviews;

15. analyze the provision of technical assistance to facilitate corrective action and to support the continuation of best program practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:

§111. Purpose

A. The SDE has the responsibility to ensure that each participating agency in the state is in compliance with all applicable federal and state laws, regulations and standards required for the provision of a free and appropriate public education for all exceptional children for whom each is legally responsible. To fulfill this responsibility, the SDE has established a purpose for conducting monitoring, as well as procedures and strategies that provide ongoing monitoring activities. The procedures provide continuous and comprehensive monitoring of all aspects of special education including the following:

1. child identification;

2. demographic and disproportionality issues;

3. screening, intervention, referral, and evaluation process;

4. program, services, and placement implementation for students with disabilities three through twenty-one years of age;

5. program, services, and placement implementation for gifted/talented students;

7. professional development; and

8. fiscal requirements relative to programmatic issues of local educational agencies.

B. In Louisiana, the purpose of compliance monitoring is threefold:

1. to ensure program effectiveness;

2. to enforce legal requirements and measure results of corrective action; and

3. to identify, promote, and support best program practices.

C. The information obtained as a result of the monitoring process will be utilized in the following ways:

1. to improve outcomes for all children with exceptionalities;

2. to direct initiatives statewide; and

3. to direct statewide personnel development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:

Chapter 3. Operational Procedures for Compliance Monitoring

§301. Focus Monitoring

A. All systems are placed in performance profile categories on an annual basis. The performance profile is based upon an analysis of quantitative data collected by the SDE.

B. Monitoring will focus on the variables selected annually as focus indicators. Systems will be profiled on the focus indicators in defined population groups. On-site visits will be determined based on performance profiles rather than on cyclical scheduled on-site visits. Systems designated as focus and statewide exemplary will be subject to on-site compliance visits.

C. A group of school systems will be selected at *Random* for on-site compliance visits. A sampling of the qualitative indicators from each area will be reviewed in these systems.

D. Systems not noted as focus, exemplary, or random will be classified as continuous improvement. These will not be subject to on-site visits. The identification of non-compliant issues and corrective action necessary to remedy these issues will be tracked by the DSP through the validation of the self-review process in these systems.

E. If critical issues of noncompliance are identified by means other than the performance profiles, an on-site compliance visit may be required by the SDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:

§303. Timelines

A. Before the start of each monitoring cycle, each system will be issued a performance profile and a designation into which category the system fell. Within two weeks after the designations are made, a schedule of on-site visits will be issued to systems designated as focus, exemplary, and random.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:

§305. On-Site Visits

A. On-site visits will be conducted by teams of qualified individuals with training and experience in the program areas that they will be monitoring.

B. Individuals selected to serve as team members will be initially required to receive a minimum of sixteen hours of professional development specific to conducting on-site monitoring, conducted by the DSP, with follow-up training on an annual basis. In addition, team leaders will be initially be required to receive 32 of professional development specific to leadership, investigative techniques for specific regulatory areas, and assimilating data for report writing conducted by the DSP, with follow-up training annually and throughout the year as determined by the state monitoring coordinator. Participants will receive a certificate that indicates their completion of the required annual professional development activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:

§307. Regulatory Issues Reviewed On-Site

A. For Focus category systems, the regulatory issues and qualitative indicators reviewed will be specific to the variables targeted in the system's performance profile. These visits will focus on selected issues.

B. For random category systems, the on-site team will review a sampling of qualitative indicators from each of the variables on the performance profile.

C. For exemplary category systems, the on-site visit will be conducted for three purposes:

1. to validate the quantitative data using qualitative indicators specific to the regulatory issues for which the system has been found to be exemplary;

2. to issue commendations to the system; and

3. to collect data to be used in statewide dissemination efforts regarding effective program practices.

D. All qualitative indicators used in the on-site reviews will be appropriately addressed during the visits with personnel in the service setting, administrators, and parents.

E. The DSP will reserve the right to direct the team leader to review any and all regulatory issues that indicate non-compliance status in a school system.

F. Data for the following major regulatory issues will be analyzed, reviewed, and utilized in the self-review and on-site monitoring process:

1. child identification;

2. individual evaluation;

3. IEP development;

4. provision of a free, appropriate, public education;

5. participation in statewide assessment;

6. transition at different programming levels;

7. placement in the least restrictive environment;

8. professional development and personnel standards;

9. program comparability (ASR);;

10. facility accessibility and comparability;

11. procedural safeguards;

12. extended school year programming;

13. discipline procedures; and

14. gifted and talented services and programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:

§309. Activities Conducted Prior to the On-Site Visit

A. The on-site team leader must review and analyze the quantitative data collected by the DSP specific to the school system prior to the on-site visit and will include the following:

1. self-review data submitted by the school system;

2. performance profiles;

3. LEA Application for IDEA Part B funds;

4. complaint logs and due process hearings relative to the system;

5. files/logs indicative of technical assistance provided to the system by the DSP;

6. annual school report data;

7. information relative to the state's accountability system which is school-site specific;

8. school improvement plans;

9. data relative to statewide assessment for participation and performance;

10. data derived from the District Composite Reports;

11. information relative to certifications and professional development activities provided to personnel and parents; and

12. any other data the team leader determines is necessary to review as part of a comprehensive data review of the school system.

B. The team leader will contact the LEA supervisor/director of special education and any member of the DSP or SDE staff for clarification of any concerns regarding the data. Upon completion of the data analysis, the team leader will select the sites to be visited, the number and types of records to be reviewed, and the methods that will be used for validation of qualitative issues during on-site visits.

C. The team leader will provide the DSP with the names of the sites, the number of records to be reviewed, the methods that will be used for validation, and the number and types of team members needed for conducting the on-site visits. The DSP will select team members based on the needs expressed by the team leader. The LEA Supervisor/Director of Special Education will be notified not less than two days prior to the on-site visit on this information.

D. The team leader will meet with the selected team members to:

1. summarize, analyze, and review the school system's data;

2. review the specific qualitative indicators relative to the focus indicators that will be targeted in the on-site monitoring visit;

3. discuss any unique circumstances or issues regarding the on-site visit to the system;

4. answer any questions or concerns of the team members;

5. discuss, review, and instruct the team on the various methods to be used in validating the qualitative data during the on-site visits; and

6. make team member assignments for specific site visits and record reviews.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:

§311. Activities Conducted During the On-Site Visit

A. The team leader and team members will meet briefly with the representatives of the LEA to discuss how the visit will be conducted and to discuss any logistical or travel issues of concern.

B. The parent team member will conduct a parent focus meeting and interview parents to collect data/information on their satisfaction of the services provided to their children and their involvement in their children's program.

C. Team members will visit sites, make observations, review records, and interview personnel. Student input will be collected through a student focus group or interviews. The team leader will be available to team members throughout the visit to provide additional information, if required, as well as to assist the team members with their tasks.

D. The team leader will meet with the director to review administrative issues. Additional data/information may be requested if further analysis is required for determining compliance status for specific regulatory issues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:

§313. Activities/Procedures at the Completion of the On-Site Visit

A. The team leader will meet with the team members to discuss, review, and analyze the team findings and to summarize their findings on DSP issued forms. The team leader will meet with representatives of the school system providing services for an exit interview.

B. The team leader will compile and mail a copy of a preliminary draft of a Summary of Findings to the DSP no later than 10 business days after the completion of the on-site visit. The team leader may request a meeting to discuss the findings with the DSP.

C. The DSP will review the draft, issue final approval of the report, and mail the Summary of Findings to the school system no later than 60 business days after the completion of the on-site monitoring visit.

D. Upon receipt of the report, the school system or agency will have 30 business days from the date of receipt of the report to review, accept, or reject the findings, and to arrange for a meeting with the DSP to develop a plan of corrective action to address deficiencies determined in the Summary.

E. If the school system does not accept the findings, there will be a period of 30 business days allowed for negotiations of the findings and the corrective action. Extensions for negotiations may be granted by the DSP, upon written request.

F. If negotiations fail and an agreement is not reached within the established timelines, the state director of special education shall, within five business days, notify the state superintendent of education.

G. The State Superintendent shall notify the State Board of Elementary and Secondary Education (SBESE) at its next meeting of a system's noncompliant status. All procedures and sanctions regarding non-compliance shall be followed according to federal and state regulations.

H. The school system in collaboration with the DSP, will be required to design corrective action which defines specific supports and resources that the system must have in order to implement the corrective action plan.

I. Timelines must be developed that are specific to the corrective action required and to the issue found to be in non-compliant status. The system must provide appropriate signatures required in the report and return the report to the DSP.

J. The DSP will allocate resources from the State level, both human and monetary, when determined necessary by the DSP and the system in question, on an annual basis to address the issues specific to implementing the corrective action required in school systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:

§315. Validation of Corrective Action

A. Upon receipt of the approved compliance document, the school system must begin to address the corrective action plan agreed upon by the school system and the DSP.

B. Corrective action timelines established in the report will be tracked to determine corrective action has been taken and to verify compliance by the DSP.

C. All corrective action must be completed in accordance with the timelines that relate to each specific non-compliant issue. Documentation must be submitted to the DSP within the required timelines.

D. The DSP will conduct an on-site visit in the year following the initial on-site visit, or sooner if deemed necessary by the DSP, to validate the documentation of the implementation of the corrective action.

E. The DSP will notify the school system or agency in writing when all corrective action has been accepted as completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:

§317. Self-Review Conducted at the Local Level

A. A locally conducted self-review will be an integral component of the entire monitoring process. The data collected in the self-review will be analyzed to help the LEA and the DSP identify areas of non-compliance, as well as levels of support and technical assistance needed at the local level. Corrective action timelines established in the report will be reviewed in order to determine the system's effort and commitment to making valid systematic findings and developing corrective action that will result in the required evidence of change.

B. Local school systems will use set procedures for conducting self-reviews of compliance standards.

1. Systems will identify the sites to be included in the self-review. Systems should use the procedures identified in their LEA application to identify the number of sites.

2. The identified sites must provide a cross section of all exceptionalities served, as well as a sample of each service delivery model used in the system.

3. A minimum of five percent of the records of children with exceptionalities must be reviewed, along with the use of other methods and strategies for determining compliance status.

4. The local monitoring team and team leader will be designated at the local level.

5. The team must include personnel from the service setting such as general educators, parents, and administrators.

6. The team will be trained at the local level on procedures and strategies for conducting a self-review relative to special education regulatory compliance standards.

7. All self-review activities will be coordinated by the local school system or agency.

8. The school system or agency will be required to monitor the same regulatory issues for State and Federal regulations as monitored by the DSP.

9. As part of the self-review, the team will gather information from families of students receiving special education services regarding their satisfaction with their children's program and services, and their involvement in

their children's program. This information may be gathered through focus meetings, interviews, or surveys.

10. The school system providing services will summarize the findings and compile a report to include:

a. summary of non-compliant issues;

b. a corrective action plan for correcting deficiencies and a timeline for completing a corrective action; and

c. identified best practices.

11. The report of findings will be submitted as part of the annual LEA Application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:

Chapter 5. Fiscal Monitoring

§501. Introduction

A. There are three distinct types of fiscal monitoring performed by the State Department of Education, Division of Education Finance, pertaining to Special Education Programs:

1. on-site fiscal reviews of sub recipients;

2. verification of compliance applicable laws and regulations for non-supplanting, maintenance of effort, excess cost and other financial information during the award period; and

3. verification of the accuracy of the child count.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:

§503. On-Site Fiscal Reviews of Subrecipients

A. There are two main purposes that on-site fiscal reviews accomplish. The first purpose is to verify the completeness, accuracy, and validity of reimbursements of program funds received by sub-recipients (local educational agencies, state agencies, or universities.) The other purpose is to ensure that these reimbursements of program funds were made in accordance with applicable federal and state laws, regulations and guidelines.

B. Subrecipients are selected for on-site fiscal reviews on a cyclical basis. There are also requests by Division of Special Populations program staff to perform on-site reviews of sub-recipients. Subrecipients that terminate participation in Special Education programs, also have on-site reviews performed

C. Subrecipients will be contacted and the on-site reviews will be scheduled. A letter from the Audit Supervisor of the Federal Audit Section will confirm this contact. This letter will include the starting date and location of the fieldwork, the number of auditors that will perform the fieldwork, the scope of the review (fiscal years and projects to be reviewed), and the records that will be required for the fieldwork.

D. Fieldwork may last for varying lengths of time. The length of time the fieldwork could take will be determined by several factors. These factors include, but are not limited to, the number of fiscal years to be reviewed, the number of projects to be reviewed, the records available for review, the accounting system of the subrecipient, the auditor's access to these records, previous review findings and their resolution, and any current findings that are discovered.

E. The fieldwork will include, but not limited to, the examination and review of the grant award, including the budget and all expenditure categories on the reimbursement claims for which sub recipients received reimbursement. These categories are as follows:

1. salaries;
2. employee benefits;
3. purchased professional and technical services;
4. other purchased services;
5. supplies;
6. property;
7. other objects; and
8. other uses of funds.

F. At the end of the fieldwork, the auditors will meet with the subrecipient in an exit conference to discuss the review results including any findings.

G. A preliminary report will be prepared and sent to the subrecipient. The Federal Audit Section Audit Supervisor signs this preliminary report, which is then mailed to the subrecipient. The subrecipient has fifteen business days from the date of the preliminary report to respond to any findings. Subrecipient responses are examined to determine whether the findings should be adjusted and/or eliminated from the preliminary report. If no response is received, then the report is considered accepted by the subrecipient. After either of these two instances has occurred, a final report will be sent to the State Superintendent of Education for signature. Once signed, it will be returned to the Federal Audit Section and mailed to the subrecipient with a copy forwarded to the Division of Special Populations. The letter will instruct the subrecipient to contact the Division of Special Populations for audit resolution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:

§505. Verification of Compliance Applicable Laws and Regulations for Non-supplanting, Maintenance of Effort, Excess Cost and other financial information during the award period.

A. Local education agencies (LEA) must annually prepare and submit Non-Supplanting, Maintenance of Effort and Excess Cost Verification forms to the Division of Education Finance by April 15 of each year. Approval of the LEA application and budget for Special Education program funds is contingent on the receipt and verification of the items and amounts reported on these forms. Verification of compliance by LEAs with Non-Supplanting, Maintenance of Effort and Excess Cost laws and regulations is performed. The amounts reported on these forms are also verified. This verification process uses the prior year Annual Financial Report (AFR) and current year budget along with the Excess Cost and Non-Supplanting forms submitted by the LEAs. Once compliance with applicable Non-Supplanting, Maintenance of Effort and Excess Cost laws and regulations has been determined, the forms are forwarded to the Division of Education Finance, Federal Budget Section.

B. Other special education program financial information is also verified as to accuracy and correctness by Division of Education Finance Federal Audit Section staff. These verifications may be conducted at the request of Division of Special Populations staff, sub recipients, and other governmental agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:

§507. Verification of the Accuracy of the Child Count

A. SBESE establishes the policy to seek to recover any funds made available under IDEA -Part B for services to any child who is determined to be classified erroneously as eligible to be counted.

B. Determination of eligible children shall be accomplished through the verification procedures of the SDE regarding the accuracy of the child count. In order to verify the accuracy of each count submitted, the SDE will conduct the following activities:

1. The current child count from each school system shall be compared with the previous count. In addition, the current child count incidence figures from each school system shall be compared with incidence figures from the previous state child count.

2. An on-site monitoring visit to verify the accuracy of the child count will be conducted in selected LEAs each year. If necessary, each system can be monitored for the previous years to verify the accuracy of the child count. During the monitoring of each LEA, the monitors will select at least ten names from the child count report. The LEA must provide the student's name, date of birth, evaluation report, IEP, class rosters, and any other information that may be necessary to verify the accuracy of the count.

3. Administrative on-site reviews are conducted in selected LEAs each year. Any multi-disciplinary evaluation reviewed and found not to be in compliance with State guidelines, to the extent that it cannot be determined that the student is a student with a disability, will result in the exclusion of that child from the child count.

4. If a child's IEP is monitored during the on-site review process and it is determined that the child is not receiving all the special education and related services specified on the IEP, the child will be excluded from the child count.

5. The LEA will be afforded an opportunity to present supportive or explanatory documentation to refute the DSP findings. If the evidence cannot justify the count, the count will be disallowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:

§509. Recovery of Funds for a Misclassified Child

A. If the LEA has received funds based on an erroneous count and the DSP has documented the extent of the error, the SDE will either reduce the grant award if the error occurred in the current budget and all of the funds have not been expended or request that the LEA return such funds. In the event the LEA refuses to comply, within ten business days these procedures will be followed.

1. The DSP will submit written documentation of the error in the count to the State Superintendent of Education.

2. Within 10 business days of this submission, the State Superintendent will request that the SBESE require the LEA to repay the funds.

3. The SBESE has the responsibility to offer an opportunity for a hearing to an LEA prior to a determination

to withhold funds. (Refer to Section 955 of the Louisiana Administration Procedures Act.)

4. Funds recovered by the SDE and the SBESE will be handled within the guidelines set forth by OSEP, U.S. Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:

Interested persons may submit written comments until 4:30 p.m., January 9, 2004, to Nina A. Ford, 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 1922? Compliance
Monitoring Procedures**

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

There are no estimated implementation costs to state or local governmental units resulting from this proposed Rule other than for printing costs.

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

There is no estimated impact on revenue collections of state or local governmental units as a result of this measure.

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

Adoption of this Rule would provide benefits to public school students with disabilities by ensuring, through monitoring, that services are provided in an appropriate fashion. The proposed Rule clarifies how school systems will be monitored for special education programming and the sanctions that will be implemented for systems found not to be in compliance with federal and state guidelines.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition and employment resulting from this proposed rule.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0311#094

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Scholarship/Grant Programs? On-Line Application
(LAC 28:IV. 301, 501, 503, 504, 505, 506, 507,
703, 705, 803, 805, 903, 907, and 1103)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant Rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1).

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

The full text of this proposed Rule can be viewed in the Emergency Rule section of this *Louisiana Register*.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., December 10, 2003, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Scholarship/Grant Programs
On-Line Application**

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

These changes will result in additional, but undetermined administrative costs during implementation; however, these costs should be recovered over the long term from savings that are anticipated because the new procedures will reduce the number of students who must be manually processed. There will be nominal cost for the publication of Rules in the *Louisiana Register*.

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

No effect on revenue collections is anticipated.

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

There are no estimated costs and/or economic benefits resulting from these measures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition and employment resulting from these measures.

George Badge Eldredge
General Counsel
0311#028

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Youth ChalleNGe Skills Training Program (GO-Youth)
(LAC 28:IV.Chapter 15, 1701, 1901, 1903, and 2103)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant Rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1).

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

The full text of this proposed Rule can be viewed in the Emergency Rule section of this *Louisiana Register*.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., December 10, 2003, to

Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Youth ChalleNGe Skills
Training Program (GO-Youth)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The 2003 Appropriations Act includes \$33,379 for funding the GO-Youth ChalleNGe Program. A BA-7 has been submitted to make the fund available for use by this agency.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no estimated effects on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed changes are based on Act 826 of the 2003 Regular Session of the Louisiana Legislature established the Grant Opportunity for Youth ChalleNGe Skills Training Program (GO-Youth ChalleNGe Program) to be administered by the commission. The program is an adjunct to the Louisiana National Guard's youth ChalleNGe Program.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The act is designed to enhance the employment opportunities of participants who successfully complete the Youth ChalleNEe Program and earn a high school equivalency diploma (GED) by providing tuition for occupational and skill training at an eligible Louisiana institution.

George Badge Eldredge
General Counsel
0311#030

H. Gordon Monk
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT
Tuition Trust Authority
Office of Student Financial Assistance**

Bylaws (LAC 28:VI.209)

The Louisiana Tuition Trust Authority announces its intention to amend its START Savings Program Rules (R.S. 17:3091 et seq.).

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

**Title 28
EDUCATION**

Part VI. Student Tuition Trust Authority

Chapter 2. Bylaws

§209. Committees

A. Standing Committees. Unless and until otherwise decided by the vote of a simple majority of the membership

of the authority, the standing committees of the authority shall consist of the following:

- 1. executive committee;
- 2. budget and finance committee;
- 3. investment committee;
- 4. planning committee;
- 5. rules committee; and
- 6. audit committee.

B. - I. ...

J. Rules Committee. The audit committee shall consist of not less than six members of the authority. Normally, to this committee shall be referred all matters involving audits of any program administered by the authority.

K. Special Committees

1. As the necessity therefor arises, the chairman may, with the concurrence of the authority, create special committees with such functions, powers and authority as may be delegated.

2. The chairman may appoint ad hoc committees for special assignments for limited periods of existence not to exceed the completion of the assigned task.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:1655 (December 1997), amended LR 27:190 (February 2001), LR 27:1221 (August 2001), LR 30:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., December 10, 2003 to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bylaws**

- 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 as a result of these changes.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No impact on revenue collections to the Office of Student Financial Assistance is anticipated to result from the revision.
- 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 or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There are no estimated effects on competition and employment resulting from these measures.

George Badge Eldredge
General Counsel
0311#044

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Tuition Trust Authority Office of Student Financial Assistance

Student Tuition and Revenue Trust
(START Saving) Program? Trade Date
(LAC 28:VI.107, 305, and 309)

The Louisiana Tuition Trust Authority announces its intention to amend its START Savings Program Rules (R.S. 17:3091 et seq.).

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

The full text of this proposed Rule can be viewed in the Emergency Rule section of this *Louisiana Register*.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., December 10, 2003, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Student Tuition and Revenue Trust (START Saving) Program? Trade Date

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 as a result of these changes.

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

No impact on revenue collections to the Office of Student Financial Assistance is anticipated to result from the revisions.

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

There is no cost anticipated to result from this change. Amending Sections 107, 305, and 309 of the Authority's START Rules to assign a trade date for investment changes in equity options and to allow up to 100 percent of disbursements to be made to account owners and/or beneficiaries will provide account owner additional flexibility and ease in managing their accounts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this Rule.

George Badge Eldredge
General Counsel
0311#029

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

POST Approved Shotgun Course
(LAC 22:III.4725)

In accordance with the provision of R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, and R.S. 49:950 et seq., the Administrative Procedure Act, the Commission on Law Enforcement and Administration of Criminal Justice hereby gives notice of its intent to promulgate rules and regulations relative to the training of peace officers. The Peace Officers Standards and Training Council approved the Shotgun Course at its meeting on September 9, 2003.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

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

Subpart 4. Peace Officers

Chapter 47. Standards and Training

§4725. POST Approved Shotgun Course

A. Slug Phase. If rifled slugs are issued, the instructor shall include the slug phase in the Basic Shotgun Course. Option one will always be used where a 50-yard shooting position is available.

1. Option One (50 yards)

a. The officer, using the assembly load method, will load two rifled slugs and take aim.

b. On command, the officer will fire one round from the shoulder in the standing position and one round in the kneeling position, from cover, with or without support. Time Limit: 15 seconds.

2. Option Two (25 yards)

a. The officer, using the assembly load method, will load two rifled slugs and take aim.

b. On command, the officer will fire one round from the shoulder in the standing position and one round from the kneeling position, from cover, with or without support. Time limit: 7 seconds.

3. Target: B-27 or P.O.S.T. qualification (P-1)

4. Scored: B-27: Hit inside eight ring scores five points; hit inside seven ring scores four points, hit inside black scores three points.

5. Scored: P.O.S.T. (P-1): Hit inside scoring ring scores five points, hit in the green scores four points.

B. Buckshot Phase. Recommend use of 9pellet "OO." Buckshot (may also be fired with any buckshot).

1. 25 Yards (five rounds buckshot)

a. On command, using the assembly load method, the officer will load two rounds of buckshot and come to

"Ready Gun Position." Officer will have three additional rounds of buckshot on his/her person.

b. On command, officer will fire two rounds from the shoulder (standing), then using the combat load method, fire three rounds from the shoulder (kneeling). Total time: 35 seconds.

2. 15 Yards (five rounds buckshot)

a. Officer will start with five rounds of buckshot on their person and empty shotgun.

b. On command, the officer, using the combat load method, load five rounds of buckshot and fire two rounds from the shoulder (standing). Total time: 25 seconds.

c. Officer will then cover target.

d. On command, fire one round from the shoulder (standing). Total time: 2 seconds.

e. On command, fire one round from the shoulder (standing). Total time: 2 seconds.

f. On command, fire one round from the shoulder (standing). Total time: 2 seconds.

3. Target: B-27 or P.O.S.T. qualification (P-1).

4. Scoring: One point for hit on black of B-27 target or one point for hit on green of P-1 target.

5. Total score should equal 75 percent with or without the Slug Phase.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 30:

Interested persons may submit written comments on this proposed Rule no later than January 1, 2004, at 5 p.m. to Bob Wertz, Deputy Assistant Director, Commission on Law Enforcement and Administration of Criminal Justice, 1885 Wooddale Boulevard, Room 1230, Baton Rouge, LA 70806.

Michael A. Ranatza
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: POST Approved Shotgun Course

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

It is estimated that implementation of the proposed Rule will not cause an increase in expenditures. The proposed Rule change merely provides that the targets in the shotgun course will now be the same of those targets in the basic POST qualification course.

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

It is estimated that implementation of the proposed Rule will not increase revenue collections of state or local governmental units.

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

It is estimated that implementation of the proposed Rule will have little or no effect on directly affected persons or non-governmental groups. The adoption of an approved target

standard for the shotgun course will align the shooting targets with the POST basic qualification courses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on either competition or employment.

Michael A. Ranatza
Executive Director
0311#045

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Division of Administration Office of Group Benefits

MCO Plan of Benefits? Lifetime Maximum Benefits (LAC 32:IX.701)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2) vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate Rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the MCO plan document relative to lifetime maximum benefits to implement a one million dollar per person lifetime maximum for all benefits except pharmacy benefits. This action is necessary in order to maintain the financial integrity of the plan for the plan year beginning July 1, 2004, and in subsequent years.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective July 1, 2004.

Title 32

EMPLOYEE BENEFITS

Part IX. Managed Care Option (MCO) Plan of Benefits Chapter 7. Schedule of Benefits MCO §701. Comprehensive Medical Benefits

A. ...

1. Lifetime Maximum Benefits

a. Lifetime maximum for all benefits except pharmacy benefits (outpatient prescription drug benefits) per person	\$ 1,000,000
b. Lifetime maximum for all pharmacy benefits (outpatient prescription drug benefits) per person	\$ 250,000

A.2. - D.3.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801 (C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 29:901 (June 2003), LR 30:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, except as follows. For

those families participating in the MCO Plan who experience catastrophic illness or injury requiring extensive medical treatment, no benefits in excess of \$1,000,000 will be payable for any individual.

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on January 7, 2004.

A public hearing will be held on Wednesday, January 7, 2004, from 6:00 p.m. until 7:30 p.m., at the Louisiana State Police Training Academy Auditorium, 7901 Independence Boulevard, Baton Rouge, LA 70806. Interested persons may appear and present their views at that time.

A. Kip Wall
Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: MCO Plan of Benefits
Lifetime Maximum Benefits**

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

It is estimated by OGB's consulting actuary, Milliman, USA, that instituting a \$1,000,000 lifetime maximum benefit for the Managed Care Option (MCO) will result in a cost avoidance to the State of Louisiana and Office of Group Benefits of approximately \$500,000 for Fiscal Year 2005. If overall medical inflation continues at 15 percent for the next several years, the cost avoidance for Fiscal Year 2006 will be \$580,000 and the cost avoidance for Fiscal Year 2007 will be \$660,000. It is anticipated that \$3,000 in printing costs will be incurred with the publishing of this Rule

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

Revenue collections of state and local governmental units will not be affected. This benefit option is being changed to bring the Managed Care Option lifetime maximum equal to the Preferred Provider Organization lifetime maximum.

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

This Rule allows the Office of Group Benefits to institute a lifetime maximum benefit of \$1,000,000 for those participants that are members of the Managed Care Option. For those families participating in the MCO plan who experience catastrophic illness or injury requiring extensive medical treatment, no benefits in excess of \$1,000,000 will be payable for any individual. There are currently 26,000 employees and retirees that are covered by this option, and claim processing statistics indicate that less than 20 individuals are estimated to be affected by this change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment should not be affected.

A. Kip Wall
Chief Executive Officer
0311#052

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Racing Commission**

Claiming Rule (LAC 35:XI.9905 and 9913)

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 35:XI.Chapter 99 "Claiming Rule" by reinstating §9905 "Timing of Entering Next Claiming Race" and amending §9913 "Vesting of Title; Tests" to its previous wording in the opening sentence. The Commission finds these actions necessary to insure proper claiming methods and that the timing thereof is properly adhered to. This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Title 35

HORSE RACING

Part XI. Claiming Rules and Engagements

Chapter 99. Claiming Rule

§9905. Timing of Entering Next Claiming Race

Note: This Rule is being reinstated; it was repealed in 1996.

A. Except as otherwise provided herein, a claimed horse shall not enter in starter, optional or claiming races for 30 days after being claimed in a race in which the determining eligibility price is less than 25 percent more than the price at which the horse was claimed. The day claimed shall not count, but the following calendar day shall be the first day and the horse shall be entitled to enter whenever necessary so the horse may start on the 31st day following the claim for any claiming price. This provision shall not apply to starter handicaps in which the weight to be carried is assigned by the handicapper. A similar Rule in other states will be recognized and enforced.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 30:

§9913. Vesting of Title; Tests

A. Title to a claimed horse shall be vested in the successful claimant at the time the horse becomes a starter. The successful claimant shall then become the owner of the horse whether alive or dead, sound or unsound, or injured at any time after leaving the paddock, during the race or after. However, the successful claimant may request on the claim blank at the time he makes his claim that the horse be tested for the presence of equine infections anemia via a Coggins test. Should this test prove positive, it shall be cause for a horse to be returned to his previous owner and barred from racing in the state of Louisiana. The expense of the Coggins test and the maintenance of the horse during the period requested for the test shall be absorbed by the successful claimant. If such a test is requested the claimed horse will be sent to the retention barn of the Louisiana State Racing Commission where the state veterinarian will draw a blood sample, which sample shall be sent to a laboratory approved

by the Louisiana Livestock Sanitary Board for the conduct of such test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, amended by the Department of Commerce, Racing Commission, LR 2:446 (December 1976), repromulgated LR 3:42 (January 1977), LR 4:285 (August 1978), amended LR 5:136 (June 1979), amended by the Office of the Governor, Division of Administration, Racing Commission LR 30:

The domicile office of the Louisiana State Racing Commissioner is open from 8:30 a.m. to 5 p.m., and interested parties may contact Charles A. Gardiner III, executive director, or C.A. Reiger, assistant director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 48304898, for more information. All interested persons may submit written comments relative to this proposed Rule through October 10, 2003, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Claiming Rule**

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

There are no anticipated costs or savings to state or local governmental units associated with this Rule, other than one-time costs directly associated with its publication.

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

The Rule change is intended to positively affect the wagering public by encouraging more wagering through better competition. As revenue collections of the state are tied directly to wagering, the state should realize an indeterminable increase in tax collections.

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

There are no costs to directly affected persons or non-governmental groups. However, the Rule change is intended to positively affect the wagering public by encouraging more wagering through better competition. As revenue collections of the state are tied directly to wagering, the state should realize an indeterminable increase in tax collections. In effect, the claiming Rule is being amended back to its former and original wording. The Rule was initially amended during the downturn of racing to spur increased ownership of racehorses through the claiming process at a time of stagnant wagering. With the advent of slot machines in racetracks and the exceptionally large purses produced by slot machines, the previous version of the claiming Rule tended to skew the competition by allowing successful claimants to run at any claiming price, often times at the expense of competition. Returning the claiming rule to its original form is intended to have a positive effect on claiming procedures and recreates an environment most favorable to competition. The change in the Rule is expected to result in increased wagering due to better competition among classes of horses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is a substantial and positive effect on competition in the revised and amended claiming Rule. Under the previous Rule, which was adopted in an environment of declining horse

ownership and stagnant wagering, claimed horses did not have to run for a raised claiming price upon being claimed. With the advent of slot machine gaming at racetracks where purses are now much larger than the claiming prices, unscrupulous owners claim a horse out of a fair and competitive race for a fair selling or claiming price, drop the horse to the very bottom of the claiming ranks in its next start where the horse is a prohibitive favorite with extremely low odds. When this happens, the horse dropping down to the bottom of the claiming ranks usually wins easily. The owner reaps a large profit from the purse and more profit if someone claims the horse again through the claiming procedure due to the horse being misplaced competitively. This practice, in effect, stifles and reduces competition and, at the same time, reduces interest in wagering since the average bettor expects a fair return on wagers. By amending the claiming Rule back to its original form, fair competition has been restored by forcing successful claimants to run claimed horses for a 25 percent raise for thirty days, thereby keeping claimed horses at competitive levels for a longer period of time. As a result, the bettor has a more competitive field of horses from which to choose. This creates more interest in wagering where a competitive field gives the bettor a greater chance to receive a more substantial return on wagers. This Rule change has no anticipated effect on employment.

Charles A. Gardiner, III
Executive Director
0311#096

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

Dental Assistance Authorized Duties
and Pediatric Enteral Anesthesia
(LAC 46:XXXIII.501 and 1506)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.501. No preamble has been prepared.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Profession

Chapter 5. Dental Assistants

§501. Authorized Duties

A. - B.19. ...

20. Exception: A dental assistant who has been employed by a licensed, practicing dentist and has worked as a dental assistant prior to July 30, 1992, may continue performing the following duties without registering as an expanded duty dental assistant. These duties must also be performed under the direct, on-premises supervision of the dentist:

- a. apply cavity liners, excluding capping of exposed pulpal tissue;
- b. place, wedge or remove matrices for restoration by the dentist;
- c. place and remove periodontal dressings;
- d. place and remove retraction cords.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Dentistry (October 1970), amended LR 2:186 (June 1976), LR 7:586 (November 1981), amended by Department of Health and Hospitals, Board of Dentistry, LR 15:965 (November 1989), LR 16:505 (June 1990), LR 19:205 (February 1993), LR 30:

Chapter 15. Anesthesia/Analgesia Administration

§1506. Pediatric Enteral Anesthesia

A. In order to receive a permit to administer pediatric enteral anesthesia, the dentist shall:

1. have emergency equipment and drugs available in an emergency kit or crash cart which is immediately available to the dental operator where the sedation procedure is being performed. These kits must include the necessary drugs and equipment to resuscitate a non-breathing unconscious patient and sustain life while the patient is being transported. There should be a list in each kit of the contents and a record of when the contents were checked. The following drugs should be available in the kit:
 - a. epinephrine;
 - b. vasopressor;
 - c. corticosteroid;
 - d. bronchodilator;
 - e. appropriate drug antagonists;
 - f. antihistaminic;
 - g. anticholinergic;
 - h. coronary artery vasodilator;
 - i. anticonvulsant;
 - j. oxygen;
 - k. 50 percent dextrose or other antihypoglycemic;
2. a working pulse oximeter;
3. proper record keeping mechanism in addition to a controlled substance log;
4. an accurate scale.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:793.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 30:

Interested persons may submit written comments on this proposed Rule to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the board within 60 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Dental Assistance Authorized Duties and Pediatric Enteral Anesthesia

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

A cost of \$500 is estimated to implement these Rule changes. Notification of these Rule changes will be included in a mass mailing to all licensees which has already been budgeted for notification of previous rulemaking changes. It is

anticipated that these Rule changes will be sent to licensees during the summer of 2004.

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

There will be minimal or no effect on revenue collections by the Louisiana State Board of Dentistry or any other state of local governmental unit.

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

There will be no economic benefits to directly affected persons or non-governmental groups. However, licensees administering oral sedation to pediatric patients may incur one-time costs in the range of \$500 if they do not already have all of the necessary equipment required for the safety of pediatric patients.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden
Executive Director
0311#010

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Licensed Professional Vocational Rehabilitation Counselors Board of Examiners

Licensure Requirements and Advisory Ethics Opinions
(LAC 46:LXXXVI.703, 1801 and 1803)

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners pursuant to the authority vested in it by R.S. 37:3445 intends to amend the Professional and Occupational Standards pertaining to Vocational Rehabilitation Counselors in order to provide for the requirements for licensing, and to add Chapter 18 to provide for advisory ethics opinions. The proposed amendments to the Rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXVI. Vocational Rehabilitation Counselors Chapter 7. Requirements for Licensure and Renewal of License

§703. Requirements

A. - A.4. ...

5.a. has received a master's degree in vocational rehabilitation counseling or related field and two years of experience under the direct supervision of a licensed vocational rehabilitation counselor. An applicant may subtract one year of the required professional experience for successfully completing Ph.D. requirements in a rehabilitation counseling program acceptable to the board.

i. In order to meet the requirements of licensure, one must have a degree in vocational rehabilitation counseling or an approved related degree as listed below:

- (a). Clinical or Counseling Psychology;
- (b). Professional Guidance and Counseling;
- (c). Rehabilitation Studies (O.T. and P.T. excluded);

(d). Special Education (as determined by the board).

b. The board will consider as a feasible alternative to a vocational rehabilitation degree, a related degree as listed in Clause i above which includes 42 hours of qualifying courses from an accredited college or university which meet the academic and training content established by the board and listed in Clause ii below. Both Clauses i and ii are at the discretion of the board.

ii. Academic and Training Content

	Hours
Orientation of Vocational Rehabilitation	3
Statistics	3
Medical and/or Psycho-Social Terminology of Disabilities Relative to Vocational Performance	3
Psychological and Social Effects of Disabilities	3
Tests and Measurements	3
Occupational Information and/or Job Placement and Job Development	3
Analysis of the Individual	3
Theories of Personality	3
Theories and Techniques of Counseling	6
Demonstrations and Practice of Counseling	3
Field Work or Practicum	9-12
Psychiatric Disorders and/or Substance Abuse	3
Vocational Analysis or Assessment of Persons with Disabilities	3
Introduction to Psychology	3
Abnormal Psychology	3
Introduction to Sociology	3
Developmental Psychology (Adult or Adolescent)	3
Ethics of Counseling	3
	66

c. A candidate for licensure must have 42 of the 66 hours enumerated, completing each course with a "C" or better. Any substitutions of similar course work will be limited and at the discretion of the board. As of July 20, 1996, anyone possessing an unrelated degree, not specific in the above text, will not be accepted even if they pursue additional course work. Should they obtain an additional degree in the related areas as specified in Clause i above, this will be considered.

6. The board shall issue a license to each applicant who files an application upon a form designated by the board and in such a manner as the board prescribes, accompanied by such fee required by R.S. 37:3447 and who furnishes satisfactory evidence to the board that he has met the requirements of Paragraphs A.1-4 and has a bachelor's degree in vocational rehabilitation counseling or related field as defined in Paragraph 703.A.5 and five years of work experience working under the direct supervision of a licensed vocational rehabilitation counselor which period of supervision began prior to September 1, 2004. Except as provided in this Paragraph 703.A.6, after September 1, 2009 no license shall be issued to any applicant not meeting the requirements of Paragraphs 703.A.1-5.

B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3447.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 15:277 (April 1989), amended

by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 19:1570 (December 1993), LR 22:582 (July 1996), LR 30:

Chapter 18. Guidelines for Requesting Advisory Opinions from LLPVRC's Ethics Committee

§1801. General

A. Consistent with the intent of the Louisiana Licensed Professional Vocational Rehabilitation Counselors (LLPVRC) Code of Professional Ethics for Licensed Rehabilitation Counselors, the LLPVRC Ethics Committee recommends that licensed rehabilitation counselors who are considering seeking advisory opinions first consult with other rehabilitation counselors and colleagues who are knowledgeable about ethics in order to attempt to resolve questions that may easily be addressed by other knowledgeable parties. If these attempts do not result in resolution of the matter, individuals may request advisory opinions from the LLPVRC Ethics Committee.

B. The committee provides advisory opinions on selected situations having ethical implications. These advisory opinions are provided as a general educational service and are rendered in response to limited and unverified information provided to the committee. Therefore, it should not be construed as direct advice regarding the unique or specific ethical or legal action recommendations that should be followed regarding the issues raised. The considerations described by the committee's advisory opinion should be regarded only as general educational assistance and not as specific direction in any particular instance.

C. Requests should not be filed if there is reason to believe that a violation of the code has occurred. Those attempting to determine if alleged behavior violates the code may receive a response to a request for an advisory opinion that may later appear to contradict a ruling made if a complaint is actually filed. This possible incongruity might be due to the fact that advisory opinions do not allow for full disclosure of all available information in the matter.

D. Information presented in a request for an advisory opinion and the committee's response to that ruling may be presented for educational purposes to other parties in a sanitized format.

E. LLPVRC's Ethics Committee meets four times per year. Requests received will be scheduled for review at the next scheduled meeting of the committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478(I).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 30:

§1803. Requesting an Advisory Opinion

A. Requests should be clear and concise and should include both the scenario and the requestor's opinion as to the standard(s) in the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors that relate to the matter as well as the requestor's interpretation of how to apply the standard(s) to the scenario. Further, if the requestor is a LRC, the request should advise as to the results of

consultation with other rehabilitation counselors and colleagues.

B. Requests should be sent in writing to:

Louisiana Licensed Professional Vocational
Rehabilitation Counselors Board of Examiners
P.O. Box 41594
Baton Rouge, LA 70835-1594
Attn: Ethics Committee

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478(I).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 30:

Family Impact Statement

The Licensed Professional Vocational Rehabilitation Counselors Board of Examiners hereby issues this Family Impact Statement: The proposed Rule related to the board's licensing authority will have no known impact on family formation, stability, and autonomy, as set forth in R.S. 49:972.

The proposed action of the Licensed Professional Vocational Rehabilitation Counselors Board of Examiners complies with the statutory law administered by the board, R.S. 37:3441-3452. A preamble has been prepared with respect to the change in the educational requirements for licensing. A copy may be obtained from the office of the Licensed Professional Vocational Rehabilitation Counselors Board of Examiners at the address set forth hereafter and interested persons may submit written comments on the proposed Rule to Carla Seyler at P.O. Box 41594 Baton Rouge, LA 70835 or by FAX at 225-922-1352 who will be responsible for responding to inquiries concerning this proposed action. The deadline for receipt of all written comments is 4:30 p.m. on January 10, 2004.

Carla Seyler
Chairperson

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Licensure Requirements and Advisory Ethics Opinions

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

The only implementation cost is the estimated \$875 cost of preparation and publishing the Rule in the *Louisiana Register*.

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

There will be no decrease or increase in revenues.

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

Individuals engaged in activities which require a license pursuant to these Rules who are not currently licensed may experience some increased educational expenditures as required by the licensing procedure in order to obtain a license. These requirements are being phased in and will not become fully applicable for five years which allows ample time for those expecting to seek a license to plan for their educational requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment in the public and private sectors. While those not possessing a masters degree will be unable to obtain a license under the new Rule once fully implemented, those who could become licensed under the old Rule should be fully capable of obtaining a masters degree instead of meeting the longer supervision requirements for those with bachelors degrees.

Stephen W. Glusman
General Counsel
0311#009

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Adult Day Health Care? Prospective Payment System
(LAC 50:II.10939)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:II 10939 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Human Resources, Office of Family Security adopted a rule establishing the Standards for Payment for the Adult Day Health Care Program (*Louisiana Register*, Volume 11, Number 6). The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing subsequently promulgated a rule that amended the reimbursement methodology for Adult Day Health Care services from a facility specific rate based on historical cost to a statewide rate based on set percentages over the median by cost category (*Louisiana Register*, Volume 28, Number 11). The bureau promulgated an emergency rule amending the prospective payment system reimbursement methodology for adult day health care services (*Louisiana Register*, Volume 29, Number 8). The bureau now proposes to promulgate a Rule to continue the provisions contained in the August 1, 2003 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Title 50

PUBLIC HEALTH? MEDICAL ASSISTANCE Part II. Medical Assistance Program

Subpart 3. Standards for Payment

Chapter 109. Standards for Payment? Adult Day Health Care

§10939. Prospective Payment System

A. General Provisions

1. Development. Adult Day Health Care (ADHC) providers shall be reimbursed a per diem rate for services

provided under a prospective payment system (PPS). The system shall be designed in a manner that recognizes and reflects the cost of direct care services provided. The reimbursement methodology is designed to improve the quality of care for all adult day health care recipients by ensuring that direct care services are provided at an acceptable level while fairly reimbursing the providers.

2. The prospective payment methodology establishes blended rates consisting of 50 percent of the PPS rate based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports and 50 percent of the facility specific prospectively determined rate based on facility specific reasonable allowable costs.

3.- 3.d. ...

4. Rate Setting. Adult day health care providers shall be reimbursed blended rates consisting of 50 percent of the PPS rate based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports and 50 percent of the facility specific prospectively determined rate based on facility specific reasonable allowable costs plus a direct care incentive.

a. The PPS rate is based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports.

i. Direct Care Costs. A statewide base rate for direct care is computed at 115 percent of the median facility per diem direct care costs submitted on all full year cost reports except those for which an audit disclaimer has been issued. Direct care costs are trended forward using the Consumer Price Index (CPI)? Medical Services.

ii. Care Related Costs. A statewide base rate for care related costs is computed at 105 percent of the median facility per diem care related costs submitted on all acceptable full year cost reports except those for which an audit disclaimer has been issued. Care related costs are trended forward using the CPI? All Items.

iii. Administrative and Operating Costs (AOC). A statewide base rate for administrative and operating costs is computed at 105 percent of the median facility per diem administrative and operating costs submitted on all acceptable full year cost reports except for those for which an audit disclaimer has been issued and are trended forward using the CPI? All Items.

iv. Property. The property rate is computed at the median of property costs submitted on all acceptable full year cost reports. Inflation will not be added to property costs.

b. The facility specific prospectively determined rate is based on facility specific reasonable allowable costs. The facility specific prospectively determined rate shall be limited to 80 percent of the nursing facility intermediate care II rate in effect on July 1, 2002 exclusive of the provider fee.

i. Direct Care Costs. Facility specific direct care is based on the facility specific per diem reasonable allowable direct care costs submitted on the acceptable FY 2001 full year cost report. Direct care costs are trended forward using the Consumer Price Index (CPI)? Medical Services.

ii. Care Related Costs. Facility specific care related cost is based on the facility specific per diem reasonable allowable care related costs submitted on the acceptable FY 2001 full year cost report. Care related costs are trended forward using the CPI? All Items.

iii. Administrative and Operating Costs (AOC). Facility specific AOC is based on the facility specific per diem reasonable allowable AOC submitted on the acceptable FY 2001 full year cost report. AOC are trended forward using the CPI? All Items.

iv. Property. Facility specific property cost is based on the facility specific per diem reasonable allowable property costs submitted on the acceptable FY 2001 full year cost report. Inflation will not be added to property costs.

v. Facilities participating prior to August 1, 2003 who have not filed a full year acceptable cost report shall have the facility specific prospectively determined rate for August 1, 2003 through June 30, 2004 based on budgeted data and limited to 80 percent of the nursing facility weighted average case mix rate in effect on July 1, 2003.

vi. For rates effective July 1, 2004 and thereafter, facilities receiving audit disclaimers shall receive a rate equal to the PPS rate based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports trended forward in accordance with this §10939.

c. All trending shall be from the mid-point of the year preceding the cost report year to the midpoint of the year preceding the rate year.

d. Application of an inflationary adjustment to reimbursement rates in non-rebasing years shall apply only when the legislature allocates funds for this purpose.

e. A direct care incentive based on legislative appropriation shall be added to the per diem rate effective August 1, 2003.

5. Total Per Diem Rate. The per diem rate for providers filing acceptable full year cost reports is the sum of 50 percent of the PPS rate based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports plus 50 percent of the facility specific prospectively determined rate based on facility specific reasonable allowable costs plus the direct care incentive.

6. New providers enrolled in the Medicaid Program effective August 1, 2003 and thereafter shall receive the PPS rate based on the base year median reported cost for all ADHC providers filing acceptable cost reports trended forward in accordance with this §10939 plus the direct care incentive.

7. Minimum Rate. The minimum adult day health care rate shall be the PPS rate based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports plus the direct care incentive.

8. Cost Settlement. The direct care cost component and the direct care incentive shall be subject to cost settlement. Should an ADHC facility's cost report reveal that the provider did not expend an amount equal to 90 percent of the median direct care rate component trended forward for direct care services plus 90 percent of the direct care incentive, the Medicaid program will recover the difference

between 90 percent of the median direct care rate component trended forward for direct care services plus 90 percent of the direct care incentive and the actual direct care amount expended.

B. Cost Reporting

1. Providers of ADHC services are required to file annual acceptable cost reports of all reasonable and allowable costs. An acceptable cost report is one that is prepared in accordance with the requirements of this section and the provider has supporting documentation necessary for completion of a desk review or audit. The annual cost reports are the basis for determining reimbursement rates. A copy of all reports and statistical data must be retained by the facility for no less than five years following the date reports are submitted to the bureau. A chart of accounts and an accounting system on the accrual basis or converted at year end are required in the cost reporting preparation process. The bureau or its designee will perform desk reviews of the cost reports. In addition to the desk review, a representative number of the facilities shall be subject to a full-scope, annual on-site audit. All ADHC cost reports shall be filed with a fiscal year from July 1 through June 30.

B.2. - C.1.e.iv. ...

2. Rate Determination

a. Calculation of Base Rate. Rates for both the PPS rate based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports and the facility specific prospectively determined rate based on facility specific reasonable allowable costs are calculated from cost report data. Allowable costs include those costs incurred by providers to conform to state licensure and federal certification standards. General cost principles are applied during the desk review and audit process to determine allowable costs. These general cost principles include determining whether the cost is ordinary, necessary, and related to the delivery of care; the cost is what a prudent and cost conscious business person would pay for the specific goods or services in the open market or in an arm's length transaction; and the cost is for goods or services actually provided to the center. Through the desk review and/or audit process, adjustments and/or disallowances may be made to a provider's reported costs. "HIM-15," the Medicare Provider Reimbursement Manual, is the final authority for allowable costs unless the Louisiana Department of Health and Hospitals has set a more restrictive policy.

b. - c. ...

d. The inflated median shall be increased to establish the base rate median component as follows.

i. The inflated direct care median shall be multiplied times 115 percent to establish the direct care base rate component.

ii. The inflated care related median shall be multiplied times 105 percent to establish the care related base rate component.

iii. The administrative and operating median shall be multiplied times 105 percent to establish the administrative and operating base rate component.

e. At least every three years, audited and desk reviewed cost report items will be compared to the rate components calculated for the cost report year to insure that the rates remain reasonably related to costs.

f. Formulae. Each median cost component shall be calculated as follows.

i. Direct Care Cost Component. Direct care per diem costs from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward using the Consumer Price Index for Medical Services. The direct care rate component shall be set at 115 percent of the inflated median.

ii. Care Related Cost Component. Care related per diem costs from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost of the center at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward using the Consumer Price Index for All Items. The care related rate component shall be set at 105 percent of the inflated median.

iii. Administrative and Operating Cost Component. Administrative and operating per diem cost from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost of the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward by dividing the value of the CPI?All Items index for December of the year proceeding the base rate year by the value of the index for the December of the year preceding the cost report year. The administrative and operating rate component shall be set at 105 percent of the inflated median.

iv. Property Cost Component?Property. The property per diem costs from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost at the midpoint of the array shall be the median cost. This will be the rate component. Inflation will not be added to property costs.

g. Formulae. Each facility specific prospectively determined cost component shall be calculated as follows.

i. Direct Care Cost Component. The direct care per diem costs from each facility's full year cost reports shall be trended forward using the Consumer Price Index for Medical Services in accordance with this §10939.

ii. Care Related Cost Component. The care related per diem costs from each facility's full year cost reports shall be trended forward using the Consumer Price Index for Medical Services in accordance with this §10939.

iii. Administrative and Operating Cost Component. The administrative and operating per diem cost from each facility's acceptable full year cost reports shall be trended forward using the Consumer Price Index for Medical Services in accordance with this §10939.

iv. Property Cost Component?Property. The property per diem costs from each facility's acceptable full year cost reports shall be the property cost component. Inflation will not be added to property costs.

v. Facilities participating prior to August 1, 2003 who have not filed a full year acceptable cost report shall have the facility specific prospectively determined rate for August 1, 2003 through June 30, 2004 based on budgeted

data and limited to 80 percent of the nursing facility weighted average case mix rate in effect on July 1, 2003.

vi. For rates effective July 1, 2004 and thereafter, facilities receiving audit disclaimers shall receive a rate equal to the PPS rate based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports trended forward in accordance with this Rule. No facility specific cost component will be included in the per diem of facilities receiving audit disclaimers.

h. - h.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2356 (November 2002), amended LR 30:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, December 29, 2003 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either 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: **Adult Day Health Care? Prospective Payment System**

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

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$278,308 for SFY 2003-2004, \$312,220 for SFY 2004-2005 and \$321,586 for FY 2005-2006. It is anticipated that \$884 (\$442 SGF and \$442 FED) will be expended in SFY 2003-2004 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$698,914 for SFY 2003-2004, \$784,829 for SFY 2004-2005 and \$808,374 for SFY 2005-2006. \$442 is included in SFY 2003-2004 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

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

This proposed rule will amend the prospective payment system methodology for Adult Day Health Care (ADHC) services from a facility specific rate based on historical cost to

a statewide rate based on set percentages over the median by cost category for 26 providers participating in the Medicaid Program. It is anticipated that implementation of this proposed rule will increase expenditures for adult day health care services by \$976,338 for SFY 2003-2004, \$1,097,049 for SFY 2004-2005 and \$1,129,960 for SFY 2005-2006.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will have no effect on competition or employment.

Ben A. Bearden
Director
0311#076

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

All Inclusive Care for the Elderly
(LAC 50:XXIII.Chapters 1 - 9)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XXIII.Chapters 1-9 in the Medical Assistance Program as authorized by RS. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department proposes to establish state regulatory and financial conditions relative to operation of Programs of All Inclusive Care for the Elderly (PACE) in Louisiana. Federal regulations promulgated in 42 CFR 460 et seq. establish the general structure and operational requirements for PACE programs, and require state participation in approval and monitoring of PACE activities. The state is allowed to specify additional requirements and processes to ensure that operational and safety considerations are adequately addressed, and is required to negotiate a rate of payment for Medicaid-eligible participants.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule is anticipated to have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 as it will provide an additional model for community-based long term care services that will enable elderly individuals to remain in their living arrangement of choice among family and friends.

Title 50

PUBLIC HEALTH? MEDICAL ASSISTANCE

Part XXIII. All Inclusive Care for the Elderly

Chapter 1. General Provisions

§101. Purpose and Scope

A. The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implements the Program of All Inclusive Care for the Elderly (PACE) in accordance with federal regulations at 42 CFR 460 et seq., as published in the Federal Register on November 24, 1999 and amended on October 2, 2002, and as may be amended in the future. These regulations set forth:

1. the requirements that an entity must meet to be approved as a PACE organization that operates a PACE program under Medicare and Medicaid;
2. how individuals may qualify to enroll in a PACE program;
3. how Medicare and Medicaid payments will be made for PACE services;
4. provisions for federal and state monitoring of PACE programs; and
5. procedures for sanctions and terminations.

B. The purpose of the Program of All Inclusive Care for the Elderly is to provide prepaid, capitated, comprehensive health care services designed to meet the following objectives:

1. enhance the quality of life and autonomy for frail, older adults;
2. maximize dignity of, and respect for, older adults;
3. enable frail, older adults to live in the community as long as medically and socially feasible; and
4. preserve and support the older adult's family unit.

C. This Part sets forth the election of state options under the federal regulations and additional requirements established by the state for the efficient operation of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§103. Organization Application and Evaluation

A. A PACE organization shall be licensed as an adult day health care (ADHC) facility. The Department of Health and Hospitals (DHH) shall grant appropriate waivers of ADHC licensing requirements in instances where ADHC licensing regulations conflict with PACE requirements when such waivers are determined to have no adverse effect on participant health and safety and quality of life.

B. A PACE organization shall not be required to be licensed as a health maintenance organization under the Louisiana regulations for risk based entities.

C. A PACE organization must be a non-profit entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§105. Administrative Requirements

A. A PACE organization must have a fiscally sound operation, as demonstrated by the following:

1. total assets greater than total unsubordinated liabilities;
2. sufficient cash flow and adequate liquidity to meet obligations as they become due;
3. a net operating surplus or a financial plan for solvency that is satisfactory to the Center for Medicaid and Medicare Services (CMS) and the Department of Health and Hospitals.

B. A PACE organization shall operate under the control of an identifiable governing body such as a board of directors, which must include at least one community

representative. The following advisory committees shall also be established to advise the board of directors:

1. consumer advisory committee;
2. ethics committee;
3. restraint committee;
4. other committees as required by CMS and/or DHH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Chapter 3. Services

§301. Medicare and Medicaid Coordination

A. If a Medicare beneficiary or Medicaid recipient chooses to enroll in a PACE program:

1. the participant, while enrolled in a PACE program, must receive Medicare and Medicaid benefits solely through the PACE organization; and

2. Medicare and Medicaid benefit limitations and conditions relating to amount, duration, scope of services, deductibles, co-payments, coinsurance, or other cost-sharing do not apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§303. Services Provided

A. The PACE benefit package for all participants, regardless of the source of payment, must include:

1. all Medicaid-covered services, as specified in the state's approved Medicaid plan;
2. interdisciplinary assessment and treatment planning;
3. primary care, including physician and nursing services;
4. social work services;
5. restorative therapies, including physical therapy, occupational therapy, and speech-language pathology services;
6. personal care and supportive services;
7. nutrition counseling;
8. recreational therapy;
9. transportation;
10. meals;
11. medical specialty services including, but not limited

to:

- a. anesthesiology;
- b. audiology;
- c. cardiology;
- d. dentistry;
- e. dermatology;
- f. gastroenterology;
- g. gynecology;
- h. internal medicine;
- i. nephrology;
- j. neurosurgery;
- k. oncology;
- l. ophthalmology;
- m. oral surgery;

- n. orthopedic surgery;
 - o. otorhinolaryngology;
 - p. plastic surgery;
 - q. pharmacy consulting services;
 - r. podiatry;
 - s. psychiatry;
 - t. pulmonary disease;
 - u. radiology;
 - v. rheumatology;
 - w. general surgery;
 - x. thoracic and vascular surgery; and
 - y. urology;
12. laboratory tests, x-rays and other diagnostic procedures;
13. drugs and biologicals;
14. prosthetics, orthotics, durable medical equipment, corrective vision devices, such as eyeglasses and lenses, hearing aids, dentures, and repair and maintenance of these items;
15. acute inpatient care, including:
- a. ambulance;
 - b. emergency room care and treatment room services;
 - c. semi-private room and board;
 - d. general medical and nursing services;
 - e. medical surgical/intensive care/coronary care unit;
 - f. laboratory tests, x-rays and other diagnostic procedures;
 - g. drugs and biological;
 - h. blood and blood derivatives;
 - i. surgical care, including the use of anesthesia;
 - j. use of oxygen;
 - k. physical, occupational, respiratory therapies, and speech-language pathology services; and
 - l. social services;
16. nursing facility care including:
- a. semi-private room and board;
 - b. physician and skilled nursing services;
 - c. custodial care;
 - d. personal care and assistance;
 - e. drugs and biologicals;
 - f. physical, occupational, recreational therapies, and speech-language pathology, if necessary;
 - g. social services; and
 - h. medical supplies and appliances;
17. other services determined necessary by the interdisciplinary team to improve and maintain the participant's overall health status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§305. Excluded Services

- A. Services excluded from coverage are:
- 1. any service that is not authorized by the interdisciplinary team, even if it is a required service, unless it is an emergency service;
 - 2. private room and private duty nursing services in an inpatient facility, (unless medically necessary), and nonmedical items for personal convenience such as telephone charges and radio or television rental (unless

specifically authorized by the interdisciplinary team as part of the participant's plan of care);

3. cosmetic surgery, which does not include surgery that is required for improved functioning of a malformed part of the body resulting from an accidental injury or for reconstruction following mastectomy;

4. experimental medical, surgical or other health procedures;

5. services furnished outside of the United States except as follows:

a. in accordance with 42 CFR 424.122 through 424.124; or

b. as permitted under the state's approved Medicaid plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§307. Conditions of Service

A. A PACE organization must establish and implement a written plan to furnish care that meets the needs of each participant in all care settings 24 hours a day, every day of the year.

B. The PACE organization must furnish comprehensive medical, health, and social services that integrate acute and long-term care.

C. These services must be furnished in at least the PACE center, the home, and inpatient facilities.

D. The PACE organization may not discriminate against any participant in the delivery of required PACE services based on race, ethnicity, national origin, religion, sex, age, mental or physical disability or source of payment.

E. The frequency of a participant's attendance at a center is determined by the interdisciplinary team, based on the needs and preferences of each participant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§309. Emergency Services

A. A PACE organization must establish and maintain a written plan to handle emergency care. The written plan must ensure that CMS, the state, and PACE participants are held harmless if the PACE organization does not pay for emergency services.

B. Emergency care is appropriate when services are needed immediately because of an injury or sudden illness and the time required to reach the PACE organization or one of its contract providers would cause risk of permanent damage to the participant's health. Emergency services include inpatient and outpatient services that:

1. are furnished by a qualified emergency services provider, other than the PACE organization or one of its contract providers, either in or out of the PACE organization's service area. condition

2. are needed to evaluate or stabilize an emergency medical condition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Chapter 5. Recipient Enrollment Eligibility

§501. Eligibility

A. In order to be eligible for services from a PACE site an applicant must:

1. be 55 year of age or older;
2. be determined by the state administering agency to need the level of care required under the state Medicaid plan for coverage of nursing facility services;
3. reside in the service area of the PACE organization; and
4. at the time of enrollment, an individual must be able to live in a community setting without jeopardizing his or her health or safety.

B. Eligibility to enroll in a PACE program is not restricted to an individual who is either a Medicare beneficiary or Medicaid recipient. A potential PACE enrollee may be, but is not required to be, any or all of the following:

1. entitled to Medicare Part A;
2. enrolled under Medicare Part B; or
3. eligible for Medicaid.

C. Persons shall be considered to have met the criteria for determining that an individual is able to live in a community setting without jeopardizing his or her health or safety when the answer to all of the following questions is determined to be in the affirmative.

1. Does the individual or caregiver have a desire to remain in the community?
2. If the individual is not able to live safely alone, is there a primary caregiver at home, or a willingness to use another caregiver or provider to meet the individual's needs?
3. Can the caregiver maintain a safe physical environment in the home?
4. Are hygiene, nutrition, medical care, and support systems adequate?
5. If behavioral problems exist, can they be managed to prevent risk to self or others?
6. Can the individual who has a history of criminal behavior that poses a risk to self or others be safely maintained at home?
7. Can a plan of care be developed to meet the individual's needs?

D. A PACE organization shall assess the potential participant to ensure that he or she can be cared for appropriately in a community setting and that he or she meets all requirements for PACE eligibility. PACE eligibility decisions are subject to approval by the state administering agency as determined necessary.

E. Reevaluation of Eligibility

1. DHH shall annually reevaluate whether the participant continues to meet level of care for nursing facility services. DHH may permanently waive the annual recertification of level of care requirements for a participant if it determines that there is no reasonable expectation of improvement or significant change in the participant's because of the severity of a chronic condition or the degree of impairment of functional capacity.

2. DHH may determine that a PACE participant who no longer meets the state Medicaid nursing facility level of care requirements may be deemed to continue to be eligible for the PACE program until the next annual reevaluation, if,

in the absence of continued coverage under this program, the participant reasonably would be expected to meet the nursing facility level of care requirement within the next six months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§503. Enrollment

A. Enrollment Period

1. A participant's enrollment in the program is effective on the first day of the calendar month following the date the PACE organization receives the signed enrollment agreement.

2. Enrollment continues until the participant's death, regardless of changes in health status, unless either of the following actions occurs:

- a. the participant voluntarily disenrolls; or
- b. the participant is involuntarily disenrolled (see §505.B below).

§505. Disenrollment

A. A PACE organization shall submit proposed denial of enrollment determinations of applicants for health and safety reasons and all involuntary disenrollments of participants to DHH for review prior to notifying applicants/participants of such adverse decisions. DHH shall review denials of PACE enrollment eligibility and disenrollments by the end of the third business day after receipt from the PACE organization to determine whether the PACE organization has adequately documented acceptable grounds. Failure of DHH to provide a decision within this timeframe shall constitute approval of the PACE organization decision. The decision by DHH shall be binding.

B. Involuntary Disenrollment

1. A participant may be involuntarily disenrolled for any of the following reasons:

- a. a participant fails to pay, or to make satisfactory arrangements to pay, any premium due the PACE organization after a 30-day grace period;
- b. the participant engages in disruptive or threatening behavior, as described in Paragraph 2 below;
- c. the participant moves out of the PACE program service area or is out of the service area for more than 30 consecutive days, unless the PACE organization agrees to a longer absence due to extenuating circumstances;
- d. the participant is determined to no longer meet the State Medicaid nursing facility level of care requirements and is not deemed eligible;
- e. the PACE program agreement with CMS and DHH is not reviewed or is terminated; or
- f. The PACE organization is unable to offer health care services due to the loss of state licenses or contracts with outside providers.

2. The following are behaviors considered disruptive or threatening behavior for purposes of involuntary disenrollment:

- a. behavior that jeopardizes his or her health or safety, or the safety of others; or
- b. consistent refusal to comply with his or her individual plan of care or the terms of the PACE enrollment agreement by a participants with decision-making capacity,

but not if the behavior is related to a mental or physical condition of the participant. Noncompliant behavior includes repeated noncompliance with medical advice and repeated failure to keep appointments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Chapter 7. Quality Assessment and Performance Improvement

§701. Organization Responsibilities

A. A PACE organization must develop, implement, maintain, and devalue an effective, data-driven quality assessment and performance improvement program.

B. The program must reflect the full range of services furnished by the PACE organization.

C. A PACE organization must take actions that result in improvements in its performance in all types of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§703. Quality Assessment and Performance Improvement Plan

A. A PACE organization must have a written quality assessment and performance improvement plan.

B. The PACE governing body must review the plan annually and revise it, if necessary.

C. At a minimum, the plan must specify how the PACE organization proposes to meet the following requirements:

1. identify areas to improve or maintain the delivery of services and patient care.

2. develop and implement plans of action to improve or maintain quality of care.

3. document and disseminate to PACE staff and contractors the results from the quality assessment and performance improvement activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§705. Minimum Requirements

A. A PACE organization's quality assessment and performance improvement program must include, but is not limited to, the use of objective measures to demonstrate improved performance with regard to the following:

1. utilization of PACE services, such as decreased inpatient hospitalizations and emergency room visits;

2. caregiver and participant satisfaction;

3. outcome measures that are derived from data collected during assessments, including data on the following:

a. physiological well being.

b. functional status.

c. cognitive ability.

d. social/behavioral functioning.

e. quality of life of participants.

4. effectiveness and safety of staff-provided and contracted services, including the following:

a. competency of clinical staff;

b. promptness of service delivery;

c. achievement of treatment goals and measurable outcomes.

5. nonclinical areas, such as grievances and appeals, transportation services, meals, life safety, and environmental issues.

B. Outcome measures must be based on current clinical practice guidelines and professional practice standards applicable to the care of PACE participants.

C. The PACE organization must meet or exceed minimum levels of performance, established by CMS and the state administering agency, on standardized quality measures, such as influenza immunization rates, which are specified in the PACE program agreement.

D. The PACE organization must ensure that all data used for outcome monitoring are accurate and complete.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§707. Internal Activities

A. A PACE organization must do the following:

1. use a set of outcome measures to identify areas of good or problematic performance;

2. take actions targeted at maintaining or improving care based on outcome measures;

3. incorporate actions resulting in performance improvement into standards of practice for the delivery of care and periodically track performance to ensure that any performance improvements are sustained over time;

4. set priorities for performance improvement, considering prevalence and severity of identified problems, and give priority to improvement activities that affect clinical outcomes;

5. immediately correct any identified problem that directly or potentially threatens the health and safety of a PACE participant.

B. A PACE organization must designate an individual to coordinate and oversee performance improvement activities.

C. Involvement in quality assessment and performance improvement activities.

1. A PACE organization must ensure that all interdisciplinary team members, PACE staff, and contract providers are involved in the development and implementation of quality assessment and performance improvement activities and are aware of the results of these activities.

2. The quality improvement coordinator must encourage a PACE participant and his or her caregivers to be involved in quality assessment and performance improvement activities, including providing information about their satisfaction with services

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§709. Additional Activities

A. A PACE organization must meet external quality assessment and reporting requirements as specified by CMS or the State administering agency, in accordance with Section 460.202 of the Social Security Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§711. Committees with Community Input

A. A PACE organization must establish one or more committees, with community input, to do the following:

1. evaluate data collected pertaining to quality outcome measures;
2. address the implementation of, and results from, the quality assessment and performance improvement plan;
3. provide input related to ethical decision-making, including end-of-life issues and implementation of the Patient Self-Determination Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Chapter 9. Sanctions

§901. Violations

A. Sanctions may be imposed against a PACE organization if it commits one of the following violations:

1. fails substantially to provide medically necessary items and services to a participant that are covered PACE services, and that failure has adversely affected (or has substantial likelihood of adversely affecting) the participant;
2. involuntarily disenrolls a participant in violation of Section 460.164;
3. discriminates in the enrollment or disenrollment of Medicare beneficiaries or Medicaid recipients, or both, who are eligible to enroll in a PACE program on the basis of an individual's health status or need for health care services;
4. engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment, except as permitted by Section 460.150, by Medicare beneficiaries or Medicaid recipients whose medical condition or history indicates a need for substantial future medical services;
5. imposes charges on participants enrolled under Medicare or Medicaid for premiums in excess of the premiums permitted;
6. misrepresents or falsifies information that is furnished:
 - a. to CMS or the State under this part; or
 - b. to an individual or any other entity under this part;
7. prohibits or otherwise restricts a covered health care professional from advising a participant who is a patient of the professional about the participant's health status, medical care, or treatment for the participant's condition or disease, regardless of whether the PACE program provides

benefits for that care or treatment, if the professional is acting within his or her lawful scope of practice;

8. operates a physician incentive plan that does not meet the requirements of section 1876(i)(8) of the Social Security Act; or

9. employs or contracts with any individual who is excluded from participation in Medicare or Medicaid under Section 1128 or Section 1128A of the Social Security Act (or with any entity that employs or contracts with that individual) for the provision of health care, utilization review, medical social work, or administrative services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§903. Imposition of Sanctions by CMS

A. CMS may impose the following sanctions for violations specified in §901:

1. suspension of enrollment of Medicare beneficiaries;
2. suspend Medicare payment to the PACE organization;
3. deny payment to the State for medical assistance for services furnished under the PACE program agreement. The state will suspend payments to the PACE organization when payment of the federal portion of PACE reimbursement is denied;
4. impose civil money penalties as specified in federal regulations.

B. CMS or the state may determine that the PACE organization is not in substantial compliance with PACE requirements, and may take one or more of the following actions:

1. condition the continuation of the PACE program agreement upon timely execution of a corrective action plan;
2. withhold some or all payments under the PACE program agreement until the organization corrects the deficiency;
3. terminate the PACE program agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Chapter 11. Appeals

§1101. Participant Rights, Grievances, and Appeals

A. The PACE organization must have a formal written appeals process in accordance with 42 CFR 460.122, with specified timeframes for response, to address noncoverage or nonpayment of a service, and involuntary disenrollment.

B. Additional appeal rights under Medicare or Medicaid are available to the participant if an adverse decision is made in the PACE organization appeal process, or if the participant is involuntarily disenrolled from the PACE program. A PACE organization must inform a participant in writing of additional appeal rights available under Medicare or Medicaid.

C. Medicaid-eligible participants who appeal through Medicaid shall be heard by the DHH Bureau of Appeals within the timeframes applicable to processing Medicaid appeals except in cases where federal PACE requirements

require a more expeditious decision. The PACE organization shall prepare the Summary of Evidence in preparation for the appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Chapter 13. Reimbursement

§1301. Payment

A. Participants shall be eligible for Medicaid payment of the PACE premium on their behalf if they meet the categorically needy income and resource criteria for Medicaid eligibility for nursing facility and Home and Community Based Services waiver services.

B. Participants are eligible for Medicare payment of the PACE premium on their behalf if they are covered by Medicare. The amount of Medicare premiums is calculated by the Centers for Medicare and Medicaid Services, the federal oversight agency.

C. Medicaid payment to a PACE organization on behalf of a Medicaid-eligible participant shall be a prospective monthly capitated amount that is less than the amount that would otherwise have been paid under the State Plan if the participant was not enrolled under the PACE program.

1. Statewide upper payment limits shall be calculated for each state fiscal year using statewide data from actual paid fee-for-service claims for alternative populations who are age 55 or older.

2. Statewide upper payment limits and Medicaid premiums for PACE shall be calculated in accordance with the approved State Plan methodology for such calculation, including trending of historical data. Premiums for every PACE organization in the state will be based on the statewide upper payment limits.

3. During the first two years of operation of a PACE organization, Medicaid premiums shall be 95 percent of the upper payment limits.

4. During the third and fourth years of operation of a PACE organization, Medicaid premiums shall be 90 percent of the upper payment limits.

5. For the fifth and subsequent year of operation of a PACE organization, Medicaid premiums shall be 85 percent of the upper payment limits.

D. There shall be a minimum of two Medicaid upper payment limits calculated annually:

1. one for participants who are eligible for both Medicare and Medicaid; and

2. one for participants who are eligible only for Medicaid.

E. Medicaid payment to a PACE organization shall be made for each Medicaid-eligible participant who is enrolled on the first day of the month.

1. Enrolled participants are those who have signed an enrollment agreement.

2. Medicaid-eligible participants are those who have been determined to be eligible for Medicaid payment effective as of or before the first day of the month, including those who are retroactively eligible, when such date is on or before the first day of the month.

F. The amount of the Medicaid premium is a fixed amount regardless of changes in the participant's health status.

G. A PACE organization may not charge a premium to a participant who is eligible for both Medicare and Medicaid, or who is only eligible for Medicaid.

H. Participants who are not eligible for Medicaid must pay a premium to the PACE organization equal to the amount of the Medicaid premium.

I. Participants who are not eligible for Medicaid and are also not eligible for either Medicare Part A or Medicare Part B must pay a premium to the PACE organization equal to the amount of the Medicaid premium and also amount(s) equal to the Medicare premium for Part A or Part B, or both.

J. A PACE participant who is in a nursing facility reimbursed by PACE on his/her behalf shall be responsible for payment of patient liability.

1. The amount of patient liability is the same amount that would be required to be paid by a Medicaid eligible resident of a nursing facility if he/she was not a participant in a PACE organization.

2. The patient liability obligation begins with the first day of the first full calendar month after the participant is a resident in the nursing facility for 90 consecutive days.

3. The PACE organization shall determine whether the patient liability is to be paid to the PACE organization or the nursing facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, December 29, 2003 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either 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: All Inclusive Care for the Elderly

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

It is anticipated that the implementation of this proposed Rule will increase state program costs by approximately \$44,955 for SFY 2003-2004, \$964,121 for SFY 2004-2005 and

\$1,750,707 for FY 2005-2006. It is anticipated that \$1,564 (\$782 SGF and \$782 FED) will be expended in SFY 2003-2004 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

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

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$111,821 for SFY 2003-2004, \$2,423,515 for SFY 2004-2005 and \$4,400,757 for SFY 2005-2006. \$782 is included in SFY 2003-2004 for the federal administrative expenses for promulgation of this proposed Rule and the final Rule.

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

This proposed Rule establishes state regulatory and financial conditions relative to operation of Programs of All Inclusive Care for the Elderly (PACE). PACE will provide an additional model for community-based Long Term Care services that will enable elderly individuals to remain in their living arrangement of choice among family and friends. PACE will have approximately 20 participants at inception and will grow to about 200 participants in June 2006. Implementation of this proposed Rule will increase expenditures by \$155,212 for SFY 2003-2004, \$3,387,636 for SFY 2004-2005 and \$6,151,464 for SFY 2005-2006.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this Rule will have no effect on competition and employment.

Ben A Bearden
Director
0311#082

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**

Durable Medical Equipment Program
Medical Equipment and Supplies Delivery
Termination of Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2003-2004 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides reimbursement under the Durable Medical Equipment Program for the delivery of medical equipment and supplies. The reimbursement is either the lesser of billed charges or 5 percent of the total shipping amount of the prior authorized

medical equipment and supplies up to a maximum amount of \$50 (*Louisiana Register*, Volume 26, Number 12).

Section 11B of Act 14 of the 2003 Regular Session of the Louisiana Legislature directed the Commissioner of Administration to reduce discretionary state general fund (direct) appropriations contained in the Act by .8 percent across-the-board, or so much thereof more or less as may be necessary, to effect savings of \$17,300,000. The Commissioner of Administration approved this reduction on September 9, 2003. Subsequently, the commissioner directed the department to reduce its discretionary expenditures by .8 percent for state fiscal year 2003-2004. In compliance with Act 14 of the 2003 Regular Session of the Louisiana Legislature, the bureau proposes to terminate reimbursement for the delivery of medical equipment and supplies.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, 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 terminates reimbursement for the delivery of medical equipment and supplies.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Monday, December 29, 2003 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either 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: Durable Medical Equipment Program
Medical Equipment and Supplies Delivery
Termination of Reimbursement**

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

It is anticipated that implementation of this proposed Rule will result in estimated savings to the state of \$41,117 for SFY 2003-2004, \$157,977 for SFY 2004-2005 and \$162,717 for SFY 2005-2006. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in SFY 2003-04 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

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

It is anticipated that implementation of this proposed rule will reduce federal revenue collections by \$103,512 for SFY 2003-2004, \$397,108 for SFY 2004-2005, and \$409,021 for SFY 2005-2006. \$102 is included in SFY 2003-2004 for the federal administrative expenses for promulgation of this proposed Rule and the final Rule.

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

This proposed Rule terminates reimbursement for the delivery of medical equipment and supplies (approximately 38,000 deliveries per year). It is anticipated that implementation of this proposed Rule will decrease spending on delivery fees (up to \$50 per service) of medical equipment and supplies by \$144,833 for SFY 2003-2004, \$555,085 for SFY 2004-2005, and \$571,738 for SFY 2005-2006.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that there will be no effect on competition as a result of the implementation of this proposed Rule. This reimbursement reduction could result in staff reduction or decreased participation by providers of durable medical equipment in the Medicaid Program.

Ben A. Bearden
Director
0311#077

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**

**Durable Medical Equipment Program
Motorized Wheelchairs**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage and reimbursement for manual and motorized wheelchairs under the Durable Medical Equipment Program. The bureau promulgated an Emergency Rule to adopt new policy governing recipient qualifications for motorized wheelchairs (*Louisiana Register*, Volume 28, Number 9). This Rule is being promulgated to continue the provisions contained in the September 21, 2002 Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that implementation of this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 as it will promote the health and welfare of Medicaid recipients by facilitating access to medically necessary motorized wheelchairs and thereby avoiding further deterioration of their physical functioning.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes provisions governing recipient criteria and prior authorization for motorized wheelchairs. In addition, the

bureau amends the August 20, 1998 Rule to clarify the provisions governing the repair of motorized wheelchairs.

Wheelchairs, Motorized and/or Custom Motorized Recipient Criteria

A. Motorized Wheelchairs

1. For purposes of this Rule, the term *motorized* shall have the same meaning as power, electric or any means of propulsion other than manual. A motorized wheelchair must be medically necessary. The recipient must meet all of the following criteria in order to be considered for a motorized wheelchair:

a. the recipient is not functionally ambulatory. Not functionally ambulatory means the recipient's ability to ambulate is limited such that without use of a wheelchair, he/she would otherwise be generally bed or chair confined;

b. the recipient is unable to operate a wheelchair manually due to severe weakness of the upper extremities due to a congenital or acquired neurological or muscular disease/condition or is unable to propel any type of manual wheelchair because of other documented health problems; and

c. the recipient is capable of safely operating the controls for a motorized wheelchair and can adapt to or be trained to use a motorized wheelchair effectively.

B. A motorized wheelchair is covered if the recipient's condition is such that the requirement for a motorized wheelchair is long term (at least six months).

Prior Authorization

A. All wheelchairs and modifications required to meet the needs of a particular recipient are subject to prior authorization. Prior authorization will be made for only one wheelchair at a time. Backup chairs, either motorized or manual, will be denied as not medically necessary. All requests must include:

1. a completed PA -01 form;

2. a physician's prescription for a motorized wheelchair. The physician must specifically state that the prescription is for a motorized wheelchair;

3. medical documentation from a physician is required to support the provisions set forth in the Recipient Criteria Section, Subparagraphs A.1.a-b;

4. a seating evaluation performed, signed and dated by the physical therapist or occupational therapist that performed the seating evaluation. The seating evaluation shall:

a. indicate the appropriateness of the specific wheelchair requested and all modifications and/or attachments to the specific wheelchair and its ability to meet the recipient's long term medical needs. Options that are primarily beneficial in allowing the recipient to perform leisure or recreational activities are not covered;

b. include the dated signature of the physician who prescribed the motorized wheelchair, confirming:

i. the recipient's diagnosis or condition is such that a motorized wheelchair is medically necessary; and

ii. he or she has seen the seating evaluation and motorized wheelchair recommendation;

5. documentation indicating that the recipient is capable of safely operating the controls for a motorized

wheelchair and can adapt to or be trained to use the motorized wheelchair effectively. It is not sufficient for a Medicaid provider of motorized wheelchairs to indicate that a recipient is capable of safely operating the controls for a motorized wheelchair and can adapt to or be trained to use the motorized wheelchair effectively. Such documentation shall include:

a. a signed and dated statement from the recipient's physician, physical therapist or occupational therapist that he or she has determined that the recipient has the cognitive, motor and perceptual abilities needed to safely operate the controls of a motorized wheelchair. This statement shall be verified by the notes and recommendation of the physician, physical therapist or occupational therapist making such statement; and

b. a signed and dated statement from the recipient's physician, physical therapist or occupational therapist that he or she has determined that the recipient can adapt to or be trained to use the motorized wheelchair effectively. This statement shall be verified by the notes and recommendation of the physician, physical therapist or occupational therapist making such statement.

Repairs and Modifications

A. Requests for repairs to motorized wheelchairs will be considered for basic repairs only. Basic repairs are those which are requested to repair an existing component of the recipient's current motorized wheelchair.

B. Requests for modifications or reconstruction of the recipient's current motorized wheelchair shall not be considered basic repairs. Requests for modifications or reconstruction of the recipient's current motorized wheelchair must be submitted in accordance with prior authorization criteria. Modifications or reconstruction will be denied if it is more cost effective to provide a new motorized wheelchair.

C. It is expected that all repairs and modifications of motorized wheelchairs shall be completed within one month, unless there is a justifiable reason for a delay. Rental of a manual wheelchair may be prior authorized on a monthly basis as a temporary replacement, if necessary, when the recipient's motorized wheelchair is being repaired or modified.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, December 29, 2003 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either 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: Durable Medical Equipment Program Motorized Wheelchairs

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

It is anticipated that the implementation of this proposed Rule will increase state program costs by approximately \$85,848 for SFY 2002-2003, \$112,364 for SFY 2003-2004 and \$115,489 for SFY 2004-2005. It is anticipated that \$476 (\$238 SGF and \$238 FED) will be expended in SFY 2003-2004 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$210,590 for SFY 2002-2003, \$282,088 for SFY 2003-2004 and \$290,306 for SFY 2004-2005. It is anticipated that \$238 will be expended in SFY 2003-2004 for the federal share of the expense for promulgation of this proposed Rule and the final Rule.

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

This Rule is being promulgated to continue the provisions contained in the September 21, 2002 emergency rule, which adopted new policy governing recipient qualifications for motorized wheelchairs. It is anticipated that the implementation of this proposed rule will promote the health and welfare of Medicaid recipients (approximately 51 per year) by facilitating access to medically necessary motorized wheelchairs and thereby avoiding further deterioration of their physical functioning. It is anticipated that the implementation of this proposed Rule will increase payments to providers of motorized wheelchairs by approximately \$296,438 for SFY 2002-2003, \$393,976 for SFY 2003-2004 and \$405,795 for SFY 2004-2005.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition or employment.

Ben A. Bearden
Director
0311#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

Early and Periodic Screening,
Diagnosis and Treatment Program
Dental Services? Reimbursement
(LAC 50:XV.6903)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby amends LAC 50:XV.6903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is

promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides reimbursement for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) dental services under the Medicaid Program. Reimbursement for these services is a flat fee established by the bureau minus the amount that any third party coverage would pay. In the 2002 Regular Session the Legislature allocated additional funds allowing the Bureau to increase the reimbursement rates for certain designated dental procedures (*Louisiana Register*, Volume 28, Number 12). As a result of the allocation of additional funds by the Legislature during the 2003 Regular Session, the bureau again increased the reimbursement fees for certain dental procedures (*Louisiana Register*, Volume 29, Number 7).

The Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA, Title II) requires national standards for electronic health care transactions and national identifiers for providers, health plans, and employers (*Federal Register*, Volume 65, Number 160). This includes standardized procedure codes and definitions. The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is required to implement these codes and definitions or face monetary sanctions. In compliance with HIPAA requirements, the bureau clarified the descriptions for two Early and Periodic Screening, Diagnosis and Treatment (EPSDT) dental procedure codes and adjusted the reimbursement rates to conform to the HIPAA compliant procedure code descriptions (*Louisiana Register*, Volume 29, Number 2). The bureau promulgates the following Rule to continue the provisions contained in the February 21, 2003 and August 1, 2003 emergency rules.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Title 50

PUBLIC HEALTH? MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis and Treatment Program

Chapter 69. Dental Services

§6903. Reimbursement

A. Reimbursement fees are increased as follows for certain designated procedure codes. The procedure codes have been amended to comply with the Health Insurance Portability and Accountability Act.

Procedure Code	Description	Fee
D0120	Periodic Oral Exam	\$18
D0150	Comprehensive Oral Exam	\$20
D0220	Radiograph-Periapical-First Film	***
D0230	Radiograph-Periapical-Each Additional Film	***
D0272	Radiograph-Bitewing-Two Films	***
D1110	Adult Prophylaxis	\$29
D1120	Child Prophylaxis	***
D1351	Sealant-Per Tooth	\$17
D1510	Space Maintainer-Unilateral	\$95
D1515	Space Maintainer-Bilateral	\$177
D2140	Amalgam-One Surface, Primary or Permanent	***

D2150	Amalgam-Two Surface, Primary or Permanent	***
D2160	Amalgam-Three Surface, Primary or Permanent	***
D2161	Amalgam-Four or more Surface, Permanent	\$88
D2330	Resin-based Composites-One Surface	***
D2331	Resin-based Composites-Two Surface	***
D2332	Resin-based Composites-Three Surface	***
D2335	Resin-based Composites-4 or More Surfaces, Anterior	\$88
D2390	Resin-based Composite Crown, Anterior	\$88
D2930	Stainless Steel Crown, Primary	\$88
D2931	Stainless Steel Crown, Permanent	\$88
D2932	Prefabricated Resin Crown	\$84
D2950	Core Buildup, including any pins	\$55
D2954	Prefabricated Post and Core in addition to crown	\$75
D3220	Pulpotomy-Deciduous Tooth Only	***
D3310	Root Canal-One Canal	***
D3320	Root Canal-Two Canals	***
D3330	Root Canal-Three Canals	***
D4341	Periodontal Scaling and Root Planning	\$75
D4355	Full Mouth Debridement	\$58
D5110	Complete Denture, Maxillary	\$495
D5120	Complete Denture, Mandibular	\$495
D5130	Immediate Complete Denture, Maxillary	\$495
D5140	Immediate Complete Denture, Mandibular	\$495
D5211	Partial Denture, Resin Base, Maxillary	\$470
D5212	Partial Denture, Resin Base, Mandibular	\$470
D5510	Repair Complete Broken Denture Base	\$100
D5520	Repair Missing or Broken Teeth-Complete Denture, Per Tooth	\$52/\$26*
D5610	Repair Resin Denture Base, Partial Denture	\$100
D5630	Repair or Replace Broken Clasp, Partial Denture	\$95
D5640	Replace Broken Teeth, Partial Denture, Per Tooth	\$52/\$26*
D5650	Add Tooth to Existing Partial Denture	\$52/\$26*
D5660	Add Clasp to Existing Partial Denture	\$95
D5750	Reline Complete Denture, Maxillary (Lab)	\$238
D5751	Reline Complete Denture, Mandibular (Lab)	\$238
D5760	Reline Partial Denture, Maxillary (Lab)	\$208
D5761	Reline Partial Denture, Mandibular (Lab)	\$208
D5820	Interim Partial Denture, Maxillary	\$300
D5821	Interim Partial Denture, Mandibular	\$300
D7140	Extraction, Erupted Tooth or Exposed Root	***
D7210	Surgical Extraction	***
D7220	Removal of Impacted Tooth, Soft Tissue	\$86
D7230	Removal of Impacted Tooth, Partially Bony	\$136
D7240	Removal of Impacted Tooth, Completely Bony	\$161
D7241	Removal of Impacted Tooth, Completely Bony with Unusual Surgical Complications	\$186
D8050	Interceptive Orthodontic Treatment, Primary Dentition	\$350**
D8060	Interceptive Orthodontic Treatment, Transitional Dentition	\$350**
D8070	Comprehensive Orthodontic Treatment, Transitional Dentition	\$3,600**
D8080	Comprehensive Orthodontic Treatment, Adolescent Dentition	\$3,600**
D8090	Comprehensive Orthodontic Treatment, Adult Dentition	\$3,600**
D9110	Palliative (emergency) Dental Pain Treatment	\$25
D9241	Intravenous Conscious Sedation/Analgesia-First 30 Minutes	\$94

* Rate for each subsequent tooth in the same arch

** Manually-priced maximum fee

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:176 (February 2003), amended LR 30:

NOTICE OF INTENT

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

Early and Periodic Screening, Diagnosis
and Treatment Program? Personal Care and Extended
and/or Multiple Daily Skilled Nursing Services
(LAC 50:XV.7305, 7307, 7311, and 7501)

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, December 29, 2003 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either 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: **Early and Periodic Screening, Diagnosis and Treatment Program? Dental Services? Reimbursement**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$32 for SFY 2002-2003, \$444,614 for SFY 2003-2004 and \$549,332 for FY 2004-2005. It is anticipated that \$340 (\$170 SGF and \$170 FED) will be expended in SFY 2003-2004 for the states administrative expense for promulgation of this proposed rule and the final rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$79 for SFY 2002-2003, \$1,117,369 for SFY 2003-2004 and \$1,380,858 for SFY 2004-2005. \$170 is included in SFY 2003-2004 for the federal administrative expenses for promulgation of this proposed rule and the final rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This proposed rule, which continues the emergency rules of February 21, 2003 and August 1, 2003, will increase the reimbursement rate for certain designated procedure codes (approximately 44 codes) in the Early Periodic Screening, Diagnosis and Treatment (EPSDT) Dental Program and amends codes and descriptions to comply with the Health Insurance Portability and Accountability Act (HIPAA). It is anticipated that implementation of this proposed rule will increase expenditures for EPSDT dental services by \$111 for SFY 2002-2003, \$1,561,643 for SFY 2003-2004 and \$1,930,190 for SFY 2004-2005.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Ben A. Bearden
Director
0311#079

H. Gordon Monk
Staff Director
Legislative Fiscal Office

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:XV.7305, 7307, and 7311 and adopt LAC 50:XV.Chapter 75 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby proposes to amend the February 20, 2003 Rule to clarify certain provisions governing personal care services covered under the Early Periodic Screening, Diagnosis and Treatment Program. The bureau also proposes to repromulgate and clarify the criteria governing extended and/or multiple daily skilled nursing visits addressed in the March 20, 1996 Rule on home health services for codification purposes.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, or autonomy as described in R.S. 49:972 by facilitating access to services as a result of clarifying the provisions governing covered services.

Title 50

PUBLIC HEALTH? MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis and Treatment

Chapter 73. Personal Care Services

§7305. Recipient Qualifications

A. - A.3. ...

4. A parent or other caregiver must be in the home with an EPSDT eligible 14 years of age or younger. Recipients over 14 years of age must be mentally and intellectually competent to direct their own care if they are to be left with the PCS worker without the presence of a parent or other caregiver.

5. Early and Periodic Screening, Diagnosis, and Treatment personal care services must be prescribed by the recipient's attending physician initially and every 180 days thereafter (or rolling 6 months), and when changes in the plan of care occur. The plan of care shall be acceptable for submission to BHSF only after the physician signs and dates the completed form. The physician's signature must be an original signature and not a rubber stamp.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:177 (February 2003), amended LR 30:

§7307. Prior Authorization

A. - D. ...

E. Recipients who have been designated by DHH as chronic needs cases are exempt from the standard prior authorization process. Although a new request for prior authorization must still be submitted every 180 days, the provider shall only be required to submit a PA request form accompanied by a statement from a physician verifying that the recipient's condition has not improved and the services currently approved must be continued. Only DHH or its designee can grant the designation of a chronic needs case to a recipient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:177 (February 2003), amended LR 30:

§7311. Service Limits

A. EPSDT personal care services are not subject to service limits. The units of service approved shall be based on the physical requirements of the recipient and medical necessity for the covered services in the EPSDT-PCS Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:178 (February 2003), amended LR 30:

Chapter 75. Extended and/or Multiple Daily Skilled Nursing

§7501. Medically Fragile

A. A medically fragile individual is one who has a medically complex condition characterized by multiple, significant medical problems that require extended care. Medically fragile individuals require most or all of the following services/aids:

1. use of home monitoring equipment;
2. IV therapy;
3. ventilator or tracheotomy care;
4. feeding tube and nutritional support;
5. frequent respiratory care;
6. medication administration;
7. catheter care;
8. frequent positioning needs;
9. special accommodations such as specially equipped vehicles or medical devices in order to attend school.

B. Under the EPSDT Program, continuous nursing care by a registered nurse (RN) or a licensed practical nurse (LPN) may be provided to children up to age 21 who are considered "medically fragile." Children who meet the continuous care criteria, which must be prior authorized, may leave the home and have the nurse provide services in any setting other than a school or institutions such as a hospital, skilled nursing facility or intermediate care facility for the mentally retarded.

C. Medically fragile recipients meet the medical necessity criteria for home health services if the individual has received prior authorization for multiple daily home visits and/or extended skilled nursing visits in accordance with the certifying physician's orders that document and meet the following criteria:

1. the medical condition of the recipient meets the medical necessity requirement for skilled nursing services and the provision of these services in the home is the most appropriate level of medical care; and

2. failure to receive skilled nursing services in the home would place the recipient at risk of developing additional medical problems or could cause further debilitation; and

3. the recipient requires skilled nursing services on a regular basis and that these services cannot be obtained in an outpatient setting before or after normal school hours. Therefore, home health services may be provided to the recipient/student in the home before or after normal school hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, December 29, 2003 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either 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: Early and Periodic Screening, Diagnosis and Treatment Program? Personal Care and Extended and/or Multiple Daily Skilled Nursing Services

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

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact for SFY 2003-2004, 2004-2005 and 2005-2006. It is anticipated that \$408 (\$204 SGF and \$204 FED) will be expended in SFY 2003-2004 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will not impact federal revenue collections for SFY 2003-2004, 2004-2005 and 2005-2006. It is anticipated that \$204 will be expended in SFY 2003-2004 for the federal expense for promulgation of this proposed rule and the final rule.

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

Implementation of this proposed rule will not have estimable costs and/or economic benefits for directly affected persons or nongovernmental groups. The proposed rule clarifies designated provisions for personal care services under the Early Periodic Screening, Diagnosis and Treatment Program (approximately 1,000 recipients receiving services). The proposed rule also repromulgates and clarifies the criteria governing extended and/or multiple daily skilled nursing services addressed in the March 20, 1996 rule on home health services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0311#080

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**

**Mental Health Rehabilitation? Accreditation
(LAC 50:XV.505)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XV.505 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule, effective June 20, 1996 (*Louisiana Register*, Volume 22, Number 6), that restructured the Mental Health Rehabilitation (MHR) Program and established provisions governing recipient eligibility, service delivery requirements and reimbursement methodology. The June 20, 1996 Rule was amended to revise provider participation requirements by establishing enrollment and certification criteria (*Louisiana Register*, Volume 24, Number 7).

Act 246 of the 2003 Regular Session of the Legislature provided for the mandatory accreditation of providers of mental health rehabilitation services by an accreditation body. In compliance with Act 246, the bureau now proposes to amend the July 20, 1998 Rule to revise provisions governing provider participation and the accreditation of mental health rehabilitation agencies.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, 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 the July 20, 1998 Rule to revise provisions governing provider participation and the accreditation of mental health rehabilitation agencies.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 1. Mental Health Rehabilitation

Chapter 5. Providers

Subchapter A. Provider Participation

§505. Accreditation

A. Currently enrolled and prospective providers of mental health rehabilitation services shall be accredited by a national accreditation organization. The department shall only accept accreditation from the following national organizations for the purposes of enrolling a provider into the Mental Health Rehabilitation (MHR) Program:

1. the Council on Accreditation (COA);
2. the Commission on Accreditation of Rehabilitation Facilities (CARF); or
3. the Joint Committee on Accreditation of Healthcare Organizations (JCAHO).

B. By July 1, 2004, all current providers shall provide the department with written documentation which identifies which national accreditation organization will be pursued. Current providers shall provide documentation of accreditation prior to December 31, 2005 as a condition of ongoing enrollment as a MHR provider. Prospective providers shall meet the established provider participation requirements. In addition, prospective providers shall be required to submit proof of a request for accreditation from a national accreditation organization within six months of enrollment in the MHR program and must be fully accredited within twenty four months of submitting the application for enrollment. Providers that do not submit such proof or are not accredited within 24 months shall be immediately terminated from the MHR program.

C. All enrolled providers of mental health rehabilitation services shall maintain accreditation from one of the national organizations listed Subsections A.1.-3 above. Any change in accreditation status shall be reported to the department by the provider. The provider shall provide written notification to the department within five working days of receiving said notice from the national accreditation organization. The written notification shall include information on the changed status and the steps the accreditation organization is requiring from that provider to obtain or maintain accreditation.

D. Denial, loss or change in accreditation status may result in sanctions to the mental health rehabilitation agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Interested persons may submit written comments to Ben A. Bearden at the following address: Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, December 29, 2003 at 9:30 am in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either 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: Mental Health
Rehabilitation? Accreditation**

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

It is anticipated that the implementation of this proposed Rule will have no programmatic impact to the state general fund other than the cost of promulgation for SFY 2003-2004. It is anticipated that \$272 (\$136 SGF and \$136 FED) will be expended in SFY 2003-2004 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

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

It is anticipated that the implementation of this proposed Rule will not affect federal revenue collections other than the federal share of the promulgation costs for SFY 2003-2004. It is anticipated that \$136 will be expended in SFY 2003-2004 for the federal share of the expense for promulgation of this proposed Rule and the final Rule.

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

This Rule proposes to revise the provisions governing provider participation and the accreditation of Mental Health Rehabilitation agencies (approximately 130 enrolled providers). It is anticipated that implementation of this proposed Rule will have no economic costs or benefits for recipients or mental health rehabilitation agencies.

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

This Rule has no known impact on competition and employment.

Ben A. Bearden
Director
0311#081

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**

Public Hospitals
Reimbursement Methodology
Upper Payment Limit

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in July of 1983 which established a reimbursement

methodology for inpatient services provided in acute care hospitals (*Louisiana Register, Volume 9, Number 7*). Inpatient hospital services were reimbursed in accordance with the Medicare reimbursement principles with a target rate set based on the cost per discharge for each hospital, except that the base year to be used in determining the target rate was the fiscal year ending on September 30, 1981 through September 29, 1982. In a Rule adopted in October of 1984 (*Louisiana Register, Volume 10, Number 10*), separate per diem limitations were established for neonatal and pediatric intensive care and burn units using the same base period as the target rate per discharge calculation. A Rule was adopted in October 1992, which provided that inpatient hospital services to children under one year of age shall be reimbursed as pass-through costs and shall not be subject to per discharge or per diem limits applied to other inpatient hospital services.

In compliance with House Bill 1 of the 2003 Louisiana Legislative Session, the bureau promulgated an emergency rule to amend the reimbursement methodology for public hospitals to utilize the upper payment limit for state government-owned or operated hospitals as set forth in the 42 CFR §447.272(b) and §447.321(b) (*Louisiana Register, Volume 29, Number 7*). 42 CFR §447.272(b) and §447.321(b) states as follows: "General Rules: (1) Upper payment limit refers to a reasonable estimate of the amount that would be paid for the services furnished by the group of facilities under Medicare payment principles in subchapter B of this chapter." The bureau now proposes to promulgate a Rule to continue the provisions contained in the July 3, 2003 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, 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 will utilize the upper payment limit for state government-owned or operated hospitals as set forth in the 42 CFR §447.272(b) and §447.321(b). The hospital payment differential for any year shall be the difference between the upper limit of aggregate payments to state government-owned or operated hospitals, as defined in the 42 CFR §447.272(a)(1) and §447.321(a)(1), and the aggregate Medicaid reimbursement paid to these hospitals for the year.

Implementation of the provisions of this rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed rule is scheduled for Monday, December 29, 2003 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either 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: Public Hospitals? Reimbursement
Methodology? Upper Payment Limit**

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

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$9,908,844 for SFY 2003-2004, \$10,205,969 for SFY 2004-2005 and \$10,512,148 for SFY 2005-2006. It is anticipated that \$272 (\$136 SGF and \$136 FED) will be expended in SFY 2003-2004 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$24,907,688 for SFY 2003-2004 and \$25,654,779 for SFY 2004-2005 and \$26,424,422 for SFY 2005-2006. \$136 is included in SFY 2003-2004 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

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

This rule proposes to amend the reimbursement methodology for public hospitals (operated by LSUHSCSD and LSUHSC) that would allow Medicaid to establish payments based on the Medicare Upper Payment Limit. It is anticipated that implementation of this proposed rule will increase payments to public hospitals by \$34,816,260 for SFY 2003-2004 and \$35,860,748 for SFY 2004-2005 and \$36,936,570 for SFY 2005-2006.

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

It is anticipated that there will be no effect on competition or employment as a result of the implementation of this proposed rule.

Ben A. Bearden
Director
0311#083

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services**

**Forfeiture of Good Time for Escape or Battery
(LAC 22:I.333, 359, and 365)**

The Department of Public Safety and Corrections, Corrections Services, in accordance with R.S. 15:823, and the Administrative Procedures Act, R.S. 49:950 et seq., hereby gives notice of its intent to repeal LAC 22:I.333, Forfeiture of Good Time for Escape or Battery on an Employee of the Department, in its entirety and to amend the

Disciplinary Rules and Procedures for Adult Inmates, LAC 22:I.341-365, to incorporate attempted escape, simple escape and aggravated escape as disciplinary offenses and to provide for the penalties for infractions of these Rules.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 3. Adult and Juvenile Services

Subchapter A. General

**§333. Forfeiture of Good Time for Escape or Battery
on an Employee of the Department**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:571.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 25:1875 (October 1999), repealed LR 30:

**Subchapter B. Disciplinary Rules and Procedures for
Adult Inmates**

**§359. Penalty Schedule-Disciplinary Report (Heard by
Disciplinary Board)**

A. - A.2.e. ...

f. forfeiture of good time

i. attempted escape (simple or aggravated)? up to a maximum of 180 days for each violation

ii. escape (simple or aggravated)? up to a maximum of all good time earned on that portion of the sentence served prior to the escape

iii. for all other violations, up to a maximum of 180 days for each violation.

g. - m. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:418 (March 2001), amended LR 28:94 (January 2002), repromulgated LR 28:1797 (August 2002), amended LR 30:

§365. Disciplinary Rules

A. - H. ...

I. Escape or attempt to escape (Schedule B):

1. attempted escape? the attempt to commit an aggravated or simple escape as defined herein

2. simple escape? the intentional, unauthorized departure of an inmate, under circumstances in which human life was not endangered, from the grounds of an institution, a designated area or place within an institution, the custody of corrections' personnel while off the grounds of an institution, the custody of any law enforcement officer, or the departure of a work release inmate from the designated area where he is legally confined; the failure of an inmate participating in a work release program to report or return from his planned employment or other activity at the appointed time; or the failure of an inmate on furlough to return to his place of confinement at the appointed time.

3. aggravated escape? the intentional, unauthorized departure of an inmate, under circumstances in which human life was endangered, from the grounds of an institution, a designated area or place within an institution, the custody of

corrections' personnel while off the grounds of an institution, the custody of any law enforcement officer, or the departure of a work release inmate from the designated area where he is legally confined; the failure of an inmate participating in a work release program to report or return from his planned employment or other activity at the appointed time; or the failure of an inmate on furlough to return to his place of confinement at the appointed time. For the purpose of this regulation, the commission of a crime while on escape constitutes aggravated escape.

J. - Y.23. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94 USDC (Md. La.) and Sandin v. Conner, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Adult Services, LR 27:419 (March 2001), amended LR 30:

Family Impact Statement

In accordance with the Administrative Procedures Act, R.S. 49:953(A)(1)(a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Corrections Services, hereby provides the Family Impact Statement.

Repeal of LAC 22:I.333, forfeiture of good time for escape or battery on an employee of the department, and amending LAC 22:I.359 and 365, disciplinary rules and procedures for adult inmates, to incorporate attempted escape, simple escape and aggravated escape as disciplinary offenses and to provide for the penalties for infractions of these proposed Rules 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.

Interested persons may submit written comments to Richard L. Stalder, Secretary, Department of Public Safety and Corrections, Corrections Services, 504 Mayflower Street, Baton Rouge, LA 70802, or by facsimile to (225) 342-3095. All comments must be submitted by 4:30 p.m., December 20, 2003.

Richard L. Stalder
Secretary

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

**RULE TITLE: Forfeiture of Good Time
for Escape or Battery**

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

The minor amendments to the current Rule and repeal of LAC 22:I.333 will not result in any implementation costs or savings to state or local government units.

**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 estimated costs and/or economic benefits to directly affected persons or non-governmental groups resulting from the amendments.

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

There is no anticipated impact on competition and employment.

Robert B. Barbor
General Counsel
0311#046

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police**

Collection, Submission, Receipt, Identification,
Storage and Disposal of DNA Samples
(LAC 55:I.2703, 2725, and 2740-2747)

Pursuant to R.S. 15:601 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Public Safety and Corrections, Public Safety Services, Office of State Police intends to amend LAC 55:I.Chapter 27. Notice is further given that the department intends to promulgate the following rules and regulations which establish guidelines for the collection, submission, receipt, identification, storage and disposal of DNA samples for arrestees as defined in R.S. 15:601 et seq. and for peace officers as defined in R.S. 40:2405.4 et seq.

Title 55

PUBLIC SAFETY

Part I. State Police

**Chapter 27. Collection, Submission, Receipt,
Identification, Storage and Disposal of
DNA Samples**

Subchapter A. Collection of DNA Samples

**§2703. Collection, Submission, and Identification of
DNA Samples for Convicted Offenders**

A. All DNA samples obtained for DNA Analysis from a convicted offender shall be collected using an approved Louisiana State Police Crime Laboratory DNA Database Collection kit as supplied by the Department.

1 - 5.i. ...

j. In the event a convicted offender resists the taking of the DNA sample and the collector must use reasonable force in accordance with R.S. 15:601-620, the collector may collect any type of biological sample approved by the Louisiana State Police Crime Laboratory. The following types of biological sample collections are hereby approved for these instances:

- i. blood stain from finger prick on FTA card;
- ii. buccal swab;
- iii. phlebotomy draw.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:206

(February 2001), repromulgated LR 27:1702 (October 2001), amended LR 30:

Subchapter B. Arrestees

§2725. Record Keeping of DNA Samples for Arrestees

A. The individual who collects each DNA sample shall provide an accurate, up-to-date list of every DNA sample collected each day of collection. Any failed attempts to collect a sample from an arrestee and the reason for the failure (e.g. refusal of arrestee to submit) shall also be indicated. The list will include the following information: the kit number, the arrestee's name, the name of the person collecting the sample and the submitting agency together with any additional data which the Director deems necessary. This information shall be forwarded on an audit form provided by the department to the CODIS DNA Unit on a daily basis, via U.S. mail. If the mailing envelopes are hand delivered to the Crime Laboratory, the audit form shall accompany the mailing envelopes being delivered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 28:2370 (November 2002), amended LR 30:

Subchapter C. Peace Officers

§2740. Scope, Purpose and Application

A. Scope, Purpose, and Application. To provide rules and regulations governing the collection, submission, receipt, identification, storage and/or disposal of DNA samples for peace officers pursuant to R.S. 40:2405.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2405.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 30:

§2741. Definitions

Biological Sample? biological evidence of any nature that is utilized to conduct DNA analysis.

Crime Laboratory? Louisiana State Police *Crime Laboratory* of the *Department* of Public Safety and Corrections, Public Safety Services.

Department? *Department* of Public Safety and Corrections, Public Safety Services.

Director? the *Director* of the Louisiana State Police *Crime Laboratory*.

DNA? deoxyribonucleic acid.

DNA Analysis? DNA typing tests that generate numerical identification information and are obtained from a DNA sample.

DPS and C? *Department* of Public Safety and Corrections.

Peace Officer? same meaning as R.S. 40:2402.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2405.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 30:

§2742. Collection of DNA Samples for Peace Officers

A. All biological samples obtained for DNA Analysis from a peace officer shall be buccal swabs and shall be collected using sterile cotton tip swabs as provided by the agency employing the peace officer who is required to have his biological sample collected pursuant to R.S. 40:2405.4.

1. The agency employing the peace officer shall provide all materials necessary to collect a biological sample from any peace officer required to provide a sample pursuant to R.S. 40:2405.4.

2. The supplies necessary to collect a buccal swab shall include the following:

- a. one pack of two sterile cotton tip swabs;
- b. one pair of gloves;
- c. one paper type envelope to store the samples once collected;
- d. evidence tape for sealing the paper envelope.

3. In order to collect the biological sample, the collector shall adhere to the following procedures.

a. Have the subject open his or her mouth. If there is foreign matter in the mouth, such as tobacco or gum, have the subject rinse his or her mouth out with water.

b. Remove one sterile cotton swab and collect the specimen by rubbing the swab vigorously on the inside surfaces of the cheeks and gums thoroughly. While slowly turning the swab (so that all sides of the swab are in contact with the side of the cheek) rub the swab up and down and back and forth in the mouth about 10 times.

c. Allow the buccal swab to dry for at least 30 minutes.

d. After allowing the buccal swab to dry for at least thirty minutes. Place the buccal swab in the paper type envelope. Do not place the swab back into the original sterile swab packaging.

e. Repeat Subparagraph b with the remaining swab.

f. Place the second cotton tip swab immediately inside the paper type envelope with the first swab.

g. Seal the paper type envelope. Place evidence seal over envelope seal. Write the date and collector's initials partially on the paper type envelope and partially on the evidence seal.

4. The collector shall print the name of the peace officer, the date of collection and the name of the collector on the paper type envelope used to store the samples once collected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2405.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 30:

§2743. Storage of Biological Samples

A. All agencies employing any peace officer required to provide a biological sample pursuant to R.S. 40:2405.4 shall be responsible for storing said samples in a secure location. All agencies shall ensure that no unauthorized access to any biological sample taken from any peace officer is permitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2405.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 30:

§2745. Disposition of Biological Samples Following Termination Peace Officer Employment

A. If the employment of a peace officer who is required to have a DNA sample collected pursuant to R.S. 40:2405.4 terminates for any reason, the law enforcement agency that collected the sample may destroy the buccal swab or return it to the peace officer from whom the sample was collected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2405.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 30:

§2747. Severability

A. If any article, section, subsection, sentence, clause or phrase of LAC 55:I:2320 et seq. is for any reason

determined to be unconstitutional, contrary to statute, in excess of authority, or otherwise inoperative, such determination shall not affect the validity of any other article, section, subsection, sentence, clause or phrase of LAC 55:I:2701 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2405.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 30:

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 to perform the function as contained in the proposed Rules as families are not required to collect DNA samples from peace officers. These Rules may have an effect on local governments as local governments will be required to collect the samples from peace officers for which a DNA sample is required and may be required to have their employees trained to collect DNA samples. Any such training will be supplied by the Louisiana State Police Crime Laboratory.

The Superintendent of the Office of State Police will consider comments and public input for a period of 35 days following publication. All comments should be directed to Tammy Pruet Northrup, Post Office Box 66614, Mailstop #17, Baton Rouge, LA 70896, 225-925-6216 (phone) 225-925-6217 (facsimile). A tentative public meeting on these Rules is currently scheduled for 10:00 a.m., Wednesday, December 17, 2003, at the Louisiana State Police Crime Laboratory Conference Room located at 376 East Airport Drive, Baton Rouge, LA 70806. Please call to confirm the date, time and location if you plan to attend.

Christopher A. Keaton
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Collection, Submission, Receipt, Identification, Storage and Disposal of DNA Samples

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

There should be no savings to the department. The proposed new Rules are necessary as a result of the passage of Act No. 894 of the 2003 Regular Legislative Session which requires promulgation of policies and procedures to collect biological samples from peace officers hired after August 15, 2003. The only implementation costs for these types of collections will be the costs of the DNA collections kits. Pursuant to these Rules, the costs of these kits will be absorbed by the law enforcement agency that employs the peace officer who is required to provide a biological sample pursuant to Act No. 894 of the 2003 Regular Legislative Session. The estimated costs of the collection kit is \$1.05 per kit.

The enactment of LAC Part I, Ch. 27(C) is necessary to establish guidelines for the collection, submission, receipt, identification, storage and disposal of DNA samples for peace officers as defined in R.S. 40:2405.4.

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

There should be no effect on revenue collections of the state as these Rules only establish guidelines for the collection, submission, receipt, identification, storage and disposal of DNA samples for peace officers as defined in R.S. 40:2405.4. The commencing of sampling peace officers for DNA samples will not raise revenue. There should be no effect on revenue collections of local governments as the commencing of sampling peace officers for DNA samples will not raise revenue for local governments.

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

There should be no effect on revenue collections of the state as these Rules only establish guidelines for the collection, submission, receipt, identification, storage and disposal of DNA samples in R.S. 40:2405.4. There will be no costs to peace officers who will provide the samples in accordance with law and no non-governmental group will be affected by this program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment. The proposed new Rules initiate collections of DNA samples from peace officers as defined in R.S. 40:2405.4. Persons currently employed by the local governments and state agencies required to collect these samples will be the persons collecting these samples.

Christopher A. Keaton
Undersecretary
0311#065

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of Weights and Measures**

Minimum Standards for Reflectivity of Work-Site Materials
(LAC 73:III.Chapter 3)

In accordance with the applicable provisions of the Administrative Procedure Act, R. S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development intends to amend Chapter 3 entitled "Minimum Standards for Reflectivity of Work-Site Materials," in accordance with the provisions of R.S. 48:35.

Title 73

WEIGHTS, MEASURES, AND STANDARDS

Part III. Weights and Standards

Chapter 3. Minimum Standards for Reflectivity of Work-Site Materials

§301. Minimum Standards for Reflective Sign Sheeting

A. Reflective sheeting shall be one of the following types as specified on the plans and complying with ASTM D 4956 except as modified herein. The sheeting shall be an approved product listed in QPL 13.

1. Type I. A medium-intensity retroreflective sheeting referred to as "engineering grade" and typically enclosed lens glass-bead sheeting.

2. Type II. A medium-high-intensity retroreflective sheeting sometimes referred to as "super engineering grade" and typically enclosed lens glass-bead sheeting.

3. Type III. A high-intensity retroreflective sheeting, that is typically encapsulated glass-bead retroreflective material.

4. Type VI. An elastomeric-high-intensity retro-reflective sheeting without adhesive. This sheeting is typically a vinyl microprismatic retroreflective material.

5. DOTD Type VII (Fluorescent Orange). A super-intensity retroreflective sheeting, that is typically an unmetallized microprismatic retroreflective element material.

6. Type IX. A very high-intensity retroreflective sheeting having highest retroreflectivity at short distances as determined by the R_A values at 1° observation angle. This sheeting is typically an unmetallized microprismatic retroreflective element material.

B. Adhesive Classes. The adhesive required for retroreflective sheeting shall be Class 1 (pressure sensitive) or Class 2 (heat activated) as specified in ASTM D 4956.

C. Identification Marks. Type II sheeting shall be distinguished by integral identification marks that cannot be removed or affected by physical or chemical methods without causing damage to the sheeting. The markings shall be inconspicuously placed on 12-inch (300-mm) centers and shall be visible from a distance of not more than 3 feet (1.0 m).

D. Alternate Sheeting Type. DOTD Type VII (Fluorescent Orange). Minimum Coefficients of Retroreflection shall be as specified in Table 1015-1. Luminance factors and color requirements shall be as specified in Table 1015-2.

Table 1015-1 Coefficients of Retroreflection for DOTD Type VII (Fluorescent Orange) Sheeting¹

Observation Angle, degrees	Entrance Angle, degrees	Fluorescent Orange
0.2	-4	180
0.2	+30	90
0.5	-4	72
0.5	+30	36

¹Minimum Coefficient of Retroreflection (R_A) ($cd\ lx^{-1}m^{-2}$)

Table 1015-2 Fluorescent Orange Color Specification Limits (Daytime)

Color	1		2		3		4		Luminance Factor, min.
	x	y	x	y	x	y	x	y	Y%
Fluor. Orange	0.583	0.416	0.535	0.400	0.595	0.351	0.645	0.355	25

our pairs of chromaticity coordinates determine the acceptable color in terms of the CIE 1931 Standard Colorimetric System measured with Standard Illuminant D65.)

E. Accelerated Weathering. Reflective sheeting, when processed, applied and cleaned in accordance with the manufacturer's recommendations shall perform in accordance with the accelerated weathering standards in Table 1015-3.

Table 1015-3 Accelerated Weathering Standards²

Type	Retroreflectivity ¹				Colorfastness ³	
	Orange		All Colors, except Orange		Orange	All Colors, except Orange
I	Not used		2 years	504	Not used	2 Years
II	1 Year	655	Not used		1 Year	3 Years
III	1 Year	806	3 Years	806	1 Year	3 Years
III (for drums)	1 Year	806	1 Year	806	1 Year	1 Year
VI	1/2 Year	507	1/2 Year	507	1/2 Year	1/2 Year
DOTD Type VII (Fluor. Orange)	1 Year	808	Not Used		1 Year	Not used
IX	Not used		3 Years	809	Not used	3 Years

¹Percent retained retroreflectivity of referenced table after the outdoor test exposure time specified.

²At an angle of 45° from the horizontal and facing south in accordance with ASTM G7.

³Colors shall conform to the color specification limits of ASTM D4956 and Table 1015-2 herein after the outdoor test exposure time specified.

⁴ASTM D4956, Table 4.

⁵ASTM D4956, Table 6.

⁶ASTM D4956, Table 7.

⁷ASTM D4956, Table 12.

⁸Table 1015-1.

⁹ASTM D4956, Table 3.

F. Performance. Reflective sheeting for signs, when processed, applied and cleaned in accordance with the manufacturer's recommendations shall perform outdoors in accordance with the performance standards in Table 1015-4.

Table 1015-4 Reflective Sheeting Performance Standards

Type	Retroreflectivity ¹ -- Durability ²		Colorfastness ³	
	Orange	All Colors, except Orange		
I	Not used		7 years	50 ⁴
II	3 Years	65 ⁵	Not used	
III	3 Years	80 ⁶	10 Years	80 ⁶
DOTD Type VII (Fluor. Orange)	3 Years	80 ⁷	Not Used	
IX	Not used		7 Years	80 ⁸

¹Percent retained retroreflectivity of referenced table after installation and the field exposure time specified.

²All sheeting shall maintain its structural integrity, adhesion and functionality after installation and the field exposure time specified.

³All colors shall conform to the color specification limits of ASTM D4956 and Table 1015-2 herein after in stallation and the field exposure time specified.

⁴ASTM D4956, Table 4.

⁵ASTM D4956, Table 6.

⁶ASTM D4956, Table 7.

⁷Table 1015-1.

⁸ASTM D4956, Table 3.

G Temporary Signs, Barricades, Channelizing Devices, Drums and Cones. Reflective sheeting for temporary signs, barricades and channelizing devices, shall meet the requirements of ASTM D 4956, Type III except that the initial sequence of temporary advanced warning construction signs used on the mainline of freeways and expressways shall meet the requirements of DOTD Type VII (Fluorescent Orange).

1. Reflective sheeting for vertical panels shall meet the requirements of ASTM D 4956, Type III.

2. Reflective sheeting for drums shall be a minimum of 6 inches (150 mm) wide and shall meet the requirements of ASTM D 4956, Type III, and the Supplementary Requirement S2 for Reboundable Sheeting as specified in ASTM D 4956. Reflective sheeting for traffic cone collars shall meet the requirements of ASTM D 4956, Type VI.

H. Sheeting Guaranty. The contractor shall provide the Department with a guaranty from the sheeting manufacturer stating that if the retroreflective sheeting fails to comply with the performance requirements of this subsection, the sheeting manufacturer shall do the following:

Table 1015-5 Manufacturer's Guaranty - Reflective Sheeting

Type	Manufacturer shall restore the sign face in its field location to its original effectiveness at no cost to the Department if failure occurs during the time period ¹ specified below.		Manufacturer shall replace the sheeting required to restore the sign face to its original effectiveness at no cost to the Department if failure occurs during the time period ¹ specified below.
	Orange	All Colors, except Orange	All Colors, except Orange
I	Not used	<5 years	5-7 years
II	<3 years	<5 years	5-10 years
III	<3 years	<7 years	7-10 years
DOTD Type VII (Fluor. Orange)	<3 years	Not used	Not used
IX	Not used	<5 years	5-10 years

¹From the date of sign installation.

1. Replacement sheeting for sign faces, material, and labor shall carry the unexpired guaranty of the sheeting for which it replaces.

2. The sign fabricator shall be responsible for dating all signs with the month and year of fabrication at the time of sign fabrication. This date shall constitute the start of the guaranty obligation period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Measures LR 24:703 (April 1998), amended LR 26:357 (February 2000), LR 30:

§303. Minimum Standards for Striping

A. Temporary Pavement Markings

1. Temporary Tape. Temporary tape shall comply with ASTM D 4592, Type I (removable) or Type II (non-removable) and shall be an approved product listed in QPL-60.

2. Painted Stripe. Paint shall be an approved traffic paint complying with Subsection 1015.12. of the *Louisiana Standard Specifications for Roads and Bridges*. Glass beads for drop-on application shall comply with Subsection 1015.13 of the *Louisiana Standard Specifications for Roads and Bridges*.

3. Temporary Raised Pavement Markings for Asphaltic Surface Treatment. Temporary raised pavement markers for asphaltic surface treatment shall be flexible reflective tabs having a nominal width of 4 inches (10 cm). The markers shall be yellow with amber reflective area on both sides. The body of the marker shall consist of a base and vertical wall made of polyurethane or other approved material and shall be capable of maintaining a reasonable vertical position after installation. The initial minimum reflectivity at an entrance angle of -4 degrees and an observation angle of 0.2 degrees shall be 230 mcd/lx when measured in accordance with ASTM E 810.

a. The reflective material shall be protected with an easily removable cover of heat resistant material capable of withstanding and protecting the reflective material from the application of asphalt at temperatures exceeding 325°F (160°C).

b. The markers shall be an approved product listed in QPL 74.

B. Traffic Paint. The contractor shall have the option of furnishing either alkyd traffic paint or water-borne traffic paint; however, the same type paint shall be used throughout the project. Each paint container shall bear a label with the name and address of manufacturer, trade name or trade-mark, type of paint, number of gallons, batch number and date of manufacture. Paints shall be approved products listed in QPL 36; shall show no excessive settling, caking or increase in viscosity during 6 months of storage, and shall be readily stirred to a suitable consistency for standard spray gun application. An infrared curve shall be generated in accordance with DOTD TR 610 and compared with the standard curve made during the initial qualification process.

1. Alkyd Traffic Paint. This material shall be a rapid-setting compound suitable for use with hot application equipment. The material shall meet the requirements of Table 1015-11.

Table 1015-11 Alkyd Traffic Paint Physical Properties

Property	Test Method	Requirements	
		Min	Max
Weight, kg/L	ASTM D 1475	1.5	---
Viscosity @ 25°C, Krebs Units	ASTM D 562	85	115
Dry to No Pick Up, s	ASTM D 711	---	180
Directional Reflectance, %	ASTM E 97	80	---
White		50	---
Yellow			
Bleeding	Fed. Spec. TT-P-115	Pass	
Total Solids, % by mass	ASTM D 1644, Method A	70	---
Film Shrinkage	1	Pass	
Hiding Power	2	Pass	
Pigment, %	ASTM D 2371	50	55
Nonvolatiles in Vehicle, % by mass	ASTM D 215	35	---
Flexibility	Fed. Spec. TT-P-1952	Pass	
Pigment Composition	3	Pass	

¹Film Shrinkage: With a film applicator, cast a wet film with a thickness of 30 mils (750 µm) over a smooth glass plate. Allow sample to cure at room condition for 4 to 5 hours. Using a micrometer, measure the plate thickness before the film is cast using five measurements to obtain an average. The cured film shall have a minimum thickness of 12 mils (300 µm).

²Hiding Power: The paint shall have a wet hiding power of at least 350 square feet per gallon (8.6 m²/L). The compound shall have sufficient hiding power to cover any pavement when applied at a wet film thickness of 15 mils (375 µm).

³Pigment Composition: White paint shall contain at least 1.5 pounds (180 g) of titanium dioxide (TiO₂) pigment per gallon (L) as determined using DOTD TR 523 with at least 92 percent TiO₂ content. The TiO₂ shall comply with ASTM D 476. Yellow paint shall contain at least 1.3 pounds (160 g) of medium chrome yellow pigment per gallon (L) as determined using DOTD TR 523. Medium chrome yellow pigment shall comply with ASTM D 211, Type III.

2. Water Borne Traffic Paint. This material shall be a rapid setting waterborne compound suitable for use with hot application equipment. The material shall meet the requirements of Table 1015-12.

Table 1015-12 Water Borne Traffic Paint Physical Properties

Property	Test Method	Requirements	
		Min	Max
Weight, kg/L	ASTM D 1475	1.5	---
Viscosity, at 25°C Krebs Units	ASTM D 562	75	90
Drying to No Pickup, min.	ASTM D 711	---	10
Dry through, min.	ASTM D 1640	---	20
Volume Solids, %	---	58	---
Total Solids, % by mass	ASTM D 2369	70	---
Pigment, % by mass	ASTM D 3723	45	55
Nonvolatile Vehicle, % by mass	Fed. Test 141B	40	---
Bleed Ratio	Fed. Spec. TT-P-1952	0.96	---
Daylight Reflectance, %	Fed. Test 141B	85	---
White		54	---
Yellow			
Hiding Power (Contract Ratio) at 250 µm	Fed. Test 141B	0.96	---
Flexibility	Fed. Spec. TT-P-1952	Pass	
Drying Time, min.	1	---	3
Fineness of Grind	ASTM D 1210	3	---
Freeze-Thaw	ASTM D 2243	Pass	
Heat Stability	Fed. Spec. TT-P-1952	Pass	

Color	2	Pass	
Volatile Organic Compounds (g/L)	---	---	150
Pigment Composition	3	Pass	

¹Drying Time to No Track - Paint applied at 15 mils (375 µm) wet on the road surface with paint heated to 120-150°F (50-65°C) shall not show tracking when a standard size automobile crosses in a passing maneuver at three minutes.

²Color? Yellow paint shall comply with the requirements of Table 1015-13 when tested in accordance with ASTM E 1349. White shall be a clean, bright, untinted binder.

³The white paint shall contain a minimum of 1.0 pound per gallon (120 g/L) of titanium dioxide (TiO₂) as determined using DOTD TR 523. The titanium dioxide shall comply with ASTM D 476.

Table 1015-13 Water Borne Traffic Paint Color Specification Limits (Daytime)

Color	1		2		3		4	
	x	y	x	y	x	y	x	y
Yellow	0.4756	0.4517	0.4985	0.4779	0.5222	0.4542	0.4919	0.4354

(The four pairs of chromaticity coordinates determine the acceptable color in terms of the CIE 1931 Standard Colorimetric System measured with Standard Illuminant C.)

C. Large Embedment Coated Glass Beads for Pavement Markings. Large embedment coated glass beads for use with painted traffic striping and flat thermoplastic striping shall be transparent, clean, colorless glass, smooth and spherically shaped, free from milkiness, pits, or excessive air bubbles and conform to the specific requirements for the class designated. The beads shall be non-flotation, embedment coated and conform to the following specific requirements.

1. Gradation. The testing for gradation of the beads shall be in accordance with ASTM D 1214 and shall meet the gradation requirements specified below.

a. Painted Traffic Striping. Glass beads for painted traffic striping shall meet the gradation requirements of Table 1015-14.

TABLE 1015-14 Gradation of Large Embedment Coated Glass Beads for Painted Traffic Striping

U.S. Sieve (Metric Sieve)	Percent Retained
No. 12 (1.7 mm)	0
No. 14 (1.4 mm)	0-5
No. 16 (1.18 mm)	5-20
No. 18 (1.00 mm)	40-80
No. 20 (850 µm)	10-40
No. 25 (710 µm)	0-5
PAN	0-2

b. Flat Profile Thermoplastic Striping. Drop-on beads for flat profile thermoplastic striping shall meet the gradation requirements of Table 1015-15 as determined by the thickness of the striping.

TABLE 1015-15 Gradation of Embedment Coated Glass Beads for Flat Profile Thermoplastic Striping

Thickness	Number of Bead Drops	Application #1	Application #2
40 mils	Single Drop	See Table 1015-14	N/A
90 mils or greater	Double Drop	See Table 1015-16	AASHTO M 247 Type I

TABLE 1015-16 Gradation of Large Embedment Coated Glass Beads for First Drop on Flat Thermoplastic Striping

U.S. Sieve (Metric Sieve)	Percent Retained
No. 10 (2.0 mm)	0
No. 12 (1.7 mm)	0-5
No. 14 (1.4 mm)	5-20
No. 16 (1.18 mm)	40-80
No. 18 (1.00 mm)	10-40
No. 20 (850 µm)	0-5
PAN	0-2

2. Roundness. The beads shall have a minimum of 80 percent rounds per screen for the two highest sieve quantities. The remaining sieve fractions shall have no less than 75 percent rounds as determined by microscopic examination.

3. Angular Particles. The beads shall have no more than three percent angular particles per screen.

4. Refractive Index. The beads shall have a refractive index of 1.50 to 1.52 when tested by the liquid immersion method.

5. Embedment Coating. The large beads for thermoplastic striping shall be coated with an adhesion assuring coating. The smaller AASHTO M247 Type I beads shall be coated to provide free flowing characteristics when tested in accordance with AASHTO M247 Section 4.4.1. and assure adhesion. Glass beads shall be properly coated and conform to the requirements when tested as described in DOTD TR 530 Determination of Embedment Coating on Large Embedment Coated Glass Beads for Pavement Markings.

6. Packaging and Marking. The beads shall be packaged in moisture proofed containers. Each container shall be stamped with the following information: Name and address of manufacturer, shipping point, trademark or name, the wording "Large Embedment Coated Glass Beads," class, weight, lot number and the month and year of manufacture. The container for the AASHTO M 247 Type I beads shall be similarly stamped except that the wording shall be "Glass Beads."

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Measures, LR 24:705 (April 1998), amended LR 30:

§305. Minimum Standard for Thermoplastic Pavement Markings

A. Description. This specification covers hot-sprayed or hot-extruded reflective thermoplastic compound for pavement markings on asphaltic or portland cement concrete pavement. Thermoplastic marking material applied to asphaltic surfaces shall consist of an alkyd-based formulation. Thermoplastic marking material applied to portland cement concrete surfaces shall consist of either an alkydbased or hydrocarbonbased formulation. Material shall be so manufactured as to be applied by spray or extrusion to pavement in molten form, with internal and surface application of glass spheres, and upon cooling to normal pavement temperature, shall produce an adherent, reflectorized pavement marking of specified thickness and width, capable of resisting deformation.

1. Material shall not scorch, break down, or deteriorate when held at the plastic temperature specified in

Subsection 732.03(d)(1) for 4 hours or when reheated four times to the plastic temperature. Temperature-vs-viscosity characteristics of plastic material shall remain constant when reheated four times, and shall be the same from batch to batch. There shall be no obvious change in color of material as the result of reheating four times, or from batch to batch.

B. Suitability for Application. Thermoplastic material shall be a product especially compounded for pavement markings. Markings shall maintain their original dimension and placement and shall not smear or spread under normal traffic at temperatures of below 140°F (60°C). Markings shall have a uniform cross section. Pigment shall be evenly dispersed throughout its thickness. The exposed surface shall be free from tack and shall not be slippery when wet. Material shall not lift from pavement in freezing weather. Cold ductility of material shall be such as to permit normal movement with the pavement surfaced without chipping or cracking.

C. Standard Thermoplastic Pavement Markings. Materials shall be approved products listed in QPL 63 and shall comply with AASHTO M 249 and the specifications as stated herein with the following modifications:

1. Color. The yellow thermoplastic shall comply with the requirements of Table 1015-7 when tested in accordance with ASTM E 1349.

Table 1015-7 Color Specification Limits (Daytime)

Color	1		2		3		4	
	x	y	x	y	x	y	x	y
Yellow	0.4756	0.4517	0.4985	0.4779	0.5222	0.4542	0.4919	0.4354

(The four pairs of chromaticity coordinates determine the acceptable color in terms of the CIE 1931 Standard Colorimetric System measured with Standard Illuminant C.)

2. Whiteness Index. The white thermoplastic shall have a minimum whiteness index of 40 when tested according to ASTM E 313.

D. Inverted Profile Thermoplastic Pavement Markings. Materials shall be approved products listed in QPL 63 and shall comply with AASHTO M 249 and these specifications as follows:

1. Bead Content. Glass bead content for inverted profile thermoplastic pavement markings shall be in accordance with Table 1015-8.

Table 1015-8 Bead Content

U.S. Standard Sieve Size (Microns)	Class A1 --10% min. (by wt.) of thermoplastic compound, Percent Retained	Class B1 --25% min. (by wt.) of thermoplastic compound
14 (1400)	0 - 1	Beads shall meet gradation requirement of AASHTO M 247, Type I.
16 (1190)	0 - 20	
18 (1000)	0 - 45	
20 (840)	30 - 80	
30 (595)	20 - 50	
Pan	0 - 10	

¹Refer to Section 732 when applying as drop-on beads for inverted profile thermoplastic pavement markings.

2. Bead Quality. The glass beads shall be coated with A-116 Silane or other adhesion promoting coating. The glass beads shall have a maximum of 3 percent irregular particles and a maximum of 5 percent air inclusions. The percentage

of true spheres shall be 90 percent minimum for Class A beads and 80 percent minimum for Class B beads.

3. Binder Content. The binder content of the thermoplastic material shall be 19 percent minimum.

4. Titanium Dioxide. The titanium dioxide shall meet ASTM D476, Type II, Rutile grade, 93 percent minimum titanium content.

5. Yellow Pigment. The yellow pigment for the yellow thermoplastic material shall be 4 percent minimum.

6. Color. The yellow thermoplastic shall comply with the requirements of Table 1015-9 when tested in accordance with ASTM E 1349.

Table 1015-9 Color Specification Limits (Daytime)

Color	1		2		3		4	
	x	y	x	y	x	y	x	y
Yellow	0.4756	0.4517	0.4985	0.4779	0.5222	0.4542	0.4919	0.4354

(The four pairs of chromaticity coordinates determine the acceptable color in terms of the CIE 1931 Standard Colorimetric System measured with Standard Illuminant C.)

7. Whiteness Index. The white thermoplastic shall have a minimum whiteness index of 40 when tested according to ASTM E 313.

8. Specific Gravity. The specific gravity of the thermoplastic pavement marking material shall not exceed 2.35.

9. Flowability. After heating the thermoplastic material for four hours 75 minutes at 425°F (218°C) and testing flowability, the white thermoplastic shall have a maximum percent residue of 22 percent and the yellow thermoplastic shall have a maximum residue of 24 percent.

10. Reflectivity. The initial reflectance for the in-place marking shall have the minimum reflectance value of 450 mcd/lux/sq m for white and 350 mcd/lux/sq m for yellow when measured with a geometry of 1.5° degrees observation angle and 86.5° degrees entrance angle.

11. Wet Reflectivity. The minimum in-place marking when wet shall have the minimum reflectance value of 200 mcd/lux/sq m for white and 175 mcd/lux/sq m for yellow when measured with a geometry of 1.5° degrees observation angle and 86.5° degrees entrance angle. The stripe shall be wet utilizing a pump-type garden sprayer for 30 seconds. After 5 seconds, place the reflectometer on the stripe and measure the retro reflectance.

12. Retained Reflectivity. The thermoplastic pavement marking material shall retain the minimum reflectance value of 130 mcd/lux/sq m for at least four years after placement. Failure to meet this requirement shall require the contractor to replace the portion of the material shown to be below these minimums. The contractor shall provide a written warranty indicating the terms of this requirement.

13. Inverted Profile. The thermoplastic pavement marking material shall be applied to have individual profiles having a minimum height of 0.140 inches (3.5 mm) with the recessed inverted profiles having a thickness of 0.025 to 0.050 inches (0.6 mm to 1.25 mm). The profiles shall be well defined and not excessively run back together.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Measure, LR 24:707 (April 1998), amended LR 30:

§307. Minimum Standards for Preformed Plastic Pavement Marking Tape

A. General. Preformed plastic pavement marking tape shall be approved products listed on QPL 64 and shall comply with ASTM D 4505 Type I, Type I - High Performance (as specified below) or Type V, except as modified herein. The marking tape shall be Grade A, B, C, D, or E. The type and color shall be in accordance with the plans and the *Manual on Uniform Traffic Control Devices* (MUTCD).

B. Thickness. All preformed plastic pavement marking tape shall have a minimum overall thickness of 0.060 inches (1.5 mm) when tested without the adhesive.

C. Friction Resistance. The surface of the Type I preformed plastic pavement marking tape shall provide a minimum frictional resistance value of 35 British Polish Number (BPN) when tested according to ASTM E 303. The surface of the Type I-High Performance and Type V preformed plastic pavement marking tape shall provide a minimum frictional resistance value of 45 BPN when tested according to ASTM E 303, except values for the Type V are calculated by averaging values taken at downweb and at a 45° degrees angle from downweb.

D. Retro Reflective Requirements. The preformed plastic pavement marking tape shall have the minimum specific luminance values shown in Table 1015-10 when measured in accordance with ASTM D 4061.

Table 1015-10 Specific Luminance

Type	Observation Angle, degrees	Entrance Angle, degrees	Specific Luminance (mcd/sq m/lx)	
			White	Yellow
I	0.2	86	500	400
	1.0	86.5	300	175
I-High Performance	0.2	86	700	560
	1.0	86.5	400	225
V	0.2	86	1100	800
	1.0	86.5	700	500

E. Durability Requirements. The Type I-High Performance preformed plastic pavement marking tape shall show no appreciable fading, lifting or shrinkage for at least 12 months after placement when placed in accordance with the manufacturer's recommended procedures on pavement surfaces having a daily traffic count not to exceed 15,000 ADT per lane.

1. The Type V preformed plastic pavement marking tape shall show no appreciable fading, lifting or shrinkage for at least 4 years after placement for longitudinal lines and at least 2 years after placement for symbols and legends.

2. The Type V preformed plastic pavement marking tape shall also retain the following reflectance values for at least 4 years after placement for longitudinal lines and at least 2 years after placement for symbols and legends.

Observation Angle, degrees	Entrance Angle, degrees	Specific Luminance (mcd/sq m/lx)	
		White	Yellow
1.0	86.5	100	100

F. Plastic Pavement Marking Tape Guaranty (Type I - High Performance and Type V). If the plastic pavement marking tape fails to comply with the performance and durability requirements of Subsection 1015.11 (§307) within 12 months for Type I High Performance and four years for Type V, the manufacturer shall replace the plastic pavement marking material at no cost to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Measures, LR 24:708 (April 1998), amended LR 30:

§309. Minimum Standards for Raised Pavement Markers

A. Markers shall be either nonreflectorized or reflectorized, as specified. Markers shall be approved products listed in QPL 9. Infrared curves of materials used in markers shall match approved curves on file at the department's Materials and Testing Section.

1. Nonreflectorized Markers

a. Description. Nonreflectorized markers shall consist of an acrylonitrile-butadiene-styrene polymer or other approved material, and shall be 4-by-6-inches (100-by-150-mm).

b. Physical Requirements. Markers shall comply with ASTM D4280. The color shall be in accordance with the plans and the MUTCD.

2. Reflectorized Markers. Reflectorized markers shall comply with ASTM D4280, Designation H-Marker with hard, abrasion-resistant lens surface. The type and color shall be in accordance with the plans and the MUTCD. The markers shall be either standard having approximate base dimensions of 4-by-4-inches (100-by-100-mm) and a maximum height of 0.80 inches (20 mm) or low profile having approximate base dimensions of 4-by-2-inches (100-by-50-mm) and a maximum height of 0.60 inches (15 mm).

3. Adhesives

a. Epoxy Adhesive. Epoxy adhesive shall be Type V epoxy resin system complying with Subsection 1017.02.

b. Bituminous Adhesive. The adhesive shall conform to ASTM D 4280 and shall be an approved product listed in QPL 59.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Standards, LR 24:709 (April 1998), amended LR 30:

Family Impact Statement

The proposed adoption of this Rule 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:

1. the implementation of this proposed Rule will have no known or foreseeable effect on the stability of the family;

2. the implementation of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children;

3. the implementation of this proposed Rule will have no known or foreseeable effect on the functioning of the family;

4. the implementation of this proposed Rule will have no known or foreseeable effect on family earnings and family budget;

5. the implementation of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children;

6. the implementation of this proposed Rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30 days from the date of publication of the notice of intent to Sherryl J. Tucker, Senior Attorney, P. O. Box 94245, Baton Rouge, LA 70804, Telephone (225)237-1359.

Kam K. Movassaghi, P.E., Ph.D.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Minimum Standards for Reflectivity of Work-Site Materials

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

There should be no cost to state or local governmental units to implement this Rule. Standards on reflectivity of materials have been in effect for many years and these Rules were originally formalized in 1997. These Rules are being adjusted solely to reflect current products available and to be consistent with recent changes in *Louisiana Standard Specification for Roads and Bridges*. These new products result in enhanced visibility and safety for the traveling public. Any increase in competition among suppliers of reflective materials may result in a long-term financial savings for the state, the amount of which cannot be determined at this time.

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

This Rule-making should have 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)

Suppliers of reflective sign sheeting materials will be directly affected by this rules change. More suppliers of these materials may be able to meet the current specifications under the Rule change and therefore the benefit to them will be positive.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be a positive impact on competition and employment because more suppliers of reflective sheeting will be able to compete for department contracts.

John P. Basilica, Jr.
Undersecretary
Management and Finance
0311#048

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT
Department of Treasury
Teachers' Retirement System

Earnable Compensation (LAC 58:III.201)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Trustees of Teachers' Retirement System of Louisiana approved an amendment to policies governing the Earnable Compensation Accounts, LAC 58:III.201 as follows.

Title 58
RETIREMENT

Part III. Teachers' Retirement System of Louisiana
Chapter 2. Earnable Compensation Accounts

§201. Earnable Compensation Accounts

A. Earnable compensation shall not include compensation paid to an active member or to an inactive member of Teachers' Retirement System of Louisiana (TRSL) if the compensation is paid by a secondary employer and is reported to the Internal Revenue Service (IRS) on a Form 1099, but only if both the following occur.

1. The individual contract is for \$1,000 or less, and a Form 1099 is issued.

2. The cumulative amount of the Form 1099 payments issued by a single secondary employer to that member does not exceed \$15,000 in a fiscal year.

B. If an individual contract is for more than \$1,000, then that entire payment is earnable compensation subject to TRSL employer and employee contributions.

C. If the cumulative amount of the Form 1099 payments issued by a single secondary employer to that member exceeds \$15,000 in a fiscal year, then all Form 1099 payments in excess of \$15,000 in that TRSL fiscal year are earnable compensation subject to TRSL employer and employee contributions.

Note: A secondary employer is one who does not report W-2 earnings on this member.

D. Earnable compensation shall include any and all compensation paid to a retiree of this system by a TRSL-covered employer regardless of IRS reporting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:701(10).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 30:

Interested persons may comment on the proposed Rule in writing until 4:30 p.m., January 4, 2004, to Bonita B. Brown, Director, CPA, Teachers' Retirement System of Louisiana, P.O. Box 94123, Baton Rouge, LA 70804-9123.

Bonita B. Brown, CPA
Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Earnable Compensation

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

This Rule will have no costs or savings to state or local governmental units. It authorizes current practice under the provisions of R.S. 11:701(10) regarding earnable compensation.

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

This Rule will have 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)

This Rule will have no cost or create economic benefit to individuals or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Bonita B. Brown, CPA
Director
0311#027

H. Gordon Monk
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Retail Floristry Examination

The next retail floristry examinations will be given February 2-6, 2004, 9:30 a.m. at the 4-H Mini Farm Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending in application and fee is December 19, 2003. No applications will be accepted after December 19, 2003.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to December 19, 2003. Questions may be directed to (225) 952-8100.

Bob Odom
Commissioner

0311#014

POTPOURRI

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs (LAC 28:IV.911, 1111, and 2105)

Editor's Note: The reference Notice of Intent may be viewed on pages 2157-2158 of the October 2003 edition of the *Louisiana Register*.

The public comment period for the proposed changes to LAC 28:IV.911, 1111, and 2105 has been extended to November 30, 2003. Interested persons may submit written comments to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202 or by fax to (225) 925-7449.

George Badge Eldredge
General Counsel

0311#042

POTPOURRI

Department of Natural Resources Office of Conservation Injection and Mining Division

Hearing Notice? Docket No. IMD 2004-01

Pursuant to the provisions of the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950 as amended, and the provisions of Statewide Order No. 29-B, notice is hereby given that the Commissioner of Conservation will conduct a hearing at 6 p.m., Wednesday, January 14, 2004, in the Annex Meeting Room at the Cameron Parish Police Jury, 110 Smith Circle, Cameron, LA.

At such hearing, the commissioner, or his designated representative, will hear testimony relative to the application of Environmental Partners, LLC, 1502 West University Avenue, Lafayette, LA 70506. The applicant requests approval from the Office of Conservation to temporarily store and treat exploration and production waste (E&P Waste), specifically oil-base drilling waste (E&P Waste Type 02) by means of low temperature thermal desorption separation for oil and/or solids recovery, reclamation, and reuse. The facility is located in Section 030, Township 15 South, Range 10 West in Cameron Parish, 501 Gulf Beach Road, Cameron, LA.

The application is available for inspection by contacting Ms. Armanda Watson, Office of Conservation, Injection and Mining Division, Room 817 of the LaSalle Building, 617 North Third Street, Baton Rouge, LA, or by visiting the Cameron Parish Police Jury in Cameron, LA, or the Cameron Parish Library in Cameron, LA. Information may be received by calling Ms. Armanda Watson at [225] 342-5515.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 4:30 p.m., Wednesday, January 21, 2004, at the Baton Rouge Office. Comments should be directed to:

Office of Conservation
Injection and Mining Division
P.O. Box 94275
Baton Rouge, LA 70804-9275
Re: Docket No. IMD 2004-01
Commercial Facility
Cameron Parish

James H. Welsh
Commissioner

0311#060

POTPOURRI

**Department of Treasury
Teachers' Retirement System**

Management of DROP Accounts (LAC 58:III.503)

The Board of Trustees of Teachers' Retirement System of Louisiana approved an amendment to policies governing the management of DROP Accounts, LAC 58:III.503. The Notice of Intent for the proposed amendment was published on page 2235 in the October 20, 2003 *Louisiana Register*.

The deadline for interested persons to comment on the proposed amendment is extended to 4:30 p.m., December 5, 2003. Please send written comments to Bonita B. Brown, Director, CPA, Teachers' Retirement System of Louisiana, P.O. Box 94123, Baton Rouge, LA 70804-9123.

Bonita B. Brown, CPA
Director

0311#018

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