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# Executive Orders

## EXECUTIVE ORDER BJ 14-08

Executive Branch—Net State Tax  
Supported Debt Limitation

WHEREAS, the State of Louisiana has a longstanding policy of managing its net state tax supported debt in a fiscally responsible manner, and such policy is codified in the Louisiana Constitution and Louisiana Revised Statutes through strict limitations on the amount of net state tax supported debt the State can issue (the “debt limit”); and

WHEREAS, the debt limit is in place to provide the citizens of Louisiana with protection against excessive government spending, as well as to provide investors in Louisiana’s bonded debt and the bond rating agencies with assurances that the State is highly creditworthy and not overburdened with debt; and

WHEREAS, the debt limit provisions of La. R.S. 39:1367, and other provisions of law, limit the issuance of new debt unless the total debt service on all outstanding net state tax supported debt and the proposed new debt does not exceed six percent (6%) of the official revenue forecast of the Revenue Estimating Conference; and

WHEREAS, Act 419 of the 2013 Regular Session of the State Legislature (“Act 419”) was enacted to require the forecasting of revenues from designated funds and to place restrictions on the amount of non-recurring revenues that may be used in the State’s annual operating budget; and

WHEREAS, in La. Atty. Gen. Op. No. 14-0031, the Louisiana Attorney General has opined that Act 419 modifies the calculation of the debt limit under La. R.S. 39:1367 by requiring the Revenue Estimating Conference to include certain statutory dedications and self-generated revenues in its official revenue forecast, and the change in such calculation results in the State unexpectedly having increased capacity to issue new debt, without any accompanying increase in new revenues; and

WHEREAS, the State has no intention of materially altering its debt issuance plans nor undertaking any new capital programs as a result of the increased legal capacity provided by Act 419, and the State desires to continue providing fiscally responsible limits on the issuance of new debt for the benefit of the citizens of Louisiana, investors in Louisiana’s debt, and the bond rating agencies; and

WHEREAS, it is now prudent for the State, acting through the legislative process, to further examine the State’s existing debt limit as well as the effects of Act 419 and to develop and enact into law amended debt limitations which may include a repeal of the unforeseen effects of Act 419, new debt limit calculations not present in current law, or a combination of the foregoing; and

WHEREAS, prior to the next opportunity for the Legislature to consider such matters in the 2015 Regular Session, it is prudent for the State to provide temporary interim assurances that it will continue to manage its debt burden in the historic and fiscally responsible manner; and

WHEREAS, requests for the issuance of new money State debt (whether general obligation bonds, gas and fuels tax revenue bonds, appropriation backed bonds, or other forms of debt backed by the State) either originate with or require the approval of executive branch departments and agencies including, without limitation, the Division of Administration, Office of Facility Planning and Control, and the Department of Transportation and Development.

NOW THEREFORE, I, BOBBY JINDAL, 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: No executive branch agency or department (including without limitation, the Division of Administration, Office of Facility Planning and Control, and the Department of Transportation and Development) shall initiate or approve any request for the issuance of new money debt which would be considered net state tax supported debt unless the issuance of such proposed new debt would be allowed under the State’s debt limit without giving effect to the provisions of Act 419. This interim limit shall remain in full force and effect until June 30, 2015, by which time the Legislature will have had opportunity to examine the State’s existing debt limit as well as the effects of Act 419 and to develop and enact into law amended debt limitations that may include a repeal of the unforeseen effects of Act 419, new debt limit calculations not present in current law, or a combination of the foregoing.

SECTION 2: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law; provided, however, that I declare that I will not amend, modify, terminate, or rescind this Order prior to June 30, 2015 in order to permit the issuance of additional debt that could only be issued as a result of the increased debt capacity created by the unforeseen effects of Act 419 of the 2013 Regular Session.

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 11th day of July, 2014.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Tom Schedler  
Secretary of State  
1408#089

**EXECUTIVE ORDER BJ 14-09**

Emergency Operations Plan

WHEREAS, the state of Louisiana must be prepared to respond and recover in a coordinated, effective and efficient manner to all the emergencies and disasters to which it is subjected;

WHEREAS, the State of Louisiana must be organized in such a way as to effectively bring available State, Federal and private resources together to support the response and recovery efforts of our local communities;

WHEREAS, it is the policy of the state of Louisiana for all homeland security and emergency preparedness functions to follow the principles outlined in the National Incident Management System, or its successor, and La. R.S. 29:722(C); and

WHEREAS, the state of Louisiana will best achieve effective coordinated emergency planning by updating the state’s current emergency operations order through the replacement of Executive Order No. KBB 2006-34, issued on August 3, 2006, Executive Order No. BJ 2008-32, issued on August 22, 2008, and amendment No. BJ 08-94, issued on September 9, 2008, and by the Governor’s Office of Homeland Security and Emergency Preparedness updating its emergency operations plan to address the Recovery Support Functions of the National Disaster Recovery Framework.

NOW THEREFORE, I, BOBBY JINDAL, 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:**

A. The director of the Governor’s Office of Homeland Security and Emergency Preparedness, state of Louisiana, (hereafter “director”), shall direct the state of Louisiana’s emergency and/or disaster operations.

B. The director, or the director’s designee, shall also coordinate the activities of all non-state agencies, departments, and/or organizations involved in emergency management within the state of Louisiana.

**SECTION 2:**

A. This Executive Order shall constitute the Louisiana Emergency Operations Plan (“Plan”), which shall be binding on all departments, commissions, boards, agencies, organizations and employees of the state of Louisiana, and on all local governments or political subdivisions of the state authorized or directed to conduct homeland security and emergency management operations.

B. The director shall supplement the provisions of the Plan by prescribing rules, regulations, and procedures. Once adopted, the supplement shall also be binding on all departments, commissions, boards, agencies, organizations and employees of the state of Louisiana, and on all local governments or political subdivisions of the state authorized or directed to conduct homeland security and emergency management operations.

C. Any supplement or subsequent changes to the plan shall continue to follow the principles outlined in the National Incident Management System, or its successor, and also provide for the emergency operations that may be implemented should an emergency and/or disaster strike the state of Louisiana or an area within the state of Louisiana;

**SECTION 3:**

A. The director shall control the activation and/or implementation of the Plan and the conclusion and/or deactivation of the Plan.

B. The director shall also control the activation and deactivation of the state Emergency Operations Center (hereafter “Center”).

**SECTION 4:** The departments, offices, agencies, and organizations of the state of Louisiana have primary and support responsibilities for the following Emergency Support Functions (ESF) and Recovery Support Functions (RSF):

ESF	Annex	Department/Agency	Primary/Support		
ESF1	Transportation	Department of Transportation and Development	P		
		Louisiana National Guard	S		
		Department of Agriculture and Forestry	S		
		Department of Corrections	S		
		Department of Education	S		
		Department of Health and Hospitals	S		
		Louisiana State Police	S		
		Department of Wildlife and Fisheries	S		
		Department of Children and Family Services	S		
		Non-Governmental Organizations (NGO)	S		
		ESF 2	Communications	Governor’s Office of Homeland Security and Emergency Preparedness	P
				Louisiana National Guard	P
				Division of Administration	P
Department of Agriculture and Forestry	S				
Department of Corrections	S				
Department of Culture, Recreation and Tourism	S				
Department of Economic Development	S				
Department of Education	S				
Department of Environmental Quality	S				
Louisiana State Police	S				
Office of Elderly Affairs	S				
Louisiana Oil Spill Coordinator’s Office	S				
Louisiana State University System	S				
Department of Health and Hospitals	S				
Department of Justice	S				
Louisiana Workforce Commission	S				
Louisiana Public Service Commission	S				
Louisiana Board of Regents	S				
Department of Revenue	S				
Department of Children and Family Services	S				
Department of Transportation & Development	S				
Department of Wildlife and Fisheries	S				
Non-Governmental Organizations (NGO)	S				

ESF	Annex	Department/Agency	Primary/Support		
ESF 3	Public Works and Engineering	Department of Transportation and Development	P		
		Louisiana Coastal Protection and Restoration Authority	P		
		Louisiana National Guard	S		
		Division of Administration	S		
		Department of Health and Hospitals	S		
		Department of Natural Resources	S		
		Department of Environmental Quality	S		
		Non-Governmental Organizations (NGO)	S		
		ESF 4	Firefighting	Department of Agriculture and Forestry	P
				Office of State Fire Marshal	P
Louisiana National Guard	S				
Department of Environmental Quality	S				
Department of Transportation and Development	S				
Department of Wildlife and Fisheries	S				
Non-Governmental Organizations (NGO)	S				
ESF 5	Emergency Management	Governor's Office of Homeland Security and Emergency Preparedness	P		
		Louisiana National Guard	S		
		Department of Agriculture and Forestry	S		
		Department of Corrections	S		
		Department of Culture, Recreation and Tourism	S		
		Department of Economic Development	S		
		Department of Education	S		
		Department of Environmental Quality	S		
		Division of Administration	S		
		Office of Disability Affairs	S		
		Office of Elderly Affairs	S		
		Office of Indian Affairs	S		
		Louisiana Oil Spill Coordinator's Office	S		
		Louisiana State University System	S		
		Department of Health and Hospitals	S		
		Department of Justice	S		
		Louisiana Workforce Commission	S		
		Department of Natural Resources	S		
		Louisiana Public Service Commission	S		
		Louisiana Board of Regents	S		
		Department of Revenue	S		
		Secretary of State	S		
		Department of Children and Family Services	S		
Louisiana State Police	S				
Department of Transportation and Development	S				
Department of the Treasury	S				
Department of Wildlife and Fisheries	S				

ESF	Annex	Department/Agency	Primary/Support		
		Coastal Protection and Restoration Authority	S		
		Louisiana Oil Spill Coordinator's Office	S		
		Office of State Fire Marshal	S		
		Non-Governmental Organizations (NGO)	S		
		ESF 6	Mass Care, Housing and Human Services	Department of Children and Family Services	P
				Louisiana Workforce Commission	P
				Department of Corrections	S
				Governor's Office of Homeland Security and Emergency Preparedness	S
				Louisiana Housing Corporation	S
				Louisiana National Guard	S
				Department of Agriculture and Forestry	S
				Department of Culture, Recreation and Tourism	S
				Department of Education	S
				Office of State Fire Marshal	S
Office of Disability Affairs	S				
Office of Elderly Affairs	S				
Department of Health and Hospitals	S				
Louisiana State University System and Ag Center	S				
Department of Insurance	S				
Department of Natural Resources	S				
Louisiana Board of Regents	S				
Department of Veterans Affairs	S				
Department of Revenue	S				
Department of Transportation and Development	S				
Louisiana State Police	S				
Southern University and Ag Center	S				
Non-Governmental Organizations (NGO)	S				
ESF 7	Resources Support	Governor's Office of Homeland Security and Emergency Preparedness	P		
		Louisiana National Guard	P		
		Department of Agriculture and Forestry	S		
		Department of Culture, Recreation and Tourism	S		
		Department of Economic Development	S		
		Department of Environmental Quality	S		
		Division of Administration	S		
		Louisiana State University System	S		
		Department of Health and Hospitals	S		
		Louisiana Workforce Commission	S		
		Department of Natural Resources	S		
		Louisiana Board of Regents	S		
		Department of Children and Family Services	S		
Louisiana State Police	S				

ESF	Annex	Department/Agency	Primary/Support
		Department of Transportation and Development	S
		Department of the Treasury	S
		Non-Governmental Organizations (NGO)	S
ESF 8	Public Health and Medical Services	Department of Health and Hospitals	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Environmental Quality	S
		Louisiana State University System	S
		Louisiana Board of Regents	S
		Office of State Fire Marshal	S
		Louisiana Workforce Commission	S
		Department of Transportation and Development	S
		Department of Veterans Affairs	S
		Non-Governmental Organizations (NGO)	S
ESF 9	Search and Rescue	Department of Wildlife and Fisheries	P
		State Fire Marshal	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Health and Hospitals	S
		Department of Corrections	S
		Department of Culture, Recreation, and Tourism	S
		Louisiana State Police	S
		Department of Transportation and Development	S
		Louisiana State University Fire and Emergency Training Institute	S
		Department of Revenue-Office of Alcohol and Tobacco Control	S
		Non-Governmental Organizations (NGO)	S
ESF 10	Oil Spill, Hazardous Materials and Radiological	Louisiana Oil Spill Coordinator's Office	P
		Louisiana State Police	P
		Department of Environmental Quality	P
		Governor's Office of Homeland Security and Emergency Preparedness	S
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Office of State Fire Marshal	S
		Louisiana State University System	S
		Department of Health and Hospitals	S
		Department of Natural Resources	S

ESF	Annex	Department/Agency	Primary/Support
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		Louisiana Coastal Protection and Restoration Authority	S
		Non-Governmental Organizations (NGO)	S
ESF 11	Agriculture	Department of Agriculture and Forestry	P
		Louisiana National Guard	S
		Department of Corrections	S
		Department of Environmental Quality	S
		Department of Health and Hospitals	S
		Louisiana Board of Regents	S
		Louisiana State University System	S
		Department of Wildlife and Fisheries	S
		Governor's Office of Homeland Security and Emergency Preparedness	S
		Department of Children and Family Services	S
		Southern University and Ag Center	S
		Non-Governmental Organizations (NGO)	S
ESF 12	Energy and Utilities	Department of Natural Resources/Intrastate Natural Gas	P
		Louisiana Public Service Commission/Power	P
		Louisiana Department of Health and Hospitals (Water/Wastewater Utilities)	P
		Louisiana Department of Environmental Quality (Wastewater Utilities)	S
		Department of Agriculture and Forestry	S
		Non-Governmental Organizations (NGO)	S
		Louisiana National Guard	S
ESF 13	Public Safety and Security	Louisiana State Police	P
		Department of Justice	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation and Tourism	S
		Department of Revenue - Office of Alcohol and Tobacco Control	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		Office of Juvenile Justice	S
ESF 14	Community Recovery, Mitigation and Economic Stabilization	Governor's Office of Homeland Security and Emergency Preparedness	P

ESF	Annex	Department/Agency	Primary/Support		
RSF 1	Community Planning and Capacity Building	Department of Economic Development	P		
		Governor's Office of Homeland Security and Emergency Preparedness	S		
		Louisiana Workforce Commission	S		
		Department of Revenue	S		
		University of Louisiana at Lafayette/NIMSAT	S		
		Louisiana State University/SDMI	S		
		Office of Financial Institutions	S		
		Department of Insurance	S		
		RSF-2	Economic	Department of Economic Development	P
				Louisiana Workforce Commission	S
Department of Revenue	S				
University of Louisiana at Lafayette/NIMSAT	S				
Louisiana State University/SDMI	S				
Governor – Office of Financial Institutions	S				
Department of Insurance	S				
RSF-3	Health and Social Services			Department of Health and Hospitals	P
		Department of Children and Family Services	S		
		Department of Education	S		
		Louisiana State University System	S		
		Louisiana Board of Regents	S		
RSF-4	Housing	Louisiana Housing Corporation	P		
		Office of Community Development	S		
		Department of Children and Family Services	S		
RSF-5	Infrastructure Systems	Department of Transportation and Development	P		
		Governor's Office of Homeland Security and Emergency Preparedness	S		
		Office of Financial Institutions	S		
		Department of Agriculture and Forestry	S		
		Department of Insurance	S		
		Louisiana Public Service Commission	S		
		Louisiana Economic Development	S		
		Department of Environmental Quality	S		
		Department of Natural Resources	S		
		Department of Corrections	S		
		Louisiana Oil Spill Coordinator's Office	S		
		Office of State Fire Marshal	S		
		RSF-6	Natural and Cultural Resources	Department of Wildlife and Fisheries	P

ESF	Annex	Department/Agency	Primary/Support		
		Coastal Protection and Restoration Authority	P		
		Department of Natural Resources	S		
		Department of Environmental Quality	S		
		Department of Culture, Recreation and Tourism	S		
		Department of Agriculture and Forestry	S		
		Secretary of State	S		
		Non-Governmental Organizations (NGO)	S		
		ESF 15	Emergency Public Information	Governor's Office of Homeland Security and Emergency Preparedness	P
				Louisiana National Guard	S
				Senate and House Legislative Liaisons	S
				Department of Agriculture and Forestry	S
				Department of Corrections	S
				Department of Culture, Recreation and Tourism	S
				Department of Economic Development	S
Department of Education	S				
Department of Environmental Quality	S				
Office of State Fire Marshal	S				
Division of Administration	S				
Office of Disability Affairs	S				
Office of Elderly Affairs	S				
Office of Financial Institutions	S				
Office of Indian Affairs	S				
		Louisiana Oil Spill Coordinator's Office	S		
		Louisiana State University System	S		
		Department of Health and Hospitals	S		
		Department of Justice	S		
		Department of Insurance	S		
		Louisiana Workforce Commission	S		
		Department of Natural Resources	S		
		Louisiana Public Service Commission	S		
		Louisiana Board of Regents	S		
		Department of Revenue	S		
		Department of Children and Family Services	S		
		Secretary of State	S		
		Louisiana State Police	S		
		Department of Transportation and Development	S		
Department of the Treasury	S				
Department of Wildlife and Fisheries	S				
Coastal Protection and Restoration Authority	S				
Non-Governmental Organizations (NGO)	S				
ESF 16	Military Support to Civilian Affairs	Louisiana National Guard	P		



SECTION 5: The head of each department, office, agency, and organization identified in Section 4 of this Order shall designate both an emergency coordinator and an alternate coordinator to act on the department's behalf during an emergency situation, and furnish the director with their names and all phone numbers. The head shall also designate a Continuity of Operations Plan (COOP) coordinator who will prepare and maintain plans, procedures, arrangements, and agreements to ensure that the organization will continue to carry out its mission in an emergency or disaster.

SECTION 6: The head of each department assigned a primary ESF or RSF responsibility in Section 4 shall submit implementing procedures to the director that set forth the department's procedures for carrying out its assigned emergency and/or recovery support functions. The head of each department shall submit annual updates of their implementing procedures to the director.

SECTION 7: The head of each department assigned emergency support responsibilities in Section 4 of this Order shall assist its primary department in the preparation of their procedures and/or any other documents necessary to support the Plan.

SECTION 8: The head of each department assigned a primary and/or a support responsibility in Section 4 of this Order will:

A. Staff the State Emergency Operations Center or Recovery Operations Center with personnel during training exercises and emergencies as requested by the director;

B. Maintain and operate a 24-hour response capability in the department headquarters, or in the department's designated Emergency Operations Center, when the Plan is implemented;

C. Participate in exercises of the Plan when scheduled by the director;

D. Participate in, and conduct, training essential to implementation of the department's assigned emergency management responsibility;

E. Conduct an annual internal review to update the details of their department's implementing procedures and advise the director of needed modifications of their implementing procedures; and

F. Maintain logs, records, and reporting systems required by all state and federal laws, rules, and regulations.

SECTION 9: All departments, commissions, boards, agencies and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of this Order.

SECTION 10: 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 6th day of August, 2014.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Tom Schedler  
Secretary of State  
1408#034

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Agriculture and Forestry Beef Industry Council

Beef Promotion and Research Program  
(LAC 7:V.Chapter 27)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the enabling authority of R.S. 3:2054(E), notice is hereby given that the Louisiana Beef Industry Council (LBIC) is adopting this Emergency Rule in order to establish rules and regulations for its own government and for administration of the affairs of the council.

This Declaration of Emergency is required because the October 2013 Louisiana Supreme Court ruling in *Krielow v. Louisiana Department of Agriculture and Forestry*, which declared R.S. 3:3534 and R.S. 3:3544, statutes that allow a voting majority of rice producers to levy an assessment on all producers, to be unconstitutional, calls into question the constitutionality of sections 3:2055 through 2062 of the *Louisiana Revised Statutes*. The *Revised Statutes* established, by referendum vote, the Louisiana Beef Promotion and Research Program (LBPRP) and the LBIC. Among other things, these statutes included procedures for the governance and administration of the LBIC.

Louisiana's cattle industry is essential to the health, safety and welfare of the citizens of this state. In 2004, Louisiana's cattle industry was the second-largest agricultural sector with about \$365 million in sales. The LBPRP and the LBIC promote the growth and development of the cattle industry in Louisiana by research, advertisement, promotions, education, and market development, thereby promoting the general welfare of the people of this state.

The LBPRP and the LBIC are the mechanisms through which the state's cattle production and feeding industry develop, maintain, and expand the state, national, and foreign markets for cattle and beef products produced, processed, or manufactured in this state and through which the cattle production and feeding industry of this state contributes otherwise to the development and sustenance of a Louisiana coordinated promotion program and nationally coordinated programs of product improvement through research in consumer marketing via the accepted industry organization of the Cattleman's Beef Promotion and Research Board and its Beef Industry Council, thus benefiting the entire United States cattle industry and the American public.

This Declaration of Emergency is required in order to provide a means for the LBIC to continue to govern and administer the affairs of the council, and to allow the council to continue, to the maximum extent possible within the constraints announced in *Krielow*, the LBIC's support of the program and protection of the huge investment that has been

made, thus insuring the marketability of Louisiana beef, until such time as there is a permanent legislative solution. Failure to promulgate these rules would jeopardize the significant investment to promote the growth and development of Louisiana's cattle industry since the program's inception, and would pose an imminent peril to the health and welfare of the Louisiana's citizens and the state's cattle industry.

This Rule shall have the force and effect of law five days after its promulgation in the official journal of the state of Louisiana and will remain in effect 120 days, unless renewed by the LBIC or until permanent rules are promulgated in accordance with law.

## Title 7

### AGRICULTURE AND ANIMALS

#### Part V. Advertising, Marketing and Processing

#### Chapter 27. Beef Promotion and Research Program

##### §2701. Purpose

A. The purpose of this Chapter is to provide for the government and for the administration of the affairs of the Louisiana Beef Industry Council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2051, 2052, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Beef Industry Council, LR 40:

##### §2703. Powers and Duties of the Council; Quorum

A. The council shall:

1. receive and disburse funds, as prescribed elsewhere in this Chapter, to be used in administering and implementing the provisions and intent of this Chapter;

2. meet regularly, not less often than once in each calendar quarter or at such other times as called by the chairman, or when requested by six or more members of the council;

3. maintain a record of its business proceedings in accordance with R.S. 44:36 and the Louisiana Beef Industry Council retention schedule;

4. maintain a detailed record of its financial accounts in accordance with R.S. 44:36 and the Louisiana Beef Industry Council retention schedule;

5. prepare periodic reports and an annual report of its activities for the fiscal year;

6. prepare periodic reports and an annual accounting for the fiscal year of all receipts and expenditures of the council and shall retain a certified public accountant for this purpose;

7. appoint a licensed banking institution as the depository for program funds and disbursements;

8. maintain frequent communications with officers and industry representatives of the Cattlemen's Beef Promotion and Research Board.

B. Six members of the council shall constitute a quorum for the purpose of conducting business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2051, 2052, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Beef Industry Council, LR 40:

**§2705. Use of Funds**

A. The council may expend the funds available to it to:

1. contract for scientific research with any accredited university, college, or similar institution and enter into other contracts or agreements which will aid in carrying out the purposes of the program, including cattle and beef promotion, consumer market development, research advertising and, including contracts for the purpose of acquisition of facilities or equipment necessary to carry out purposes of the program;

2. disseminate reliable information benefiting the consumer and the cattle and beef industry on such subjects as, but not limited to, purchase, identification, care, storage, handling, cookery, preparation, serving, and the nutritive value of beef and beef products;

3. provide information to such government bodies as requested on subjects of concern to the cattle and beef industry and act jointly or in cooperation with the state or federal government and agencies thereof in the development or administration of programs deemed by the council to be consistent with the objectives of the program;

4. cooperate with any local, state, regional, or nationwide organization or agency engaged in work or activities consistent with the objectives of the program;

5. pay funds to other organizations for work or services performed which are consistent with the objectives of the program.

B. All funds available to the council shall be expended only to effectuate the purposes of this Chapter and shall not be used for political purposes in any manner. A fiscal year-end audited report shall be made available annually to the state conventions of the Louisiana Cattlemen's Association and the Louisiana Farm Bureau Federation, and shall be posted on the Division of Administration website in accordance with R.S. 49:1301 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2051, 2052, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Beef Industry Council, LR 40:

**§2707. Additional Powers of Council**

A. The council may:

1. sue and be sued as a council, without individual liability of the members for acts of the council when acting within the scope of the powers of this Chapter, and in the manner prescribed by the laws of this state;

2. appoint advisory groups composed of representatives from organizations, institutions, governments, or business related to or interested in the welfare of the cattle and beef industry and consumers;

3. employ subordinate officers and employees of the council and prescribe their duties and fix their compensation and terms of employment;

4. accept grants, donations, contributions, or gifts from any source, but only if the use of such resources is not restricted in any manner which is deemed inconsistent with the objectives of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2051, 2052, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Beef Industry Council, LR 40:

Dale Cambre  
Chairman

1408#003

**DECLARATION OF EMERGENCY**

**Student Financial Assistance Commission  
Office of Student Financial Assistance**

Personally Identifiable Information  
and TOPS Core Curriculum  
(LAC 28:IV.113, 301, 502, 703, 803, 1703, 2103, and 2113)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate the rules of the scholarship/grant programs (R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, R.S. 56:797.D(2)).

This rulemaking implements Act 837 of the 2014 Regular Session of the Louisiana Legislature by providing policies and procedures for the collection, receipt, use, protection and destruction of personally identifiable information. These procedures include requirements for consent from a parent or guardian for the public schools to collect and disclose certain personally identifiable information related to sixth through twelfth grade students to LOSFA to make it possible for the agency to guide and motivate these students to prepare for and achieve eligibility for college financial aid programs, and to allow LOSFA to determine eligibility for financial aid programs, including the Taylor Opportunity Program for Students (TOPS).

This rulemaking implements Acts 566, 733, and 737 of the 2014 Regular Session of the Louisiana Legislature by amending the TOPS Core Curriculum, including provisions for additional credit for certain advance placement courses; and the TOPS Tech Core Curriculum, including the deletion of a requirement to earn one unit of chemistry or applied chemistry.

This rulemaking extends the maximum length of an exception for parental leave to the equivalent of one academic year (college) per pregnancy.

The 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 July 17, 2014, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG15155E)

**Title 28  
EDUCATION**

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

**Chapter 1. Scope**

**§113. Personally Identifiable Information (PII)**

A. LASFAC recognizes that personally identifiable information must be collected and maintained to determine whether a student meets the initial and continuing eligibility requirements for state and federal financial aid programs administered by LASFAC, and when required by law for use in preparing and submitting reports required by state and federal law.

B. LASFAC is required by the TOPS statute to inform “all students of the availability of the assistance . . . early enough in their schooling that a salutary motivational effect is possible.”

C. It is the intent and policy of LASFAC that:

1. LOSFA will collect and maintain only that PII necessary to fulfill LASFAC’s program responsibilities and duties, including but not limited to:

a. providing information to participating students beginning in the sixth grade that will guide and motivate students to prepare for and to achieve eligibility for financial aid programs to attend postsecondary education;

b. determining the initial eligibility of participating students for financial aid;

c. determining the continuing eligibility of students awarded financial aid;

d. making payments for students who have been awarded financial aid; and

e. submitting reports and assessments required by state or federal law regarding the effectiveness of the financial aid programs administered by LOSFA;

2. LOSFA will maintain and comply with policies and procedures to protect PII from disclosure to third parties/entities that have not been authorized to have access by:

a. state or federal law;

b. the parent or legal guardian of the person to whom the PII applies, if the person is not at least 18 years old or judicially emancipated or emancipated by marriage; or

c. the person to whom the PII applies, if the person is at least 18 years old or judicially emancipated or emancipated by marriage;

3. LOSFA will ensure that LOSFA employees will have access only to that PII that is necessary to perform their duties;

4. LOSFA will provide information to parents, legal guardians, students and schools regarding:

a. requirements for consenting to the release of PII to LOSFA;

b. possible college access advantages provided to students by consenting to the release of PII to LOSFA; and

c. adverse consequences of withholding consent for release of PII to LOSFA;

5. LOSFA will develop and use consent forms that inform students, parents, and legal guardians of:

a. purpose(s) for which the PII will be used;

b. who will have access to the PII;

c. how long the PII will be retained by LOSFA; and  
d. how the PII will be destroyed at the end of the retention period;

6. LOSFA will destroy PII that is no longer necessary to fulfill LASFAC’s program responsibilities and duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 40:

**Chapter 3. Definitions**

**§301. Definitions**

A. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. 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.

\* \* \*

*Articulated Courses for College Credit*—courses offered by the Louisiana School for Math, Science and the Arts for which eligible Louisiana colleges have agreed to give college credit if the student successfully completes the course and attends a participating college.

\* \* \*

*Honors Courses*—a rigorous high school course used to complete the TOPS core curriculum approved as an *honors course* for grading on a 5.00 scale by the Board of Elementary and Secondary Education and the Board of Regents.

\* \* \*

*Legal Guardian*—

a. an adult appointed by a court of competent jurisdiction to have custody and care of a minor, and who demonstrates the requirement to provide the primary support for such minor. Also referred to as a *court ordered custodian*;

b. for the purposes of consenting to the collection and disclosure of personally identifying information, the student’s parent, *legal guardian*, or other person responsible for the student.

\* \* \*

*Personally Identifiable Information* or *PII*—personal information about an individual that can be used on its own or with other information to identify, contact, or locate a single individual.

\* \* \*

*Skill and Occupational Training*—

a. any and all certificate, diploma, associate of applied technology, and associate of applied science programs offered by eligible colleges/universities; and

b. any coordinated and comprehensive course of study offered by eligible colleges/universities which qualifies a student upon completion to sit for testing leading to and/or meeting national and/or state professional/occupational licensure and/or certification requirements;

c. any training leading to an industry-based certification, a certificate of applied science or a certificate of technical sciences approved by the Workforce Investment Council offered by a provider recognized by the Louisiana Workforce Commission.

\* \* \*

*Talented Course*—a course developed and provided to fulfill an Individualized Education Program for a student who has been deemed to be gifted pursuant to R.S. 17:1941 et seq. as implemented in state Board of Elementary and Secondary Education policy.

\* \* \*

*TOPS Cumulative High School Grade Point Average*—

\* \* \*

f. effective for high school graduates beginning with academic year (high school) 2017-2018, the TOPS cumulative grade point average will be calculated by dividing the total number of quality points earned on the courses used to complete the TOPS core curriculum by the total units earned to complete the TOPS core curriculum.

Quality points equal the credit for the course multiplied by the value assigned to the letter grade.

The quality points for courses used to complete the TOPS core curriculum, except for Advanced Placement, International Baccalaureate, Gifted and Talented, Honors, Articulated Courses for College Credit and Dual Enrollment courses approved by the Board of Regents and the State Board of Elementary and Secondary Education, used to complete the TOPS core curriculum on a 5.00 scale, shall be converted to a 4.00 scale utilizing the following formula:

An "A" shall equal 4.0.  
A "B" shall equal 3.0.  
A "C" shall equal 2.0.  
A "D" shall equal 1.0.  
An "F" shall equal zero ("0.0").

The quality points for Advanced Placement, International Baccalaureate, Gifted and Talented, Honors, Articulated Courses for College Credit and Dual Enrollment courses approved by the Board of Regents and the State Board of Elementary and Secondary Education used to complete the TOPS core curriculum shall be converted to a 5.00 scale as follows:

An "A" shall equal 5.0.  
A "B" shall equal 4.0.  
A "C" shall equal 3.0.  
A "D" shall equal 2.0.  
An "F" shall equal zero ("0.0").

\* \* \*

**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), repromulgated 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 and 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 (August 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 27:1840 (November 2001), LR 27:1875 (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 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008), LR 34:1884 (September 2008), LR 35:228 (February 2009), LR 35:1489 (August 2009), LR 35:1490 (August 2009), LR 36:311 (February 2010), LR 36:490 (March 2010), LR 36:2854 (December 2010), LR 37:1561 (June 2011), LR 37:1562

(June 2011), LR 38:1953 (August 2012), LR 38:3156 (December 2012), LR 39:308 (February 2013), LR 40:53 (January 2014), LR 40:281 (February 2014), LR 40:

## **Chapter 5. Applications, Federal Grant Aid and ACT Test**

### **§502. Consent Required to Process Applications and Deadlines**

A. To process an application for financial aid or to allow participation in LOSFA programs to provide guidance and motivation in preparing for and achieving eligibility for financial aid programs, certain student personally identifiable information (PII) must be provided to LASFAC. The PII required depends on the financial aid program for which the student is applying. If the required PII is not provided, an applicant will not be determined to be eligible.

B. The submission of an application for a financial aid program administered by LASFAC or for participation in LOSFA programs to provide guidance and motivation in preparing for and achieving eligibility for financial aid programs constitutes consent for the student's school to collect and disclose the student's PII to LOSFA, and for LOSFA to collect, maintain, and use the PII for the program in which the student has indicated a desire to participate, if submitted by:

1. a student who is judicially emancipated, or emancipated by marriage, or who is 18 years old or older; or
2. a parent or legal guardian on behalf of a student who is not at least 18 years old and who is not emancipated.

C. To grant consent for a public school to collect the student's PII and disclose it to LOSFA, the student, parent or legal guardian, as applicable, must sign a consent form provided by the public high school that includes the following:

1. purpose(s) for which the PII will be used;
2. who will have access to the PII;
3. how long the PII will be retained by LOSFA; and
4. how the PII will be destroyed at the end of the retention period.

D. Submission of one of the following constitutes consent for LOSFA to collect, maintain, and use the PII included in the submission for the purposes of determining eligibility for financial aid:

1. free application for federal student aid (FAFSA) naming LOSFA as a recipient;
2. ACT score naming LOSFA as a recipient;
3. ACT WorkKeys score naming LOSFA as a recipient;
4. SAT score naming LOSFA as a recipient;
5. TOPS on-line application.

E. The required information for consideration for initial eligibility for a TOPS award, includes, but is not limited to, all the following student information:

1. full name;
2. date of birth;
3. Social Security number;
4. student high school transcript data, including but not limited to:
  - a. month and year of high school graduation;
  - b. the course code for each course completed;
  - c. the grade for each course completed;
  - d. the term and year each course is completed;
  - e. designation of each advanced placement, international baccalaureate, honors, gifted and talented,

articulated course for college credit, and dual enrollment course;

- f. the grading scale for each course reported; and
  - g. the high school attended for each course reported.
5. ACT, ACT WorkKeys, and/or SAT scores;
  6. FAFSA data;
  7. college transcript data as set forth in §1903.

F. The required information for consideration for eligibility for other awards, grants and programs may include, but is not limited to, the following student information:

1. the information set forth in Subsection E above;
2. student disciplinary data;
3. family income;
4. dual enrollment high school and college transcript data;
5. foster care status;
6. ACT plan score;
7. school lunch program status;
8. standardized test scores;
9. grade point average for each semester and cumulative grade point average.

G. Deadlines to Provide Consent to a Public School for the Release of a Student's PII to LOSFA

1. For participation in LOSFA's program for guidance and motivation to prepare for and to achieve eligibility for financial aid programs, the parent or legal guardian, as applicable, should provide consent by the sixth grade.

2. For eligibility for payment of a TOPS award for the fall semester immediately following high school graduation, the student, parent or legal guardian, as applicable, should provide consent no later than January 15 of the year of graduation.

3. The final date for receipt of consent is the January 15 immediately following the final deadline for receipt of the student's FAFSA or on-line application. See Section 505 below.

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 40:

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

**§703. Establishing Eligibility**

A. - A.5.a.i.(e). ...

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(f). Beginning with the graduates of academic year (high school) 2013-14 through 2016-2017, at the time of high school graduation, an applicant must have successfully completed 19 units of high school course work that constitutes a core curriculum and is documented on the student's official transcript as approved by the Louisiana Department of Education as follows.

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (1 unit) or Applied Algebra 1A and 1B (2 units)
1	Algebra II
2	Geometry, Calculus, Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III, Advanced Math – Pre-Calculus, Advanced Math – Functions and Statistics, Integrated Mathematics III
1	Biology
1	Chemistry
2	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for 1 unit)
1	American History
2	World History, Western Civilization, World Geography or History of Religion
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit)
1	Fine Arts Survey; (or substitute one unit of a performance course in music, dance, or theater; or substitute one unit of a visual art course; or substitute one unit of a studio art course; or substitute one unit of drafting)
2	Foreign Language, both units in the same language

(g). Beginning with the graduates of academic year (high school) 2017-2018, at the time of high school graduation, an applicant must have successfully completed 19 units of high school course work that constitutes a core curriculum and is documented on the student's official transcript as approved by the Louisiana Department of Education as follows.

Units	Course
English - 4 Units	
1	English I
1	English II
1	English III, AP English Language Arts and Composition, or IB English III (Language A or Literature and Performance)
1	English IV, AP English Literature and Composition, or IB English IV (Language A or Literature and Performance)
Math - 4 Units	
1	Algebra I
1	Geometry
1	Algebra II
1	One unit from: Algebra III; Advanced Math- Functions and Statistics, Advanced Math-Pre-Calculus, Pre-Calculus, or Math Methods I IB (Mathematical Studies SL); Calculus, AP Calculus AB, or Math Methods II IB (Mathematics SL); AP Calculus BC; Probability and Statistics or AP Statistics; IB Further Mathematics HL; IB Mathematics HL

Units	Course
Science - 4 Units	
1	Biology I
1	Chemistry I
2	Two units from: Earth Science; Environmental Science; Physical Science; Agriscience I and Agriscience II (one unit combined); Chemistry II or AP Chemistry or IB Chemistry II; AP Environmental Science or IB Environmental Systems; Physics I, AP Physics B, or IB Physics I; AP Physics C: Electricity and Magnetism, AP Physics C: Mechanics, or IB Physics II; AP Physics I and AP Physics II; Biology II or AP Biology or IB Biology II
Social Studies - 4 Units	
1	U.S. History or AP U.S. History or IB U.S. History
1	Civics, Government, AP US Government and Politics: Comparative, or AP US Government and Politics: United States
2	Two units from: Western Civilization, European History or AP European History; World Geography, AP Human Geography, or IB Geography; World History, AP World History, or World History IB; History of Religion; IB Economics Economics, AP Macroeconomics AP Microeconomics
Foreign Language - 2 Units	
2	Foreign Language, both units in the same language, which may include: AP Chinese Language and Culture, AP French Language and Culture, AP German Language and Culture, AP Italian Language and Culture, AP Japanese Language and Culture, AP Latin, AP Spanish Language and Culture, French IV IB, French V IB, Spanish IV IB, and Spanish V IB
Art - 1 Unit	
1	One unit of Art from: Performance course in Music, Dance, or Theatre; Fine Arts Survey; Arts I, II, III, and IV; Talented Art I, II, III, and IV; Talented Music I, II, III, and IV; Talented Theater Arts I, II, III, and IV; Speech III and IV (one unit combined); AP Art History; AP Studio Art: 2-D Design; AP Studio Art: 3-D Design; AP Studio Art: Drawing; AP Music Theory; Film Study I IB; Film Study II IB;

Units	Course
	Music I IB; Music II IB; Art Design III IB; Art Design IV IB; Theatre I IB; or Drafting
NOTE: AP = Advanced Placement IB = International Baccalaureate	

ii.(a). - ii.(d). ...

\* \* \*

(e). For students graduating in academic year (high school) 2017-2018 and after, 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(s)	Equivalent (Substitute) Course
Algebra I, Geometry and Algebra II	Integrated Mathematics I, II and III
Any listed core course or its equivalent.	Any core curriculum course taken by a student who has been deemed to be gifted and talented pursuant to R.S. 17:1941 et. seq. as implemented in State Board of Elementary and Secondary Education policy and in fulfillment of the student's Individualized Education Program shall be considered a gifted and talented course and shall fulfill the core curriculum requirement in its given subject area.

(f). For students graduating in academic year (high school) 2017-2018 and after, the courses listed in the tables below have been approved by the Board of Regents and the State Board of Elementary and Secondary Education to be converted to a 5.00 scale when used to complete the core curriculum, and shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a.

(i). Advanced Placement Courses

TOPS Core Course	Advanced Placement
Art	AP Art History AP Studio Art: 2-D Design AP Studio Art: 3-D Design AP Studio Art: Drawing
Biology II	AP Biology
Calculus	AP Calculus AB AP Calculus BC
Chemistry II	AP Chemistry
Chinese	AP Chinese Lang & Culture
Economics	AP Macroeconomics AP Microeconomics
English III	AP English Language and Composition
English IV	AP English Literature and Composition
Environmental Science	AP Environmental Science
European History	AP European History
Fine Arts Survey	AP Music Theory
French	AP French Language & Culture
German	AP German Lang & Culture
Italian	AP Italian Lang & Culture
Japanese	AP Japanese Lang & Culture
Latin	AP Latin
Physics I	AP Physics I: Algebra Based AP Physics II: Algebra Based AP Physics C: Electricity and Magnetism AP Physics C: Mechanics

TOPS Core Course	Advanced Placement
Probability and Statistics	AP Statistics
Spanish	AP Spanish Lang and Culture
US Government or Civics	AP U.S. Government and Politics: Comparative AP U.S. Government and Politics: United States
US History	AP U.S. History
World Geography	AP Human Geography
World History	AP World History

(ii). International Baccalaureate Courses

TOPS Core Course	International Baccalaureate
Advanced Math–Pre Calculus	IB Math Studies (Math Methods)
Arabic	IB Language ab initio: Arabic IB Language B: Arabic
Art	IB Visual Arts
Biology II	IB Biology I IB Biology II
Calculus	IB Mathematics SL IB Mathematics HL
Chemistry II	IB Chemistry I IB Chemistry II
Chinese	IB Language ab initio: Chinese IB Language B: Chinese
Economics	IB Economics
English III	IB Literature IB Language & Literature IB Literature and Performance
English IV	IB Literature IB Language & Literature IB Literature & Performance
Environmental Science	IB Environmental Systems
French	IB Language ab initio: French IB Language B: French
German	IB Language ab initio: German IB Language B: German
Italian	IB Language ab initio: Italian IB Language B: Italian
Japanese	IB Language ab initio: Japanese IB Language B: Japanese
Latin	IB Classical Language
Music (Performance)	IB Music
Physics I	IB Physics I IB Physics II
Pre-Calculus	IB Math Studies (Math Methods)
Spanish	IB Language ab initio: Spanish IB Language B: Spanish
Theatre (Performance)	IB Film Study IB Theatre IB Dance
US History	IB History of the Americas I
World Geography	IB Geography
World History	IB History of the Americas II

(iii). Gifted and Talented Courses

Art	Art History Talented Visual Arts I Talented Visual Arts II Talented Visual Arts III Talented Visual Arts IV
Biology II	Biology II
Calculus	Calculus I Calculus II
Chemistry I	Chemistry I
Chemistry II	Chemistry II
Chinese	Chinese III Chinese IV
Economics	Economics
English III	English III

English IV	English IV
Environmental Science	Environmental Science
European History	European History
French	French III French IV
German	German III German IV
Italian	Italian III Italian IV
Japanese	Japanese III Japanese IV
Latin	Latin III Latin IV
Music (Performance)	Talented Music I, II, III, IV Small Voice Ensemble II Choir: Intermediate Choir: Advanced Orchestra: Intermediate Orchestra: Advanced
Physics I	Physics
Spanish	Spanish III Spanish IV
Theatre (Performance)	Introduction to Film Studies Talented Theater I, II, III, IV
US Government or Civics	Government
US History	U.S. History
World Geography	World/Human Geography

(iv). Dual Enrollment Courses

TOPS Core Course	Dual Enrollment	
	Common Course Name	Common Course Code
Advanced Math –Pre Calculus	Trigonometry	CMAT 1223
Advanced Math- Functions and Statistics	Introductory Statistics	CMAT 1303
Algebra III	College Algebra	CMAT 1213
Arabic	Elementary Arabic I Elementary Arabic II	CARB 1013/1014 CARB 1023/1024
Art	Art History I or II Art Structure/2-D Design Beginning Drawing	CART 2103/2113 CART 1113 CART 2203
Biology I	General Biology I General Biology I (Science Majors)	CBIO 1013 CBIO 1033
Biology II	General Biology I General Biology I (Science Majors) General Biology II General Biology II (Science Majors)	CBIO 1013 CBIO 1033 CBIO 1023 CBIO 1043
Calculus	Applied Calculus Calculus I Calculus II	CMAT 2103 CMAT 2113-5 CMAT 2123-5
Chemistry I	General Chemistry Survey I Chemistry I Chemistry I (Science Majors)	CCEM 1013 CCEM 1103 CCEM 1123
Chemistry II	General, Organic & Biochemistry General Chemistry Survey I Chemistry I Chemistry I (Science Majors) Chemistry II Chemistry II (Science Majors)	CCEM 1003 CCEM 1013 CCEM 1103 CCEM 1123 CCEM 1113 CCEM 1133
Earth Science	Physical Geology Historical Geology	CGEO 1103 CGEO 1113
Economics	Economic Principles Macroeconomics Microeconomics	CECN 2113 CECN 2213 CECN 2223



English III	English Composition I English Composition II American Literature I American Literature II Major American Writers	CENL 1013 CENL 1023 CENL 2153 CENL 2163 CENL 2173
English IV	English Composition I English Composition II British Literature I British Literature II Major British Writers World Literature I World Literature II Major World Writers Introduction to Fiction Introduction to Literature Introduction to Poetry and/or Drama	CENL 1013 CENL 1023 CENL 2103 CENL 2113 CENL 2123 CENL 2203 CENL 2213 CENL 2223 CENL 2303 CENL 2323 CENL 2313
Environmental Science	Environmental Science	CEVS 1103
Fine Arts Survey	Exploring the Arts Introduction to Visual Arts Dance Appreciation Music Appreciation	CART 1013 CART 1023 CDNC 1013 CMUS 1013
French	Elementary French I Elementary French II Intermediate French I Intermediate French II	CFRN 1013/1014 CFRN 1023/1024 CFRN 2013/2014 CFRN 2023
German	Elementary German I Elementary German II Intermediate German I Intermediate German II	CGRM 1013/1014 CGRM 1023/1024 CGRM 2013 CGRM 2023
History Of Religion	World Religions	CPHL 2213
Latin	Elementary Latin I Elementary Latin II Intermediate Latin I Intermediate Latin II	CLTN 1013/1014 CLTN 1023/1024 CLTN 2013 CLTN 2023
Physical Science	Physical Science I	CPHY 1023
Physics I	Physics I (Algebra/Trigonometry Based) Physics I (Lecture & Lab) Physics I (Calculus Based)	CPHY 2113 CPHY 2114 CPHY 2133
Pre-Calculus	Algebra & Trigonometry	CMAT 1233
Probability and Statistics	Introductory Statistics	CMAT 1303
Spanish	Elementary Spanish I Elementary Spanish II Intermediate Spanish I Intermediate Spanish II	CSPN 1013/1014 CSPN 1023/1024 CSPN 2013/2014 CSPN 2023
Theatre (Performance)	Acting I or II Introduction to Theatre	CTHE 2103/2113 CTHE 1013
US Government or Civics	Introduction to American Government Introduction to State & Local Government Introduction to Comparative Government	CPOL 2013 CPOL 2113 CPOL 2213
US History	American History I or II	CHIS 2013/2023
Western Civilization	Western Civilization I or II	CHIS 1013/1023
World Geography	World Regional Geography	CGRG 2113
World History	World Civilization I or II	CHIS 1113/1123

A.5.a.iii.(a). - J.4.b.ii. ...

**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), repromulgated 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 (September 2000), LR 26:2001 (September 2000), repromulgated LR 27:1853 (November 2001), amended LR 28:447 (March 2002), LR 28:772 (April 2002), LR 28:2332 (November 2002), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1163 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005), LR 33:437 (March 2007), LR 34:1390 (July 2008), LR 36:491 (March 2010), LR 36:2856 (December 2010), LR 38:3159 (December 2012), LR 40:1002 (May 2014), LR 40:

### Chapter 8. TOPS-Tech Award

#### §803. Establishing Eligibility

A. - A.6.a.i. ...

ii. for students graduating in the 2000-2001 school year through the 2012-2013 school year, the high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-Tech core curriculum.

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English I
1	English II
1	English III
1	English IV or substitute 1 unit of Business English
1	Algebra I; or both Algebra I, Part 1 and Algebra I, Part 2; or both Applied Mathematics I and Applied Mathematics II
2	Geometry, Applied Mathematics III, Algebra II, Financial Mathematics, Advanced Mathematics I [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Pre-Calculus], Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Functions and Statistics], Discrete Mathematics, or Probability and Statistics (2 units). Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry and Algebra II, and shall be considered the equivalent of the 3 required math units
1	Biology
1	Chemistry or Applied Chemistry
1	Earth Science, Environmental Science, Physical Science, Integrated Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for 1 unit)
1	American History
1	World History, Western Civilization, or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, nonpublic)
Remaining Core Courses Shall Be Selected from One of the Following Options:	
Option 1—Total of 17 units	
1	Fine Arts Survey or substitute 2 units of performance courses in music, dance, or theater; or substitute 2 units of visual art courses; or substitute 2 units of studio art courses; or a course from the Career and Technical Program of studies that is approved by the BESE (must be listed under the Vocational Education Course Offerings in Bulletin 741 or the updates to Bulletin 741); or substitute 1 unit as an elective from among the other subjects listed in this core curriculum
2	Foreign Language, Technical Writing, Speech I or Speech II
1	One unit from the secondary computer education program of studies that is approved by the BESE
or	

Core Curriculum—TOPS-Tech Award	
Units	Course
<b>Option 2—Total of 19 Units</b>	
4	In a career major comprised of a sequence of related specialty courses. In order for a student to use this option, the courses for the career major must be approved by BESE.
1	Credit in a basic computer course.
1	In related or technical fields. A related course includes any course which is listed under the student's major. A technical course is one that is listed in the approved career option plan for the high school at which the course is taken.

iii. or, for students graduating through the 2001-2002 school year, the TOPS-Tech core curriculum as follows;

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English I
1	English II
1	English III
1	English IV or Business English
1	Algebra I (1 unit) or Applied Algebra IA and IB (2 units)
1	Algebra II
1	Geometry or Applied Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry or Applied Physics
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II or Physics for Technology or Agriscience I and II (both for 1 unit)
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, non-public)
1	Fine Arts Survey or any approved vocational course in the areas of Agriscience, Business Education, Family and Consumer Science, Health Occupations, Marketing Education, Technology Education, or Trade and Industrial Education; (or substitute 2 units of performance courses in music, dance or theater; or 2 units of studio art or 2 units of visual art courses; or 1 elective from among the other subjects listed in this core curriculum)
2	In a single Foreign Language. (1 unit for students graduating from high school during the 1996-97 and 1997-98 school years.) or Technical Writing, Speech I or Speech II (2 units).
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least 1/2 unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education; or substitute at least 1/2 unit of an elective from among the other subjects listed in this core curriculum)

iv. for students graduating in the 2013-2014 school year and thereafter, the high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-Tech core curriculum.

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English I
1	English II
1	English III
1	English IV or substitute 1 unit of Business English
1	Algebra I; or both Algebra I, Part I and Algebra I, Part 2; or both Applied Mathematics I and Applied Mathematics II

Core Curriculum—TOPS-Tech Award	
Units	Course
2	Geometry, Applied Mathematics III, Algebra II, Financial Mathematics, Advanced Mathematics I [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Pre-Calculus], Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math-Functions and Statistics], Discrete Mathematics, or Probability and Statistics (2 units). Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry and Algebra II, and shall be considered the equivalent of the 3 required math units
1	Biology
2	Earth Science, Environmental Science, Physical Science, Integrated Science, Biology II, or Chemistry or Applied Chemistry, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for 1 unit)
1	American History
1	World History, Western Civilization, or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, nonpublic)
Remaining Core Courses Shall Be Selected from One of the Following Options:	
<b>Option 1—Total of 17 units</b>	
1	Fine Arts Survey or drafting (one unit) or substitute 2 units of performance courses in music, dance, or theater; or substitute 2 units of visual art courses; or substitute 2 units of studio art courses; or a course from the Career and Technical Program of studies that is approved by the BESE (must be listed under the Vocational Education Course Offerings in Bulletin 741 or the updates to Bulletin 741); or substitute 1 unit as an elective from among the other subjects listed in this core curriculum
2	Foreign Language, Technical Writing, Speech I or Speech II
1	One unit from the secondary computer education program of studies that is approved by the BESE
or	
<b>Option 2—Total of 19 Units</b>	
4	In a career major comprised of a sequence of related specialty courses. In order for a student to use this option, the courses for the career major must be approved by BESE.
1	Credit in a basic computer course.
1	In related or technical fields. A related course includes any course which is listed under the student's major. A technical course is one that is listed in the approved career option plan for the high school at which the course is taken.

A.6.b. - B.4.b.ii. ...

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 24:1904 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65 and 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2754 (December 2000), LR 27:36 (January 2001), LR 27:1220 (August 2001), repromulgated LR 27:1854 (November 2001), amended LR 28:447 (March 2002), LR 28:773 (April 2002), LR 28:2330 (November 2002), LR 29:554 (April 2003), LR 30:1164 (June 2004), LR 30:2019 (September 2004), LR 31:39 (January 2005), LR 31:3114 (December 2005), LR 33:437 (March 2007), LR 33:2614 (December 2007), LR 35:230 (February 2009), LR 36:491 (March 2010), LR 36:2270 (October 2010), LR 36:2856 (December 2010), LR 38:3159 (December 2012), LR 40:

**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**

**§1703. High School's Certification of Student Achievement**

A. - B.2.b.viii. ...

c. Commencing with the 2014-2015 academic year (high school), for each student for whom the school has been granted consent to collect and disclose PII to LOSFA, Louisiana public high schools as defined in §1703.A.1. above shall collect the following reportable data elements for each year of attendance for those students in the ninth through twelfth grades:

i. verification that the school has been granted written consent to collect and disclose the student's PII to LOSFA from the student's parent or legal guardian, if the student is not at least 18 or judicially emancipated; or by the student, if the student is at least 18 or judicially emancipated:

ii. student's full name, date of birth, and Social Security number;

iii. transcript data, including, but not limited to:

- (a). student's BESE identification number;
- (b). month and year of high school graduation;
- (c). the course code for each course completed;
- (d). the grade for each course completed;
- (e). the term and year each course is completed;
- (f). designation of each advanced placement, international baccalaureate, honors, gifted and talented, articulated course for college credit, and dual enrollment course;

and

(g). the grading scale for each course reported;

and

(h). the high school attended for each course reported.

d. Commencing with the 2014-15 academic year (high school), certification from all approved non-public Louisiana high schools as defined in §1703.A.2 and 3 above shall contain, but is not limited to, the following reportable data elements:

i. student's full name, date of birth, and Social Security number;

ii. transcript data, including, but not limited to:

- (a). month and year of high school graduation;
- (b). the course code for each course completed;
- (c). the grade for each course completed;
- (d). the term and year each course is completed;
- (e). designation of each advanced placement, international baccalaureate, honors, gifted and talented, articulated course for college credit, and dual enrollment course;

and

(f). the grading scale for each course reported;

and

(g). the high school attended for each course reported.

B.3. - D.2.b. ...

3. Commencing with the 2014-2015 academic year (high school), the submission of the required data by the high school headmaster or principal or designee of Louisiana

public high schools as defined in §1703.A.1 above shall constitute a certification that:

a. the school has complied with the requirements of R.S. 17:3913(K) to:

i. beginning in the eighth grade, annually at the beginning of each school year, provide a form to be signed by the parent or legal guardian of each student enrolled in the school, whereby the student's parent or legal guardian may provide consent or deny consent for the collection and disclosure of the student's personally identifiable information as follows:

- (a). full name;
- (b). date of birth;
- (c). Social Security number; and
- (d). transcript data, including, but not limited to:
  - (i). student's BESE identification number;
  - (ii). month and year of high school graduation;
  - (iii). the course code for each course completed;
  - (iv). the grade for each course completed;
  - (v). the term and year each course is completed;

(vi). designation of each advanced placement, international baccalaureate, honors, gifted and talented, articulated course for college credit, and dual enrollment course;

(vii). the grading scale for each course reported; and

(viii). the high school attended for each course reported;

ii. use a form provided by LOSFA or a form substantially similar to LOSFA's form that:

(a). provides notification of exactly what items of student information will be collected and that disclosure of the student information collected will be restricted to Louisiana postsecondary educational institutions and the Office of Student Financial Assistance to be used solely for the purpose of processing applications for admission and for state and federal financial aid;

(b). requires acknowledgment that the failure to provide written consent for the collection and disclosure of the student's information may result in delays or may prevent successful application for admission to a postsecondary educational institution and for state and federal student financial aid;

iii. collect the personally identifiable information for each student for whom consent was provided.

4. Commencing with the 2003 academic year (high school), if a student is determined to be eligible for a TOPS award based on data that is incorrect and the student was in fact ineligible for a TOPS Award or the level awarded, the high school must reimburse LASFAC for the amount paid in excess of what the student was eligible for.

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), repromulgated LR 24:643 (April 1998), amended LR 24:1912 (October 1998), LR 25:258 (February 1999), LR 26:1998 (September 2000), LR 26:2269 (October 2000), repromulgated LR 27:1863 (November 2001), amended LR 29:880

(June 2003), LR 30:1165 (June 2004), LR 40:57 (January 2014), LR 40:

**Chapter 21. Miscellaneous Provisions and Exceptions**  
**§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements**

A. - 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.

1. Parental Leave

a. Definition. The student/recipient is pregnant or caring for a newborn or newly adopted child less than one year of age.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts; and

ii. a written statement from a doctor of medicine who is legally authorized to practice certifying the date of diagnosis of pregnancy and the anticipated delivery date or the actual birth date or a copy of the hospital's certificate of live birth or a copy of the official birth certificate or equivalent official document or written documentation from the person or agency completing the adoption that confirms the adoption and date of adoption.

c. Maximum Length of Exception. Up to the equivalent of one academic year (college) per pregnancy.

E.2. - G.5.b.iii. ...

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

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 and 2333 (November 2002), LR 29:126 (February 2003), LR 29:2373 (November 2003), LR 29:2373 (November 2003), LR 30:785 (April 2004), LR 30:1167 (June 2004), LR 31:1060 (May 2005), LR 33:440 (March 2007), LR 35:1233 (July 2009), LR 38:3160 (December 2012), LR 40:

**§2113. Revision of the Core Curricula**

A.1. LASFAC is authorized by law, subject to prior approval by BESE, to determine a high school level course to be equivalent to a course described in the core curricula or to authorize the name change of a core curricula course, including necessary changes to equivalencies and course names for advanced placement and international baccalaureate courses as prescribed by the College Board or the International Baccalaureate Foundation.

2. The determination of a course as equivalent to a course included in the definition of core curriculum shall be limited to those courses identified in the secondary programs

of study contained in the *Louisiana Handbook for School Administrators* (LDE Bulletin 741).

3. Prior to initiating rulemaking to determine course equivalents or to authorize a name change, LASFAC must seek the written comments and recommendation of the Louisiana Board of Regents.

4. Only those recommendations for a name change or for the designation of an equivalent course which have been submitted by a local school board or other equivalent education agency for private schools will be considered by LASFAC and such recommendations shall be submitted directly to the Office of Student Financial Assistance, attention: Legal Division.

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), repromulgated LR 24:1921 (October 1998), amended LR 27:1220 (August 2001), repromulgated LR 27:1871 (November 2001), amended LR 40:

George Badge Eldredge  
General Counsel

1408#005

**DECLARATION OF EMERGENCY**

**Student Financial Assistance Commission  
Office of Student Financial Assistance**

TOPS Tech Early Start Award  
(LAC 28:IV.1001, 1003, 1005, 1007,  
1009, 1011, 1013, 1015, 1017, and 1901)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate the rules of the scholarship/grant programs (R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, and R.S. 56:797.D(2)).

This rulemaking implements Act 737 of the 2014 Regular Session of the Louisiana Legislature by amending the TOPS Tech Early Start Award rules to provide payment to public and nonpublic postsecondary institutions and approved training providers that provide dual enrollment courses to eligible public high school students in occupational and vocational training programs leading to a credential approved by the Louisiana Investment Council in a top demand occupation. The emergency rules are 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 these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective July 17, 2014, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG15154E)

**Title 28**  
**EDUCATION**

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

**Chapter 10. TOPS-Tech Early Start Award**

**§1001. General Provisions**

A. Legislative Authority. The TOPS-Tech Early Start Award was created by Act 348 of the 2005 Regular Session of the Louisiana Legislature and amended by Act 737 of the 2014 Regular Session of the Legislature.

B. Description, History and Purpose. The TOPS-Tech Early Start Award is established as part of the Taylor Opportunity Program for Students (TOPS) to provide grants for Louisiana residents taking a technical or applied course in pursuit of occupational or vocational training while being dually enrolled in a state public high school at the 11th and 12th grade levels and at a Louisiana public or nonpublic postsecondary institution or in an approved training program that offers an occupational or vocational education credential in a top demand occupation. The purpose of TOPS-Tech Early Start is to provide an incentive for qualified Louisiana public high school students to prepare for and pursue an industry-based occupational or vocational education credential in a top demand occupation while still in high school.

C. Effective Date. The TOPS-Tech Early Start Award shall be first awarded beginning with the 2005-2006 award year to 11th and 12th grade students meeting the eligibility criteria set forth in this Chapter.

D. Eligible Terms. The TOPS-Tech Early Start Award is limited to six credit hours per semester and 12 credit hours each academic year (college). TOPS-Tech Early Start is not payable for summer semesters or sessions.

E. Award Amount. The TOPS-Tech Early Start Award provides a payment not to exceed \$300 for up to six credit hours each semester or \$600 each academic year (college) at a rate of \$50 per credit hour.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3109 (December 2005), amended LR 35:231 (February 2009), LR 40:

**§1003. Definitions**

*Approved Training Program*—a program provided by an approved training provider of technical and/or applied courses toward a credential in a top demand occupation.

*Approved Training Provider*—a Louisiana provider recognized by the Louisiana Workforce Commission and approved by the state Board of Elementary and Secondary Education to provide technical and/or applied courses toward a credential in a top demand occupation.

*Credential*—industry-based certification, a certificate of applied science or a certificate of technical sciences approved by the Workforce Investment Council.

*Top Demand Occupation*—an occupation identified by the Occupation Forecasting Conference as being in top demand in Louisiana and recognized by the State Industry-Based Certification Leadership Council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3110 (December 2005), amended LR 40:

**§1005. Establishing Eligibility**

A. To establish eligibility for the TOPS-Tech Early Start Award, the student applicant must meet all of the following criteria:

1. be in the 11th or 12th grade in a Louisiana public high school;

2. have prepared a five-year education and career plan, including a sequence of related courses with a career focus as provided by the high school career option subchapter in R.S. 17:183.2 et seq.;

3. have a cumulative high school grade point average on all courses attempted of not less than 2.0 when calculated on a 4.0 scale;

4. score at least 15 on the English subsection and 15 on the mathematics subsection of the ACT PLAN assessment administered as part of Louisiana's Educational Planning and Assessment System;

5. enroll in a course in an industry-based occupational or vocational education credential program in a top demand occupation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3110 (December 2005), amended LR 40:

**§1007. Maintaining Eligibility**

A. To continue receiving the TOPS-Tech Early Start Award, the recipient must meet all of the following criteria:

1. be a student in good standing in a Louisiana public high school; and

2. maintain a cumulative high school grade point average on all courses attempted of not less than 2.0 when calculated on a 4.0 scale; and

3. continue to pursue one or more courses leading to a credential in a top demand occupation; and

4. be a student in good standing while enrolled in a Louisiana public or nonpublic postsecondary education institution or an approved training program; and

5. maintain *steady academic progress* as defined in §301.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3110 (December 2005), amended LR 40:

**§1009. Responsibilities of LOSFA**

A. 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.

B. LOSFA shall conduct audits of participating Louisiana public and nonpublic postsecondary institutions, approved training providers, and high schools to ensure compliance with program requirements.

C. LOSFA shall provide the information necessary to fully inform Louisiana public high school students and their parents on the requirements of and procedures for applying for and maintaining the award.

D. In the event that the funds appropriated for the TOPS-Tech Early Start Award are insufficient to pay all awards for all eligible students, LOSFA shall develop and submit to LASFAC a plan to limit the awards to the amount appropriated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3110 (December 2005), amended LR 36:2029 (September 2010), LR 40:

#### **§1011. Responsibilities of High Schools**

A. The high school shall comply with the reporting requirements of §1703 for all students enrolled in high school.

B. The high school shall determine whether the student is eligible to participate in the TOPS-Tech Early Start program and approve or disapprove the student's participation in the program.

C. The high school's approval of a student's participation in the program by signing the student's application certifies that the student meets the eligibility criteria provided in §1005.A.1-5, and, if applicable, §1007.A.1 and 2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3110 (December 2005), amended LR 36:2029 (September 2010), LR 40:

#### **§1013. Responsibilities of Louisiana Public and Nonpublic Postsecondary Institutions and Approved Training Providers**

A. Each Louisiana public and nonpublic postsecondary institution and each approved training provider that offers an industry based occupational or vocational education credential in a top demand occupation shall:

1. determine whether an eligible student has applied for enrollment in a course at that institution or provider to pursue an industry based occupational or vocational education credential in a top demand occupation in accordance with §1903.D;

2. determine whether the student has met the requirements to maintain an award as required by §1007.A.3-5;

3. submit bills to LOSFA in accordance with §1903.B for each eligible student so enrolled; and

4. comply with the reporting and records retention requirements of §1903.A and F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3111 (December 2005), amended LR 36:2030 (September 2010), LR 40:

#### **§1015. Responsibilities of the Workforce Investment Council**

A. The Workforce Investment Council shall define, maintain, and make available to LOSFA and to public and nonpublic postsecondary institutions and to Louisiana training providers a list of industry based occupational or vocational education credentials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3111 (December 2005), amended LR 36:2030 (September 2010), LR 40:

#### **§1017. Responsibilities of the State Board of Elementary and Secondary Education (BESE)**

A. BESE shall determine which training providers are approved to provide courses each academic year for the TOPS-Tech Early Start Award in accordance with R.S. 17:3048.5.B.(4).

B. BESE shall notify LOSFA of the names and addresses for the approved training providers no later than March 1 for the fall of that year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3111 (December 2005), amended LR 36:2030 (September 2010), LR 40:

#### **Chapter 19. Eligibility and Responsibilities of Post-Secondary Institutions**

##### **§1901. Eligibility of Post-Secondary 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 Taylor Opportunity Program for Students (TOPS), TOPS-Tech, TOPS-Tech Early Start, Rockefeller State Wildlife Scholarship, 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, TOPS Tech Early Start Award, 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, TOPS-Tech Early Start, and the GO-Youth ChalleNGe Program.

D. Eligible Louisiana proprietary and cosmetology schools are authorized to participate in TOPS for all awards and TOPS-Tech Early Start Awards.

E. Out-of-state colleges and universities may participate in TOPS if all the conditions of §703.I are met.

F. Approved training providers may participate in the TOPS-Tech Early Start Award Program.

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 by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 30:784

(April 2004), LR 31:3111 and 3114 (December 2005), LR 35:235 (February 2009), LR 35:1490 (August 2009), LR 36:2857 (December 2010), LR 40:

George Badge Eldredge  
General Counsel

1408#004

**DECLARATION OF EMERGENCY**

**Office of the Governor  
Board of Examiners of Certified Shorthand Reporters**

**Employment Relationship with Court Reporting Firms  
(LAC 46:XXI.1301 and 1303)**

In accordance with the emergency provisions of the Administrative Procedures Act, R.S.49:953(B), and under the authority of R.S. 37:2557(B), R.S. 37:2555(G), and R.S. 37:2556(D), the Louisiana Board of Examiners of Certified Shorthand Reporters (“CSR board”) declares an emergency and adopts by emergency process the attached rules and accompanying forms as LAC 46:I.1303, establishing the procedures governing court reporters in their relationships with court reporting firms in accordance with Act 839 enacted by the 2014 Legislature of Louisiana.

Act 839 charges the board with responsibility for promulgating by Rule procedures and forms to comply with the new statutory language.

This Emergency Rule is effective on August 1, 2014 and shall remain in effect for 120 days or until re-enacted by Emergency Rule or through the normal promulgation process, whichever comes first.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXI. Certified Shorthand Reporters**

**Chapter 13. Code of Ethics**

**§1301. Guidelines for Professional Practice**

A. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2553(A), 37:2554 and 37:2557(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 25:1215 (July 1999), amended by the Office of the Governor, Board of Examiners of Certified Shorthand Reporters, LR 33:2421 (November 2007), LR 37:318 (January 2011), LR 40:

**§1303. Employment Relationship with  
Court Reporting Firm**

A. Application and Scope. This rule protects the integrity, independence, and impartiality of court reporters in their relationships with court reporting firms, as defined in R.S. 37:2555(G), that are doing business in Louisiana.

B. Safe Harbor. A licensed Louisiana court reporter may accept employment from a court reporting firm and shall not be considered an "employee" for purposes of *Code of Civil Procedure* article 1434 upon furnishing to the board a certification from an authorized and knowledgeable officer of the court reporting firm attesting that the firm has no prohibited employment or contractual relationship, direct or

indirect, under *Code of Civil Procedure* article 1434 with a party litigant in the matter for which the reporter is retained to provide services.

C. Certification by Court Reporting Firm. Upon request by a licensed Louisiana court reporter, a court reporting firm doing business in Louisiana shall provide a certification on forms adopted by the board and executed by affidavit from an authorized and knowledgeable officer of the firm, attesting that the firm has no prohibited employment or contractual relationship, direct or indirect, under *Code of Civil Procedure* article 1434 with a party litigant in the matter for which the reporter is retained to provide services.

D. The court reporting firm and the court reporter shall immediately inform the board of any changes in relationships or actual knowledge of any relationships, direct or indirect, that are at variance with representations made in the certification by the court reporting firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2557(B), R.S. 37:2555(G), and R.S. 37:2556(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners of Certified Shorthand Reporters, LR 40:

Judge Paul A. Bonin  
Chair

1408#017

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Behavior Analyst Board**

**Application Procedures and Board Fees  
(LAC 46:VIII.Chapter 3)**

The Louisiana Department of Health and Hospitals, Louisiana Behavior Analyst Board has exercised the emergency provisions of the Administrative Procedures Act, specifically R.S. 49:953(B)(1), to create rules relative to the practice of behavior analysis, to be designated as Chapter 3, application procedures and board fees of the board rules. This Emergency Rule is effective August 4, 2014 and will remain in effect for a period of 120 days while the time frame for the final Rule is reached.

This action is necessary due to Act 351 of the 2013 Legislative Session, effective August 1, 2013, which created the Louisiana Behavior Analyst Board to safeguard life, health, property and the public welfare of this state, and in order to protect the people of this state against unauthorized, unqualified, and improper application of applied behavior analysis. Act 351 created a licensure process for behavior analysts, certification for assistant behavior analysts and requires registration of line technicians in the best interest of public protection. There is no grandfathering clause in Act 351 and individuals are practicing behavior analysis in the community, therefore there is insufficient time to promulgate these rules under the usual Administrative Procedures Act rulemaking process. However, a Notice of Intent to adopt a permanent Rule will be promulgated in connection with the proposed adoption of Emergency Rules on this subject.

**Title 46**  
**PROFFESIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part VIII. Behavior Analysts**

**§301. Application Procedures for Licensure/State Certification/ Registration**

**A. Application and/or Registration**

1. An application for a license as a behavior analyst, state certified assistant behavior analyst or registration as a line technician may be submitted after the requirements in R.S. 37:3706-37:3708 are met.

2. Upon submission of application or registration on the forms provided by the board, accompanied by such fee determined by the board, the applicant must attest and acknowledge that the:

a. information provided to the board is true, correct and complete to the best of his knowledge and belief; and

b. the board reserves the right to deny an application in accordance with R.S. 37:3706-R.S. 37:3708, if the application or any application materials submitted for consideration contain misrepresentations or falsifications.

3. An applicant, who is denied licensure based on the information submitted to the board, may reapply to the board after one year, and having completed additional training, if necessary and having met the requirements of law as defined in the rules and regulations adopted by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706-R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 40:

**§302. Licensure of Behavior Analysts**

**A. The applicant for licensure as a behavior analyst shall:**

1. submit notarized application along with appropriate fee pursuant to §305;

2. provide proof of a master's degree by requesting official transcripts from accredited university;

3. submit verification of successful passage of a national exam administered by a nonprofit organization accredited by the National Commission for Certifying Agencies and the American National Standards Institute to credential professional practitioners of behavior analysis related to the principles and practice of the profession of behavior analysis that is approved by the board;

4. take and successfully pass the Louisiana jurisprudence exam issued by the board;

5. complete a criminal background check as approved by the board; and

6. provide proof of good moral character as approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 40:

**§303. Certification of State Certified Assistant Behavior Analysts**

**A. The applicant for certification as a state certified assistant behavior analyst should:**

1. submit notarized application along with appropriate fee pursuant to §305;

2. provide proof of a bachelor's degree by requesting official transcripts from accredited university;

3. submit verification of successful passage of a national exam administered by a nonprofit organization

accredited by the National Commission for Certifying Agencies and the American National Standards Institute to credential professional practitioners of behavior analysis related to the principles and practice of the profession of behavior analysis that is approved by the board;

4. take and successfully pass the Louisiana jurisprudence exam issued by the board;

5. complete a criminal background check approved by the board;

6. provide proof of good moral character as approved by the board; and

7. provide proof of supervision by a Louisiana licensed behavior analyst on the form required by the board. If there is more than one supervisor, a form must be submitted for each supervisor.

B. If the supervision relationship between a Louisiana licensed behavior analyst and state certified assistant behavior analyst ends, both parties are responsible for notifying the board in writing, within 10 calendar days of the termination of the arrangement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3707.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 40:

**§304. Registration of Line Technicians**

A. A Louisiana licensed behavior analyst must register with the board all line technicians functioning under their authority and direction. It is the responsibility of both the licensed behavior analyst and line technician to submit registration paperwork for each supervisory relationship. The registration must be completed on the form provided by the board along with payment of the appropriate fee pursuant to §305.

B. A line technician must complete a criminal background check approved by the board.

C. If the supervision relationship between a Louisiana licensed behavior analyst and line technician ends, both parties are responsible for notifying the board in writing, within 10 calendar days of the termination of the arrangement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 40:

**§305. Licensing and Administrative Fees**

**A. Licensing Fees**

Application for Licensed Behavior Analyst	\$400
Application for State Certified Assistant Behavior Analyst	\$250
Registration for Line Technicians	\$50
Temporary Licensure	\$125
Annual Renewal – Behavior Analyst	\$400
Annual Renewal - Assistant Behavior Analyst	\$250
Annual Renewal - Line Technicians	\$50
Jurisprudence Examination	\$75
Criminal Background Check	\$50

**B. Administrative Fees**

Late fees	\$50
Duplicate copy of license	\$15
Official Name Change on License	\$25
License Verification	\$15
Insufficient Check Fee	\$15
Copies of documents	\$2/page



AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3714.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 40:

Kelly Parker  
Executive Director

1408#025

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Board of Examiners of Psychologists

Provisional Licensure of Psychologists  
(LAC 46:LXIII.102, 105, 601, 603, 701, 705, 709,  
902, 904, 1101, 1301, 1503, 1901, and 2101)

The Louisiana Department of Health and Hospitals, Louisiana State Board of Examiners of Psychologists has exercised the emergency provisions of the Administrative Procedures Act, specifically R.S. 49:953(B)(1), to create rules relative to the provisional licensure of psychologists pursuant to Act 137 of the 2014 Legislative Session effective August 1, 2014. These rules will remain in effect for a period of 120 days.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LXIII. Psychologists

#### Chapter 1. Definitions

#### §102. Definition of Applicant for Provisional Licensure

A. An applicant is a person who submits to the board the required application fee and the complete prescribed application which includes evidence that the person:

1. is at least 21 years of age; and
2. is of good moral character; and
3. is a citizen of the United States or has declared an intention to become a citizen. A statement by the person, under oath, to apply for citizenship upon becoming eligible to make such application shall be sufficient proof of compliance with this requirement; and
4. holds a doctoral degree with a major in psychology from a university offering a full-time graduate course of study in psychology that is approved by the board with such requirements as designated in the board's rules and regulations; and
5. has completed a minimum of one year of experience practicing psychology under the supervision of a licensed psychologist or medical psychologist licensed in accordance with R.S. 37:1360.51 et seq., or has completed an approved predoctoral internship as defined in the rules and regulations of the board and required as part of the doctoral degree in psychology as defined by the board and all other experience being post-doctoral;
6. all applicants for provisional licensure must submit and obtain preapproval of a supervised practice plan as a requirement for licensure;
7. is not in violation of any of the provisions of R.S. 37:2351-2367 and the rules and regulations adopted thereunder; and
8. submits such number of full sets of fingerprints and fees and costs as may be incurred by the board in requesting

or obtaining criminal history record information as authorized by R.S. 37:2372.1, and in the form and manner prescribed by the board's rules and regulations. The results of the criminal history record information search to be obtained, reviewed and considered acceptable by the board prior to admission to candidacy status.

B. Applicant status shall not be used for professional representation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:647 (April 2007), amended LR 40:

#### §105. Definition of Candidate for Licensure

A. A candidate for licensure is an applicant or provisional licensee (as defined in the rules and regulations of the board) who:

1. has been judged by the board to have met the requirements set forth under the definition applicant or definition of applicant for provisional license; and

2. is therefore admitted to the written examination.

B. An applicant may be admitted to candidacy, and therefore may take the required written examination, prior to completion of the two years of full-time supervised and documented postdoctoral experience, which is required for licensure and as defined in the rules and regulations of the board, or prior to expiration of the provisional license.

C. A candidate for licensure may retake the written examination as frequently as it is offered by the board; however, the candidate shall not be allowed to take the examination more than three times without meeting the minimum criterion set by the board for successful completion.

D. A candidate shall have a maximum of four years to pass the written examination.

E. A candidate who fails to pass the written examination three times (as in §105.C) or within four years (as in §105.D) shall be removed from candidacy for licensure and shall not be issued a license to practice psychology in Louisiana.

F. Candidates who are provisionally licensed who fail the written exam three times or fail to complete the written exam within four years shall have the provisional license revoked and be removed from candidacy for licensure and shall not be issued a license to practice psychology in Louisiana.

G. The above requirements of a written examination shall not prohibit a modified administration of the examination to an otherwise qualified candidate who is handicapped and whose handicap would interfere with the ability of the candidate to demonstrate satisfactory knowledge of psychology as measured by the examination.

H. A candidate who successfully completes the written examination will be admitted to the oral examination before the board.

I. A candidate who successfully completes the oral examination, in the judgment of the board, shall be issued a license in psychology upon the completion of the two years of full-time supervised and documented postdoctoral experience which is required for licensure under R.S. 37:2351-2367 and as defined in the rules and regulations of the board.

J. A candidate denied licensure under the preceding provisions, may reapply to the board after more than two years have elapsed from the effective date of the notification by the board of such denial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:248 (August 1979), amended LR 40:

## Chapter 6. Fees

### §601. Licensing Fees

Licensing Fees	Amount
Application for Licensure	\$200
Application for Provisional Licensure	\$150
Oral Examination (Licensure, specialty change or additional specialty)	\$250
Temporary Registration	\$125
Jurisprudence Examination	\$75
Licensed Psychologist Renewal	\$320
Provisional License Renewal	\$100
Emeritus License Renewal	\$160
Reinstatement of Lapsed License (Application plus renewal fee)	\$520

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:647 (April 2007), amended LR 40:

### §603. Administrative/Other Fees

Administrative/Other Fees	Amount
Address List/Labels	\$ 100
License Verification	15
Disciplinary Action Report	25
Replacement License Certificate	25
Photo ID Card	15

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:648 (April 2007), amended LR 40:

## Chapter 7. Supervised Practice Leading toward Licensure

### §701. Preface

A. This document details reasonable minimal standards for supervised practice and establishes the legal, administrative and professional responsibility of the licensed psychologist or medical psychologist licensed in accordance with R.S. 27:1360.51 et seq., designated as supervisor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:647 (April 2007), amended LR 40:

### §705. Qualifications of Supervisors

A. Responsibility for the overall supervision of the supervisee's professional growth resides in the licensed psychologist or medical psychologist. Supervising psychologists shall at least be licensed for one year and have training in the specific area of practice in which they are offering supervision. Specific skill training may be assigned to other specialists, under the authority of the supervising psychologist. The non-psychologist specialist shall have

clearly established practice and teaching skills demonstrable to the satisfaction of both the supervising psychologist and the supervisee.

B. The supervisor shall limit the number of persons supervised so as to be certain to maintain a level of supervision and practice consistent with professional standards insuring the welfare of the supervisee and the client. The supervisor must be licensed for one year and may not supervise any more than two candidates for licensure at the same time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:647 (April 2007), amended LR 40:

### §709. Conduct of Supervision

A. The board recognizes that the variability in preparation for practice of the trainee will require individually tailored supervision. The specific content of the supervision procedures will be worked out between the individual supervisor and the supervisee.

B. The licensed psychologist or medical psychologist who provides supervision for the candidate for licensure must have legal functioning authority over and professional responsibility for the work of the supervisee. This means that the supervisor must be available to the supervisee at the point of the decision-making. The supervisor's relationship with the supervisee shall be clearly differentiated from that of consultant, who may be called in at the discretion of the consultee and who has no functional authority for, nor none of the legal or professional accountability for the services performed or for the welfare of the client.

C. The supervising psychologist is responsible for the delivery of services, the representation to the public of services, and the supervisor/supervisee relationship.

1. All clients will be informed of the availability or possible necessity of meetings with the supervising psychologist at the request of the client, the supervisee, or the psychologist. The supervisor will be available for emergency consultation and intervention.

2. All written communication will clearly identify the licensed psychologist or medical psychologist as responsible for all psychological services provided. Public announcement of services and fees, and contact with the public or professional community shall be offered only by or in the name of the licensed psychologist or medical psychologist. It is the responsibility of both the supervising psychologist and the supervisee to inform the client, to whatever extent is necessary for the client to understand, of the supervisory status and other specific information as to supervisee's qualifications and functions.

3. Billing and receipt of payment is the responsibility of the employing agency or the licensed psychologist/medical psychologist and/or provisional licensed psychologist. The setting and the psychological work performed shall be clearly identified as that of the licensed psychologist. The physical location where services are delivered may not be owned, leased, or rented by the supervisee.

4. The supervisor must be paid either directly by the client or by the agency employing the supervisee. The supervisee may not pay the supervisor for supervisory

services, nor may the supervisee and/or his/her immediate family have any financial interest in the employing agency.

5. The supervising psychologist is responsible for the maintenance of information and files relevant to the client. The client shall be fully informed, to whatever extent is necessary for that client to understand, that the supervising psychologist or the employing agency is to be the source of access to this information in the future.

D. In the event the supervisee publicly represents himself/herself inappropriately, or supervision is not conducted according to LAC 46:LXIII.709, the board may rule that any experience gained in that situation is not commensurate with ethical standards and thus not admissible as experience toward licensure. The board may further rule that any psychologist providing supervision under those circumstances is in violation of ethical standards which results in disciplinary action such as suspension or revocation of licensure.

E. Termination of supervision of a provisionally licensed psychologist must be reported to the board by both the supervisor and supervisee, in writing via postal mail, within seven calendar days from when either party knew or should have known supervision was terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:249 (August 1979), amended LR 7:187 (April 1981), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 40:

## **Chapter 9. Licensees**

### **§902. Provisional License Renewal**

A. A psychologist is eligible to renew their provisional license until July 31 of each year upon submission of the required renewal fee, renewal application form and fulfillment of all continuing education requirements as defined in LAC 46:LXIII.Chapter 8.

B. A provisional license may be valid for one year beginning August 1 through July 31 for each renewal period.

C. A person whose provisional license has been suspended is not eligible for renewal. Reinstatement procedures of a suspended provisional license are at the discretion of the board.

D. A person whose provisional license has been revoked is not eligible for renewal.

E. Provisionally licensed psychologists shall be eligible for renewal of provisional licensure no more than three consecutive years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 40:

### **§904. Lapsed Provisional License**

A. If a provisional license is not renewed by July 31, due notice having been given, the license shall be regarded as lapsed for the year beginning with that August. Such license is not eligible for reinstatement unless such requirements are satisfied within six months from the date of lapse.

B. If a provisional license lapses for a period longer than six months, one may make a new application to the board. It is at the discretion of the board that any requirements not fulfilled during the year prior to lapse be completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 40:  
**Chapter 11. Supervision of Assistants to Psychologists**  
**§1101. Conditions for Utilization of Assistants**

A. An assistant providing psychological services must be under the general and continuing professional supervision of a licensed psychologist. General supervision means the procedure is furnished under the psychologist's overall direction and control, but the psychologist's presence is not required during the performance of the procedure. Under general supervision, the training of the non-psychologist personnel who actually performs the diagnostic procedure and maintenance of the necessary equipment and supplies are the continuing responsibility of the psychologist.

B. In order to maintain ultimate legal and professional responsibility for the welfare of every client, a licensed psychologist must be vested with functional authority over the psychological services provided by assistants.

C. Supervisors shall have sufficient contact with clients, and must be empowered to contact any client in order to plan effective and appropriate services and to define procedures. They shall also be available for emergency consultation and intervention.

D. Work assignments shall be commensurate with the skills of the assistant and procedures shall under all circumstances be planned in consultation with the supervisor.

E. The supervisory contact with assistants shall occur in the service delivery setting, unless otherwise approved by the Board of Examiners.

F. Public announcement of fees and services and contact with lay or professional public shall not be offered in the name of the assistant.

G. Billing for psychological services shall not be in the name of an assistant.

H. A provisionally licensed psychologist may not supervise unlicensed assistants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:647 (April 2007), amended LR 40:

## **Chapter 13. Ethical Standards of Psychologists**

### **§1301. Ethical Principles and Code of Conduct**

A. The Board of Examiners of Psychologists incorporates by reference and maintains that psychologists shall follow the APA ethical principles of psychologists and code of conduct most recently adopted by the American Psychological Association's Council of Representatives. The *Ethics Code* and information regarding the code can be found on the APA website, <http://www.apa.org/ethics>, or from the LSBEP website at <http://www.lsbep.org>.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:66 (February 1980), amended LR 10:791 (October 1984), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:703 (May 2003), LR 40:

**Chapter 15. Rules for Disciplinary Action**  
**Subchapter A. Applicability; Processing Complaints**

**§1503. Complaints**

A. A complaint is defined as the receipt of any information by the board indicating that there may be grounds for disciplinary action against a licensed psychologist or provisional licensed psychologist, or any other individual, under the provisions of title 37, chapter 28 of the *Revised Statutes*, or other applicable law, regulation or rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:647 (April 2007), amended LR 40:

**Chapter 19. Public Information**

**§1901. Public Display of License**

A. The license of the licensed psychologist or provisional licensed psychologist shall be publicly displayed in the office where services are offered. When a psychologist works in two or more settings, the license should be publicly displayed in the primary office location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 15:88 (February 1989), amended LR 40:

**Chapter 21. Disclosure of Financial Interests and Prohibited Payments**

**§2101. Scope and Purpose of Chapter**

\* \* \*

*Provisional Licensed Psychologist*—any individual who practices under the supervision of a Louisiana licensed psychologist and has met all minimal requirements as determined by the Louisiana State Board of Examiners of Psychologists.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:647 (April 2007), amended LR 40:

Kelly Parker  
Executive Director

1408#019

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Board of Pharmacy**

Pharmacy Compounding  
(LAC 46:LIII.Chapter 25)

The Louisiana Board of Pharmacy is exercising the emergency provisions of the Administrative Procedure Act, specifically at R.S. 49:953.B, to amend its rules governing the compounding of drugs by pharmacies, especially certain portions of that rule permitting pharmacists to compound medications intended for administration by practitioners without the necessity of a patient-specific prescription.

The U.S. Congress passed the Drug Quality and Security Act (DQSA) in November 2013. The first portion of that law amended several portions of the federal Food, Drug and Cosmetic Act. Subsequent to the effective date of that new law on November 27, 2013, the federal Food and Drug Administration (FDA) issued preliminary and final guidance to compounding pharmacies. Within the final guidance issued by the FDA on July 1, 2014, there are a number of requirements that compounding pharmacies must comply with in order to be eligible for an exemption to all of the other provisions applicable to the manufacturing of drugs. Among other provisions, the new law established a clear definition of compounding that requires the necessity of a patient-specific prescription. There is no authority for the compounding of medications in the absence of a patient-specific prescription.

New language in the DQSA includes the creation of a new category of provider known as outsourcing facilities. These facilities are registered and regulated by the federal FDA, and they are permitted to prepare products for practitioners without a patient-specific prescription, using quality guidelines that are more stringent than the quality guidelines used by pharmacies for their compounding activities.

The preparation of compounds in the absence of a patient-specific prescription is now construed as manufacturing as opposed to compounding. Compounding by pharmacies is regulated by the board. Manufacturing is regulated by the federal FDA. In an abundance of caution for the health, safety and welfare of Louisiana citizens, the board seeks to repeal the current rule which allows the compounding of preparations without the necessity of a patient-specific prescription.

The board has determined this Emergency Rule is necessary to prevent imminent peril to the public health, safety, and welfare. The Declaration of Emergency is effective August 8, 2014 and shall remain in effect for the maximum time period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever shall first occur.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LIII. Pharmacists**

**Chapter 25. Prescriptions, Drugs, and Devices**

**Subchapter C. Compounding of Drugs**

**§2531. Purpose and Scope**

A. Purpose. The rules of this Subchapter describe the requirements of minimum current good compounding practices for the preparation of drug formulations by Louisiana-licensed pharmacists, pharmacy interns, pharmacy technicians, and pharmacy technician candidates for dispensing and/or administration to patients.

B. Scope. These requirements are intended to apply to all compounded preparations, sterile and non-sterile, regardless of the location of the patient, e.g., home, hospital, nursing home, hospice, or practitioner's office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October

1988), effective January 1, 1989, amended LR 29:2105 (October 2003), effective January 1, 2004, amended LR 40:

### §2533. Definitions

A. As used in this Subchapter, the following terms shall have the meaning ascribed to them in this Section.

*Preparation*—a compounded drug dosage form or dietary supplement or a device to which a compounder has introduced a drug. This term will be used to describe compounded formulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2105 (October 2003), effective January 1, 2004, LR 40:

### §2535. General Standards

A. Compounding Practices. Compounded medications may be prepared using prescription medications, over-the-counter medications, chemicals, compounds, or other components.

1. A pharmacy shall have written procedures as necessary for the compounding of drug preparations to assure that the finished preparations have the identity, strength, quality, and purity they are represented to possess.

2. All compounding activities shall be accomplished utilizing accepted pharmacy techniques, practices, and equipment, as well as the Federal Food, Drug and Cosmetic Act (FDCA), title 21 of the *Code of Federal Regulations* (CFR), and all relevant chapters of the United States Pharmacopeia (USP).

a. The compounding of sterile preparations pursuant to the receipt of a patient-specific prescription shall comply with the provisions of section 503A of the FDCA and USP chapter 797.

b. The compounding of non-sterile preparations pursuant to the receipt of a patient-specific prescription shall comply with the provisions of section 503A of the FDCA and USP chapter 795.

c. The compounding of preparations for veterinary use shall comply with the provisions of 21 CFR 530.

d. The compounding of positron emission tomography (PET) drugs shall comply with the provisions of 21 CFR 212.

3. Products or duplicates of products removed from the market for the purposes of safety shall not be used to compound prescriptions for human use.

B. Board Notification. An applicant or pharmacy permit holder who wishes to engage in the compounding of sterile preparations shall notify the board and shall receive approval from the board prior to beginning that practice.

C. Training and Education. All individuals compounding sterile preparations shall:

1. obtain practical and/or academic training in the compounding and dispensing of sterile preparations;

2. complete a minimum of one hour of Accreditation Council for Pharmacy Education (ACPE) accredited or board-approved continuing education, on an annual basis, related to sterile drug preparation, dispensing, and utilization;

3. use proper aseptic technique in compounding of all sterile preparations, as defined by the pharmacy practice site's policy and procedure manual;

4. qualify through an appropriate combination of specific training and experience to operate or manipulate any item of equipment, apparatus, or device to which such persons will be assigned to use to make and dispense sterile preparations; and

5. maintain in the pharmacy practice site a written record of initial and subsequent training and competency evaluations. The record shall contain the following minimum information:

a. name of the individual receiving the training/evaluation;

b. date of the training/evaluation;

c. general description of the topics covered;

d. signature of the individual receiving the training/evaluation; and

e. name and signature of the individual providing the training/evaluation.

D. Anticipated Use Preparations. The pharmacist shall label any excess compounded preparation so as to reference it to the formula used and the assigned lot number and estimated beyond use date based on the pharmacist's professional judgment and/or other appropriate testing or published data.

E. Compounding Commercial Products Not Available. A pharmacy may prepare a copy of a commercial product when that product is not available as evidenced by either of the following:

1. products appearing on a website maintained by the federal Food and Drug Administration (FDA) and/or the American Society of Health-System Pharmacists (ASHP);

2. products temporarily unavailable from manufacturers, as documented by invoice or other communication from the distributor or manufacturer.

F. Labeling of Compounded Preparations

1. The labeling requirements of R.S. 37:1225, or its successor, as well as this Chapter, shall apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 23:1316 (October 1997), amended LR 29:2105 (October 2003), effective January 1, 2004, LR 40:

### §2537. Requirements for Compounding Sterile Products

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2106 (October 2003), effective January 1, 2004, repealed LR 40:

Malcolm J. Broussard  
Executive Director

1408#050

## DECLARATION OF EMERGENCY

**Department of Health and Hospitals  
Bureau of Health Services Financing  
and  
Office of Behavioral Health**

Behavioral Health Services  
Physician Reimbursement Methodology  
(LAC 50:XXXIII.1701)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health amends LAC 50:XXXIII.1701 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 provisions of 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 adopted provisions to implement a coordinated behavioral health services system under the Medicaid Program, called the Louisiana Behavioral Health Partnership (LBHP), to provide adequate coordination and delivery of behavioral health services through the utilization of a statewide management organization (*Louisiana Register*, Volume 38, Number 2).

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health promulgated an Emergency Rule which amended the provisions governing the reimbursement of physician services rendered in the LBHP in order to establish a distinct payment methodology that is independent of the payment methodology established for physicians in the Professional Services Program (*Louisiana Register*, Volume 39, Number 4). The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for certain physician services provided under the LBHP to exclude these services from the January 2013 Medicare rate changes (*Louisiana Register*, Volume 39, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 1, 2013 Emergency Rule. This action is being taken to protect the public health and welfare of Medicaid recipients who rely on behavioral health services by ensuring continued provider participation in the Medicaid Program.

Effective August 30, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health amend the provisions governing the reimbursement methodology for certain behavioral health services rendered in the Medicaid Program.

### Title 50

## PUBLIC HEALTH—MEDICAL ASSISTANCE

### Part XXXIII. Behavioral Health Services

#### Subpart 2. General Provisions

#### Chapter 17. Behavioral Health Services Reimbursements

#### §1701. Physician Payment Methodology

A. - B. Reserved.

C. Effective for dates of service on or after September 1, 2013, the reimbursement for procedure codes 90791, 90792,

90832, 90834 and 90837 shall be excluded from the January 2013 Medicare rate changes and shall remain at the Medicaid fee schedule on file as of December 31, 2012.

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, Bureau of Health Services Financing and the Office of Behavioral Health, LR 40:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert  
Secretary

1408#056

## DECLARATION OF EMERGENCY

**Department of Health and Hospitals  
Bureau of Health Services Financing**

Coordinated Care Network  
LACHIP Affordable Plan Benefits Administration  
(LAC 50:I.3103)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:I.3103 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 provisions of 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 adopted provisions which implemented a coordinated system of care in the Medicaid Program designed to improve performance and health care outcomes through a healthcare delivery system called coordinated care networks, also known as the BAYOU HEALTH Program (*Louisiana Register*, Volume 37, Number 6).

The department promulgated an Emergency Rule which amended the provisions governing the coordinated care networks in order to include health care services provided to LaCHIP Affordable Plan recipients in the BAYOU HEALTH Program (*Louisiana Register*, Volume 38, Number 12). These services were administered by the Office of Group Benefits. The administration of these services was transferred to the health plans participating in the BAYOU HEALTH Program.

The department promulgated a Rule which amended the provisions governing coordinated care networks in order to revise the recipient participation requirements (*Louisiana Register*, Volume 40, Number 6). The department has now determined that it is necessary to amend the provisions of the January 1, 2013 Emergency Rule in order to revise the formatting of these provisions as a result of the promulgation of the June 20, 2014 final Rule. This will ensure that these

provisions are appropriately incorporated into the *Louisiana Administrative Code*. This action is being taken to avoid a budget deficit in the medical assistance programs and to promote the health and welfare of recipients enrolled in the LaCHIP Affordable Plan.

Effective August 20, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the January 1, 2013 Emergency Rule governing coordinated care networks.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part I. Administration**

**Subpart 3. Medicaid Coordinated Care**

**Chapter 31. Coordinated Care Network**

**§3103. Recipient Participation**

A. The following Medicaid recipients shall be mandatory participants in coordinated care networks:

1. - 1.d. ...

e. uninsured women who are eligible through the Louisiana Children's Health Insurance Program (LaCHIP) prenatal option;

f. children under the age of 19 enrolled in the LaCHIP Affordable Care Plan (phase 5); and

A.2. - C. ...

**D. Participation Exclusion**

1. The following Medicaid and/or CHIP recipients are excluded from participation in a CCN and cannot voluntarily enroll in a CCN. Individuals who:

a. - g. ...

h. - h.i. Reserved.

E. ...

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, Bureau of Health Services Financing, LR 37:1573 (June 2011), amended LR 410:310 (February 2014), LR 40:1096 (June 2014), LR 40:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert  
Secretary

1408#053

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

Coordinated Care Network  
Physician Services  
Reimbursement Methodology  
(LAC 50:I.3307 and 3509)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:I.3307 and §3509 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 provisions of 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 adopted provisions which implemented a coordinated system of care in the Medicaid Program designed to improve quality of care and health care outcomes through a healthcare delivery system called coordinated care networks, also known as the BAYOU HEALTH Program (*Louisiana Register*, Volume 37, Number 6).

The Patient Protection and Affordable Care Act (PPACA) require states to reimburse certain physician services (if they were covered) at an increased rate. In compliance with PPACA and federal regulations, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for physician services rendered by health plans in the coordinated care networks to increase the reimbursement rates (*Louisiana Register*, Volume 39, Number 1).

The department has now determined that it is necessary to amend the provisions of the January 1, 2013 Emergency Rule to revise the formatting of these provisions in order to ensure that the provisions are appropriately incorporated into the *Louisiana Administrative Code*. This action is being taken to avoid federal sanctions and to secure enhanced federal funding.

Effective August 20, 2014 the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the January 1, 2013 Emergency Rule governing the reimbursement methodology for physician services rendered by health plans in the coordinated care networks.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part I. Administration**

**Subpart 3. Medicaid Coordinated Care**

**Chapter 33. Coordinated Care Network Shared Savings Model**

**§3307. Reimbursement Methodology**

A. - F.3.l. ...

m. durable medical equipment and supplies;

n. orthotics and prosthetics; and

o. payments made to providers for purposes of complying with section 1932(f) of the Social Security Act and 42 CFR 438.6(c)(5)(vi).

4. - 8. ...

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, Bureau of Health Services Financing, LR 37:1581 (June 2011), amended LR 40:

**Chapter 35. Coordinated Care Network Managed Care Organization Model**

**§3509. Reimbursement Methodology**

A. - A.5. ...

6. A CCN-P shall be reimbursed payments in order to comply with section 1932(f) of the Social Security Act and 42 CFR 439.6(c)(5)(vi) on a quarterly basis or other period specified by DHH.

a. For calendar years 2013 and 2014 the CCN-P shall make payments to designated physicians consistent with 42 CFR Part 447, subpart G, at least equal to the amounts set forth and required under part 447, Subpart G, and the provisions of this Chapter, consistent with 42 CFR 438.5 and 438.804 as approved by CMS and as specified in the terms and conditions of the contract between DHH and the CCN-P.

B. - J.1. ...

a. Repealed.

2. For calendar years 2013 and 2014, the CCN-P shall make payments to designated physicians consistent with 42 CFR part 447, subpart G, at least equal to the amounts set forth and required under part 447, subpart G, and the provisions of this Chapter, as specified in the terms and conditions of the contract between DHH and the CCN-P. The CCN-P shall also provide documentation to the state sufficient to enable the state and CMS to ensure that provider payments increase as required by paragraph 42 CFR 438.6(c)(5)(vi)(A) of this section.

a. The term *member* shall include the patient, parent(s), guardian, spouse or any other legally responsible person of the member being served.

3. The CCN-P may enter into alternative payment arrangements with its network providers or potential providers with prior approval by the department.

a. The CCN-P shall not enter into alternative payment arrangements with federally qualified health centers or rural health clinics as the CCN-P is required to reimburse these providers according to the published FQHC/RHC Medicaid prospective payment schedule rate in effect on the date of service, whichever is applicable.

K. - N.2.a. ...

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, Bureau of Health Services Financing, LR 37:1587 (June 2011), amended LR 40:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert  
Secretary

1408#054

## DECLARATION OF EMERGENCY

Department of Health and Hospitals  
Bureau of Health Services Financing  
and

Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers  
Residential Options Waiver  
(LAC 50:XXI.Chapters 161-169)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with

Developmental Disabilities amend LAC 50:XXI.Chapters 161-169 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 provisions of 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 for Citizens with Developmental Disabilities adopted provisions establishing the residential options waiver (ROW), a home and community-based services (HCBS) waiver program, to promote independence for individuals with developmental disabilities by offering a wide array of services, supports and residential options that assist individuals to transition from institutional care (*Louisiana Register*, Volume 33, Number 11). The department promulgated an Emergency Rule which amended the November 20, 2007 Rule to revise the provisions governing the allocation of waiver opportunities and the delivery of services in order to provide greater clarity (*Louisiana Register*, Volume 36, Number 4). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the residential options waiver to clarify the provisions governing the annual service budget for waiver participants and to reduce the reimbursement rates for waiver services (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the May 1, 2010 Emergency Rule to incorporate the provisions of the August 1, 2010 Emergency Rule (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the August 20, 2010 Emergency Rule governing the allocation of waiver opportunities in order to adopt criteria for crisis diversion, to revise the provisions governing the individuals who may be offered a waiver opportunity, and to clarify the provisions governing the developmental disabilities request for services registry (*Louisiana Register*, Volume 37, Number 6). This Emergency Rule is being promulgated to continue the provisions of the May 20, 2011 Emergency Rule. This action is being taken to comply with the provisions of the approved waiver application and to secure enhanced federal funding.

Effective September 11, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend the provisions governing the residential options waiver.

### Title 50

## PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community Based Services Waivers

### Subpart 13. Residential Options Waiver

#### Chapter 161. General Provisions

##### §16101. Introduction

A. The residential options waiver (ROW), a 1915(c) home and community-based services (HCBS) waiver, is designed to enhance the long-term services and supports available to individuals with developmental disabilities. These individuals would otherwise require an intermediate care facility for persons with developmental disabilities (ICF/DD) level of care.

B. ...



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 for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

### **§16103. Program Description**

A. The ROW is designed to utilize the principles of self determination and to 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, ROW includes a self-direction option which allows for greater flexibility in hiring, training and general service delivery issues. ROW services are meant to enhance, not replace existing informal networks.

B. ROW offers an alternative to institutional care that:

1. utilizes a wide array of services, supports and residential options which best meet the individual's needs and preferences;

2. meets the highest standards of quality and national best practices in the provision of services; and

3. ensures health and safety through a comprehensive system of participant safeguards.

4. Repealed.

C. All ROW services are accessed through the support coordination agency of the participant's choice.

1. The plan of care (POC) shall be developed using a person-centered process coordinated by the participant's support coordinator.

D. All services must be prior authorized and delivered in accordance with the approved POC.

E. The total expenditures available for each waiver participant is established through an assessment of individual support needs and will not exceed the approved ICF/DD ICAP rate established for that individual.

1. When the department determines that it is necessary to adjust the ICF/DD ICAP rate, each waiver participant's annual service budget shall be adjusted to ensure that the participant's total available expenditures do not exceed the approved ICAP rate.

F. No reimbursement for ROW services shall be made for a participant who is admitted to an inpatient setting.

G. Repealed.

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 for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

### **§16105. Participant Qualifications**

A. In order to qualify for services through the ROW, an individual must be offered a ROW opportunity and meet all of the following criteria:

1. have a developmental disability as specified in the Louisiana developmental disability law and determined through the developmental disabilities system entry process;

2. meet the requirements for an ICF/DD level of care which requires active treatment for developmental disabilities under the supervision of a qualified developmental disabilities professional;

3. meet the financial eligibility requirements for the Louisiana Medicaid Program;

4. be a resident of Louisiana; and

5. be a citizen of the United States or a qualified alien.

B. Assurances are required that the health, safety and welfare of the individual can be maintained in the community with the provision of ROW services.

1. - 3.c. Repealed.

C. Justification must be documented in the OCDD approved POC that the ROW services are appropriate, cost effective and represent the least restrictive environment for the individual.

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 for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities, LR 40:

### **§16106. Money Follows the Person Rebalancing Demonstration**

A. The money follows the person (MFP) rebalancing demonstration is a federal demonstration grant awarded by the Centers for Medicare and Medicaid Services to the Department of Health and Hospitals. The MFP demonstration is a transition program that targets individuals using qualified institutional services and moves them to home and community-based long-term care services.

1. For the purposes of these provisions, a qualified institution is a nursing facility, hospital, or Medicaid enrolled intermediate care facility for people with developmental disabilities (ICF/DD).

B. Participants must meet the following criteria for participation in the MFP rebalancing demonstration.

1. Participants with a developmental disability must:

a. occupy a licensed, approved Medicaid enrolled nursing facility, hospital or ICF/DD bed for at least three consecutive months; and

b. be Medicaid eligible, eligible for state developmental disability services, and meet an ICF/DD level of care.

2. The participant or his/her responsible representative must provide informed consent for both transition and participation in the demonstration.

C. Participants in the demonstration are not required to have a protected date on the developmental disabilities request for services registry.

D. All other ROW provisions apply to the money follows the person rebalancing demonstration.

E. MFP participants cannot participate in ROW shared living services which serve more than four persons in a single residence.

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, Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities, LR 40:

### **§16107. Programmatic Allocation of Waiver Opportunities**

A. The developmental disabilities request for services registry (RFSR), hereafter referred to as "the registry," shall be used to evaluate individuals for ROW opportunities and

to fill waiver opportunities for persons with developmental disabilities, except for those specific opportunities to be provided to persons who are described in Paragraphs B.1-5 of this Section, who are not on the registry.

1. The next individual on the registry shall be notified in writing that a waiver opportunity is available and that he/she is next in line to be evaluated for a possible waiver assignment. The individual shall then choose a support coordination agency that will assist in the gathering of the documents needed for both the financial eligibility and medical certification process for the level of care determination.

a. - e. Repealed.

2. If the individual is determined to be ineligible, either financially or medically, that individual shall be notified in writing. The next individual on the registry shall be notified, as stated in Paragraph B.1 of this Section, and the process continues until an eligible individual is assigned the waiver opportunity.

3. A waiver opportunity shall be assigned to an individual when eligibility is established and the individual is certified. By accepting a ROW opportunity, this person's name will be removed from the registry.

B. ROW opportunities will be offered to the following individuals:

1. persons who meet the ICF/DD level of care and are being serviced through the OCDD host home contracts;

2. persons who meet the ICF/DD level of care and who need HCBS due to a health and/or safety crisis situation (crisis diversion):

a. requests for crisis diversion shall be made through OCDD. To be considered for a crisis diversion opportunity, the individual must need long-term supports, not temporary or short-term supports;

b. determination of priority for a crisis diversion ROW opportunity will be considered by OCDD for the individual who is eligible for services and meets one of the following criteria:

- i. homeless;
- ii. at imminent risk of losing current residential placement;
- iii. referred by the judicial system;
- iv. referred by child, adult, or elderly protective authorities;
- v. without a caregiver and cannot adequately care for self;
- vi. with a caregiver who can no longer provide care; or
- vii. whose needs cannot be met within a community living situation;

3. children who:

- a. are from birth to age 18;
- b. reside in a nursing facility;
- c. meet the high-need requirements for a nursing facility level of care, as well as the ROW level of care requirements;
- d. participate in the MFP rebalancing demonstration; and
- e. have parents or legal guardians who wish to transition them to a home and community-based residential services waiver;

4. persons who reside in a Medicaid-enrolled ICF/DD and wish to transition to a home and community-based residential services waiver through a voluntary ICF/DD bed conversion process;

5. persons who wish to transition from a supports and services center into a ROW opportunity;

6. adults in nursing facilities (NFs) who wish to transition to home and community-based residential services and who meet the level of care (LOC) that qualifies them for ROW eligibility based on their RFSR protected date on a first come, first served basis; and

7. persons residing in ICFs/DD who wish to transition to a home and community-based residential services setting and are eligible based on their RFSR protected date on a first come, first served basis.

C. The Office for Citizens with Developmental Disabilities has the responsibility to monitor the utilization of ROW opportunities. At the discretion of OCDD, specifically allocated waiver opportunities may be reallocated to better meet the needs of citizens with developmental disabilities in the state of Louisiana.

C.1. - E. Repealed.

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 for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

#### **§16109. Admission Denial or Discharge Criteria**

A. Admission to the ROW Program shall be denied if one of the following criteria is met.

1. The individual does not meet the financial eligibility requirements for the Medicaid Program.

2. The individual does not meet the requirements for an ICF/DD level of care.

3. The individual does not meet developmental disability system eligibility.

4. The individual is incarcerated or under the jurisdiction of penal authorities, courts or state juvenile authorities.

5. The individual resides in another state.

6. The health and welfare of the individual cannot be assured through the provision of ROW services.

7. The individual fails to cooperate in the eligibility determination process or in the development of the POC.

8. Repealed.

B. Participants shall be discharged from the ROW Program if any of the following conditions are determined:

1. loss of Medicaid financial eligibility as determined by the Medicaid Program;

2. loss of eligibility for an ICF/DD level of care;

3. loss of developmental disability system eligibility;

4. incarceration or placement under the jurisdiction of penal authorities, courts or state juvenile authorities;

5. change of residence to another state;

6. admission to an ICF/DD or nursing facility with the intent to stay and not to return to waiver services;

7. the health and welfare of the participant cannot be assured through the provision of ROW services in accordance with the participant's approved POC;

8. the participant fails to cooperate in the eligibility renewal process or the implementation of the approved POC, or the responsibilities of the ROW participant; or

9. continuity of stay for consideration of Medicaid eligibility under the special income criteria is interrupted as a result of the participant not receiving ROW services during a period of 30 consecutive days;

a. continuity of stay is not considered to be interrupted if the participant is admitted to a hospital, nursing facility or ICF/DD;

i. the participant shall be discharged from the ROW if the treating physician documents that the institutional stay will exceed 90 days;

10. continuity of services is interrupted as a result of the participant not receiving ROW services during a period of 30 consecutive days.

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 for Citizens with Developmental Disabilities, LR 33:2443 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

### **Chapter 163. Covered Services**

#### **§16301. Assistive Technology and Specialized Medical Equipment and Supplies**

A. Assistive technology and specialized medical equipment and supplies (AT/SMES) are equipment, devices, controls, appliances, supplies and services which enable the participant to:

1. have life support;
2. address physical conditions;
3. increase ability to perform activities of daily living;
4. increase, maintain or improve ability to function more independently in the home and/or community; and
5. increase ability to perceive, control or communicate.

B. AT/SMES services provided through the ROW include the following services:

1. evaluation of participant needs;
2. customization of the equipment or device;
3. coordination of necessary therapies, interventions or services;
4. training or technical assistance on the use and maintenance of the equipment or device for the participant or, where appropriate, his/her family members, legal guardian or responsible representative;
5. training or technical assistance, when appropriate, for professionals, other service providers, employers, or other individuals who are substantially involved in the participant's major life functions;
6. all service contracts and warranties included in the purchase of the item by the manufacturer; and
7. equipment or device repair and replacement of batteries and other items that contribute to ongoing maintenance of the equipment or device.

a. Separate payment will be made for repairs after expiration of the warranty only when it is determined to be cost effective.

C. Approval of AT/SMES services through ROW is contingent upon the denial of a prior authorization request for the item as a Medicaid state plan service and

demonstration of the direct medical, habilitative or remedial benefit of the item to the participant.

1. Items reimbursed in the ROW may be in addition to any medical equipment and supplies furnished under the Medicaid state plan.

1.a. - 7. Repealed.

D. ...

E. Service Exclusions

1. Assistive technology devices and specialized equipment and supplies that are of general utility or maintenance and have no direct medical or remedial benefit to the participant are excluded from coverage.

2. Any equipment, device, appliance or supply that is covered and has been approved under the Medicaid state plan, Medicare or any other third party insurance is excluded from coverage.

3. For adults over the age of 20 years, specialized chairs, whether mobile or travel, are not covered.

F. Provider Participation Requirements. Providers of AT/SMES services must meet the following participation requirements. The provider must:

1. be enrolled in the Medicaid Program as a assistive devices or durable medical equipment provider and must meet all applicable vendor standards and requirement for manufacturing, design and installation of technological equipment and supplies;

2. furnish written documentation of authorization to sell, install and/or repair technological equipment and supplies from the respective manufacturer of the designated equipment and supplies; and

3. provide documentation of individual employees' training and experience with the application, use, fitting and repair of the equipment or devices which they propose to sell or repair;

a. upon completion of the work and prior to payment, the provider shall give the participant a certificate of warranty for all labor and installation and all warranty certificates.

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 for Citizens with Developmental Disabilities, LR 33:2443 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

#### **§16303. Community Living Supports**

A. Community living supports (CLS) are services provided to assist participants to achieve and maintain the outcomes of increased independence, productivity and inclusion in the community by utilizing teaching and support strategies. CLS may be furnished through self-direction or through a licensed, enrolled agency.

B. Community living supports are related to acquiring, retaining and improving independence, autonomy and adaptive skills. CLS may include the following services:

1. direct support services or self-help skills training for the performance of all the activities of daily living and self-care;

2. socialization skills training;

a. Repealed.

3. cognitive, communication tasks, and adaptive skills training; and

- a. Repealed.
- 4. development of appropriate, positive behaviors.
  - a. - b. Repealed.
- C. ...
- D. Community living supports may be shared by up to three recipients who may or may not live together, and who have a common direct service provider. In order for CLS services to be shared, the following conditions must be met:
  - 1. an agreement must be reached among all involved participants or their legal guardians regarding the provisions of shared CLS services;
  - 2. the health and welfare of each participant must be assured through the provision of shared services;
  - 3. services must be reflected in each participant's approved plan of care and based on an individual-by-individual determination; and
  - 4. a shared rate must be billed.
- E. - E.1. ...
  - 2. Routine care and supervision that is normally provided by the participant's spouse or family, and services provided to a minor by the child's parent or step-parent, are not covered.
  - 3. CLS services may not be furnished in a home that is not leased or owned by the participant or the participant's family.
  - 4. Participants may not live in the same house as CLS staff.
  - 5. Room and board or maintenance, upkeep and improvement of the individual's or family's residence is not covered.
  - 6. Community living supports shall not be provided in a licensed respite care facility.
    - a. - d. Repealed.
  - 7. Community living supports services are not available to individuals receiving the following services:
    - a. shared living;
    - b. home host; or
    - c. companion care.
  - 8. Community living supports cannot be billed or provided for during the same hours on the same day that the participant is receiving the following services:
    - a. day habilitation;
    - b. prevocational;
    - c. supported employment;
    - d. respite-out of home services; or
    - e. transportation-community access.

F. - F.1. ...

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 for Citizens with Developmental Disabilities, LR 33:2443 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

**§16305. Companion Care**

A. Companion care services assist the recipient to achieve and/or maintain the outcomes of increased independence, productivity and inclusion in the community. These services are designed for individuals who live independently and can manage their own household with limited supports. The companion provides services in the participant's home and lives with the participant as a

roommate. Companion care services may be furnished through self-direction or through a licensed provider agency as outlined in the participant's POC. This service includes:

- 1. providing assistance with all of the activities of daily living as indicated in the participant's POC; and
- 2. community integration and coordination of transportation services, including medical appointments.
- 3. Repealed.

B. Companion care services can be arranged by licensed providers who hire companions, or services can be self-directed by the participant. The companion is a principal care provider who is at least 18 years of age who lives with the participant as a roommate and provides services in the participant's home.

- 1. - 2. Repealed.

C. Provider Responsibilities

1. The provider organization shall develop a written agreement as part of the participant's POC which defines all of the shared responsibilities between the companion and the participant. The written agreement shall include, but is not limited to:

a. - c. ...

2. Revisions to this agreement must be facilitated by the provider and approved by the support team. Revisions may occur at the request of the participant, the companion, the provider or other support team members.

3. The provider is responsible for performing the following functions which are included in the daily rate:

- a. arranging the delivery of services and providing emergency services as needed;
- b. making an initial home inspection to the participant's home, as well as periodic home visits as required by the department;
- c. contacting the companion a minimum of once per week or as specified in the participant's POC; and
- d. providing 24-hour oversight and supervision of the companion care services, including back-up for the scheduled and unscheduled absences of the companion.

4. The provider shall facilitate a signed written agreement between the companion and the participant.

a. - b. Repealed.

D. Companion Responsibilities

1. The companion is responsible for:

- a. participating in and abiding by the POC;
- b. ...
- c. purchasing his/her own food and personal care items.

E. Service Limits

1. The provider agency must provide relief staff for scheduled and unscheduled absences, available for up to 360 hours (15 days) as authorized by the POC. Relief staff for scheduled and unscheduled absences is included in the provider agency's rate.

F. Service Exclusions

1. Companion care is not available to individuals receiving the following services:

- a. respite care service-out of home;
- b. shared living;
- c. community living supports; or
- d. host home.

2. - 2.d. Repealed.

G. ...

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 for Citizens with Developmental Disabilities, LR 33:2444 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

### **§16307. Day Habilitation Services**

A. Day habilitation services are aimed at developing activities and/or skills acquisition to support or further community integration opportunities outside of an individual's home. These activities shall promote independence, autonomy and assist the participant with developing a full life in his community. The primary focus of day habilitation services is acquisition of new skills or maintenance of existing skills based on individualized preferences and goals.

1. The skill acquisition and maintenance activities should include formal strategies for teaching the individualized skills and include the intended outcome for the participant.

2. ...

3. As an individual develops new skills, training should progress along a continuum of habilitation services offered toward greater independence and self-reliance.

B. Day habilitation services shall:

1. focus on enabling participants to attain maximum skills;

2. be coordinated with any physical, occupational or speech therapies included in the participant's POC;

3. - 4. ...

a. services are based on a one-half day unit of service and on time spent at the service site by the participant;

b. the one-half day unit of service requires a minimum of 2.5 hours;

c. two one-half day units may be billed if the participant spends a minimum of 5 hours at the service site;

d. any time less than 2.5 hours of services is not billable or payable; and

e. no rounding up of hours is allowed.

C. The provider is responsible for all transportation from the agency to all work sites related to the provision of service.

1. Transportation to and from the service site is offered and billable as a component of the day habilitation service; however, transportation is payable only when a day habilitation service is provided on the same day.

2. - 4.c. Repealed.

D. Participants may receive more than one type of vocational/habilitative service per day as long as the service and billing criteria are followed and as long as requirements for the minimum time spent on site are adhered to.

E. Service Exclusions

1. Time spent traveling to and from the day habilitation program site shall not be included in the calculation of the total number of day habilitation service hours provided per day.

a. Travel training for the purpose of teaching the participant to use transportation services may be included in determining the total number of service hours provided per day, but only for the period of time specified in the POC.

2. Transportation-community access will not be used to transport ROW participants to any day habilitation services.

3. Day habilitation services cannot be billed or provided during the same hours on the same day as any of the following services:

a. community living supports;

b. professional services, except those direct contacts needed to develop a behavioral management plan or any other type of specialized assessment/plan; or

c. respite care services—out of home.

F. Provider Qualifications. Providers must be licensed as an adult day 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 for Citizens with Developmental Disabilities, LR 33:2445 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

### **§16309. Dental Services**

A. Dental services are available to adult participants over the age of 21 as a component of the ROW. Covered dental services include:

1. diagnostic services;

2. preventative services;

3. restorative services;

4. endodontic services;

5. periodontal services;

6. removable prosthodontics services;

7. maxillofacial prosthetics services;

8. fixed prosthodontics services;

9. oral and maxillofacial surgery;

10. orthodontic services; and

11. adjunctive general services.

B. Service Exclusion. Participants must first access dental services covered under the Medicaid State Plan before utilizing dental services through the residential options waiver.

C. Provider Qualifications. Providers must have a current, valid license to provide dental services from the Louisiana State Board of Examiners for Dentistry for the specific dental services in all specialty areas provided to the participant.

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 for Citizens with Developmental Disabilities, LR 33:2445 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

### **§16311. Environmental Accessibility Adaptations**

A. Environmental accessibility adaptations are physical adaptations to the participant's home or vehicle which must be specified in the POC as necessary to enable the participant to integrate more fully into the community and to ensure his/her health, welfare and safety.

1. Reimbursement shall not be paid until receipt of written documentation that the job has been completed to the satisfaction of the participant.

B. Environmental adaptation services to the home and vehicle include the following:

1. assessments to determine the types of modifications that are needed;

2. training the participant and appropriate direct care staff in the use and maintenance of devices, controls, appliances and related items;

3. repair of all equipment and/or devices, including replacement of batteries and other items that contribute to the ongoing maintenance of the adaptation(s); and

4. all service contracts and warranties which the manufacturer includes in the purchase of the item.

C. In order to accommodate the medical equipment and supplies necessary to assure the welfare of the participant, home accessibility adaptations may include the following:

1. installation of ramps and grab-bars;

2. widening of doorways;

3. modification of bathroom facilities; or

4. installation of specialized electric and plumbing systems.

D. Home accessibility adaptations may be applied to rental or leased property only under the following conditions:

1. the participant is renting or leasing the property; and

2. written approval is obtained from the landlord and OCDD.

E. - F.4.g. ...

5. Home modifications shall not be paid for in the following residential services:

a. host home; or

b. shared living settings which are provider owned or leased.

G. Vehicle adaptations are modifications to an automobile or van that is the waiver participant's primary means of transportation in order to accommodate his/her special needs.

1. The modifications may include the installation of a lift or other adaptations to make the vehicle accessible to the participant or for him/her to drive.

2. Repealed.

H. Service Exclusions for Vehicle Adaptations

1. Payment will not be made to:

a. adapt vehicles that are owned or leased by paid caregivers or providers of waiver services; or

b. to purchase or lease a vehicle.

2. - 4. ...

I. Provider Responsibilities

1. The environmental accessibility adaptation(s) must be delivered, installed, operational and reimbursed in the POC year in which it was approved.

a. - b. Repealed.

2. A written itemized detailed bid, including drawings with the dimensions of the existing and proposed floor plans relating to the modifications, must be obtained and submitted for prior authorization.

a. Repealed.

3. Vehicle modifications must meet all applicable standards of manufacture, design and installation for all adaptations to the vehicle.

4. Upon completion of the work and prior to payment, the provider shall give the participant a certificate of warranty for all labor and installation and all warranty certificates from manufacturers.

J. Provider Qualifications. In order to participate in the Medicaid Program, providers must meet the following qualifications.

1. Providers of environmental accessibility adaptations for the home must be registered through the Louisiana State Licensing Board for Contractors as a home improvement contractor.

a. In addition, these providers must:

i. meet the applicable state and/or local requirements governing their licensure or certification; and

ii. comply with the applicable state and local building or housing code standards governing home modifications.

b. The individuals performing the actual service (building contractors, plumbers, electricians, carpenters, etc.) must also comply with the applicable state and/or local requirements governing individual licensure or certification.

2. Providers of environmental accessibility adaptations to vehicles must be licensed by the Louisiana Motor Vehicle Commission as a specialty vehicle dealer and accredited by the National Mobility Equipment Dealers Association under the structural vehicle modifier category.

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 for Citizens with Developmental Disabilities, LR 33:2446 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

### **§16313. Host Home**

A. Host home services assist participants in meeting their basic adaptive living needs and offer direct support where required. Participants are afforded a welcoming, safe and nurturing family atmosphere in a family home environment in which the participant may receive supports, services and training in accordance with the POC. Host home services take into account compatibility, including individual interests, age, needs for privacy, supervision and support needs. These services are provided in a private home by a contractor of the host home agency who lives in the home, and either rents or owns the residence. The contractor utilizes specific teaching strategies to encourage independence and autonomy when required as a part of the participant's POC.

1. Repealed.

B. Host home services include:

1. assistance with the activities of daily living and adaptive living needs;

2. assistance to develop leisure interests and daily activities in the home setting;

3. assistance to develop relationships with other members of the household;

4. supports in accessing community services, activities and pursuing and developing recreational and social interests outside the home; and

5. teaching community living skills to achieve participant's goals concerning community and social life as well as to maintain contacts with biological families and natural supports.

C. Host home provider agencies oversee and monitor the host home contractor to ensure the availability, quality, and

continuity of services as specified in the ROW manual. Host home provider agencies are responsible for the following functions:

1. arranging for a host home;
2. making an initial and periodic inspections of the host home; and
3. providing 24-hour oversight and supervision of host home services including providing emergency services and back-up for the scheduled and nonscheduled absences of the contractor.

a. Repealed.

D. Host home contractors are responsible for:

1. assisting with the development of the participant's POC and complying with the provisions of the plan;
2. maintaining and providing data to assist in the evaluation of the participant's personal goals;
3. maintaining adequate records to substantiate service delivery and producing such records upon request;
4. undergoing any specialized training deemed necessary by the provider agency, or required by the department, to provide supports in the Host Home setting; and
5. immediately reporting to the department and applicable authorities any major issues or concerns related to the participant's safety and well-being.

6. - 10. Repealed.

E. ...

F. Host home contractors serving adults are required to be available for daily supervision, support needs or emergencies as outlined in the adult participant's POC based on medical, health and behavioral needs, age, capabilities and any special needs.

1. - I.1. ...

2. Separate payment will not be made for the following residential service models if the participant is receiving host home services:

a. - 3. ...

J. Provider Qualifications

1. All agencies must:
  - a. have experience in delivering therapeutic services to persons with developmental disabilities;
  - b. have staff who have experience working with persons with developmental disabilities;
  - c. screen, train, oversee and provide technical assistance to the host home contractors in accordance with OCDD requirements, including the coordination of an array of medical, behavioral and other professional services appropriate for persons with developmental disabilities; and
  - d. provide on-going assistance to the host home contractors so that all HCBS requirements are met.

2. Agencies serving children must be licensed by the Department of Children and Family Services as a class "A" child placing agency.

3. Agencies serving adults must be licensed by the Department of Health and Hospitals as a provider of substitute family care 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 for Citizens with Developmental Disabilities, LR 33:2447 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services

Financing and the Office for Citizens with Developmental Disabilities, LR 40:

### §16315. Intensive Community Supports

Repealed.

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 for Citizens with Developmental Disabilities, LR 33:2448 (November 2007), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

### §16317. Nursing Services

A. Nursing services are medically necessary services ordered by a physician and provided by a licensed registered nurse or a licensed practical nurse within the scope of the state's Nurse Practice Act. Nursing services provided in the ROW are an extension of nursing services provided through the Home Health Program covered under the Medicaid state plan.

1. The services require an individual nursing service plan and must be included in the plan of care.

2. The nurse must submit updates of any changes to the individual's needs and/or the physician's orders to the support coordinator every 60 days.

3. Repealed.

B. Nursing consulting services include assessments and health related training and education for participants and caregivers.

1. - 2. ...

3. The health related training and education service is the only nursing service which can be provided to more than one participant simultaneously. The cost of the service is allocated equally among all participants.

C. Service Requirement. Participants over the age of 21 years must first exhaust all available nursing visits provided under the Medicaid state plan prior to receiving services through the waiver program.

D. Provider Qualifications

1. In order to participate in the Medicaid Program, the provider agency must possess a current, valid license as a home health agency or, if under the ROW shared living conversion model, be an enrolled shared living services agency with a current, valid license as a supervised independent living agency.

E. Staffing Requirements

1. ...

2. The RN or the LPN must possess one year of service delivery experience to persons with developmental disabilities defined under the following criteria:

a. full-time experience gained in advanced and accredited training programs (i.e. masters or residency level training programs), which includes treatment services for persons with developmental disabilities;

b. paid, full-time nursing experience in specialized service/treatment settings for persons with developmental disabilities (i.e. intermediate care facilities for persons with developmental disabilities);

c. paid, full-time nursing experience in multi-disciplinary programs for persons with developmental disabilities (i.e. mental health treatment programs for persons with dual diagnosis-mental illness and developmental disabilities); or

d. paid, full-time nursing experience in specialized educational, vocational and therapeutic programs or settings for persons with developmental disabilities (i.e. school special education program).

3. Two years of part-time experience with a minimum of 20 hours per week may be substituted for one year of full-time experience.

4. The following activities do not qualify for the required experience:

- a. volunteer nursing experience; or
- b. experience gained by caring for a relative or friend with developmental disabilities.

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 for Citizens with Developmental Disabilities, LR 33:2449 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

#### **§16319. One Time Transitional Services**

A. One time transitional services are one-time, set-up services to assist individuals in making the transition from an ICF/DD to their own home or apartment in the community of their choice.

1. - 1.d.iii. Repealed.

B. Allowable transitional expenses may include:

1. nonrefundable security deposits that do not include rental payments;
2. set up fees for utilities;
3. essential furnishings to establish basic living arrangements, including:
  - a. bedroom and living room furniture;
  - b. table and chairs;
  - c. window blinds; and
  - d. food preparation items and eating utensils;
4. set-up/deposit fee for telephone service;
5. moving expenses; and
6. health and safety assurances including:
  - a. pest eradication; or
  - b. one-time cleaning prior to occupancy.

C. Service Limits

1. One time transitional expenses are capped at \$3,000 per person over a participant's lifetime.

D. Service Exclusions

1. One time transitional services may not be used to pay for:

- a. housing, rent or refundable security deposits; or
- b. furnishings or setting up living arrangements that are owned or leased by a waiver provider.

2. One time transitional services are not available to participants who are receiving host home services.

3. One time transitional services are not available to participants who are moving into a family member's home.

E. ...

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 for Citizens with Developmental Disabilities, LR 33:2449 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

#### **§16321. Personal Emergency Response System (PERS)**

A. Personal emergency response system (PERS) is a system connected to the participant's telephone that incorporates an electronic device which enables the participant to secure help in an emergency. The device can be worn as a portable "help" button and when activated, a response center is contacted.

B. Participant Qualifications. PERS services are available to individuals who:

1. ...

2. are unable to use other communication systems due to experiencing difficulty in summoning emergency assistance; or

3. ...

C. PERS services includes rental of the electronic device, initial installation, training the participant to use the equipment, and monthly maintenance fees.

D. Service Exclusions

1. Separate payment will not be made for shared living services.

E. Provider Qualifications

1. The provider must be authorized by the manufacturer to install and maintain equipment for personal emergency response systems.

2. The provider shall be in compliance with all applicable federal, state, and local regulations governing the operation of personal emergency response systems including staffing requirements for the response 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 for Citizens with Developmental Disabilities, LR 33:2249 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

#### **§16323. Prevocational Services**

A. Prevocational services are activities designed to assist participants in acquiring and maintaining basic work-related skills necessary to acquire and retain meaningful employment. Services should include real and simulated employment tasks to assist in determining their vocational potential. Overall goals include regular community inclusion and development of work skills and habits to improve the participant's employability. Services must be reflective of the participant's POC and focused toward habilitation rather than teaching a specific job skill.

1. - 2.b. ...

B. In the event participants are compensated while receiving prevocational services, the compensation must be in accordance with the United States Fair Labor Standards Act of 1985.

1. If participants are paid in excess of 50 percent of the minimum wage, the provider must, at a minimum:

a. - c. ...

C. The provider is responsible for all transportation from the agency to all vocational sites related to provision of services.

1. Travel training may be included in determining the number of hours of services provided per day for the period of time specified in the participant's POC.

a. Repealed.



#### D. Service Limits

1. Services shall be limited to no more than eight hours per day, five days per week.
2. Services are based on a one-half day unit of service and time spent at the service site by the participant:
  - a. the one-half day unit of service requires a minimum of 2.5 hours at the service site by the participant;
  - b. two one-half day units may be billed in one day if the participant spends a minimum of 5 hours at the service site;
  - c. any time less than 2.5 hours of service is not billable or payable; and
  - d. no rounding up of hours is allowed.
3. Participants may receive more than one vocational/habilitative service per day as long as the billing criteria are followed for each service and the requirements for the minimum time spent on site are adhered to.
  - a. - 5.a. Repealed.

#### E. Service Exclusions

1. Prevocational services are not available to participants who are eligible to participate in programs funded under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act.
2. Multiple vocational/habilitative services cannot be provided or billed for during the same hours on the same day as the following services:
  - a. community living supports;
  - b. professional services, except those direct contacts needed to develop a behavioral management plan or other type of specialized assessment/plan; or
  - c. respite care services-out of home.
3. Transportation to and from the service site is only payable when a vocational/habilitative service is provided on the same day.
4. Time spent in traveling to and from the prevocational program site shall not be included in the calculation of the total number of service hours provided per day.
  - a. During travel training, providers must not also bill for the transportation component as this is included in the rate for the number of service hours provided.
5. Transportation-community access shall not be used to transport ROW participants to any prevocational services.

F. Provider Qualifications. Providers must have 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 for Citizens with Developmental Disabilities, LR 33:2450 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

#### §16325. Professional Services

A. Professional services are direct services to participants, based on need, that may be utilized to increase the individual's independence, participation and productivity in the home, work and community. Service intensity, frequency and duration will be determined by individual need. Professional services must be delivered with the participant present and in accordance with approved POC.

1. - 8.a. Repealed.

B. Professional services include the services provided by the following licensed professionals:

1. occupational therapist;
2. physical therapist;
3. speech therapist;
4. registered dietician;
5. social worker; and
6. psychologist.

C. Professional services may be utilized to:

1. perform assessments and/or re-assessments specific to professional disciplines to accomplish the desired outcomes for the participant and to provide recommendations, treatment, and follow-up;
  - a. - b. Repealed.
2. provide training or therapy to a participant and/or natural and formal supports necessary to either develop critical skills that may be self-managed by the participant or maintained according to the participant's needs;
3. intervene in and stabilize a crisis situation (behavioral or medical) that could result in the loss of home and community-based services, including the development, implementation, monitoring, and modification of behavioral support plans;
  - a. Repealed.
4. provide consultative services and recommendations;
5. provide necessary information to the participant, family, caregivers, and/or team to assist in planning and implementing services or treatment;
6. provide caregiver counseling for the participant's natural, adoptive, foster, or host family members in order to develop and maintain healthy, stable relationships among all caregivers, including family members, to support meeting the needs of the participant;
  - a. emphasis is placed on the acquisition of coping skills by building upon family strengths; and
  - b. services are intended to maximize the emotional and social adjustment and well-being of the individual, family, and caregiver; and
7. provide nutritional services, including dietary evaluation and consultation with individuals or their care provider.
  - a. Services are intended to maximize the individual's nutritional health.

NOTE: Psychologists and social workers will provide supports and services consistent with person-centered practices and guidelines for support planning.

#### D. Service Exclusions

1. Professional services may only be furnished and reimbursed through ROW when the services are medically necessary, or have habilitative or remedial benefit to the participant.
  - a. Repealed.
2. Recipients who are participating in ROW and are up to the age of 21 must access these services through the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program.
  - a. - d. Repealed.

#### E. Provider Qualifications

1. Enrollment of Individual Practitioners. Individual practitioners who enroll as providers of professional services must:

- a. have a current, valid license from the appropriate governing board of Louisiana for that profession; and
- b. possess one year of service delivery experience with persons with developmental disabilities;
- c. in addition, the specific service delivered must be consistent with the scope of the license held by the professional.

2. Provider Agency Enrollment of Professional Services

a. The following provider agencies may enroll to provide professional services:

- i. a Medicare certified free-standing rehabilitation center;

- ii. a licensed home health agency;

- iii. a supervised independent living agency licensed by the department to provide shared living services; or

- iv. a substitute family care agency licensed by the department to provide host home services.

b. Enrolled provider agencies may provide professional services by one of the following methods:

- i. employing the professionals; or

- ii. contracting with the professionals.

c. Provider agencies are required to verify that all professionals employed by or contracted with their agency meet the same qualifications required for individual practitioners as stated in §16325.E.1.a-c.

3. All professionals delivering professional services must meet the required one year of service delivery experience as defined by the following:

- a. full-time experience gained in advanced and accredited training programs (i.e. master's or residency level training programs), which includes treatment services for persons with developmental disabilities;

- b. paid, full-time experience in specialized service/treatment settings for persons with developmental disabilities (i.e. ICFs/DD);

- c. paid, full-time experience multi-disciplinary programs for persons with developmental disabilities (i.e. mental health treatment programs for persons with dual diagnosis-mental illness and developmental disability); or

- d. paid, full-time experience in specialized educational, vocational, and therapeutic programs or settings for persons with developmental disabilities (i.e. school special education program);

- e. two years of part-time experience with a minimum of 20 hours per week of the qualifying work experience activities may be substituted for one year of full-time experience.

4. The following activities do not qualify for the professional's required service delivery experience:

- a. volunteer experience; or

- b. experience gained by caring for a relative or friend with developmental disabilities.

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 for Citizens with Developmental Disabilities, LR 33:2450 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

**§16327. Respite Care Services-Out of Home**

A. Respite care services-out of home are supports and services provided for the relief of those unpaid caregivers who normally provide care to participants who are unable to care for themselves. These services are furnished on a short-term basis in a licensed respite care center.

1. A licensed respite care facility shall insure that community activities are available to the participant in accordance with the approved POC, including transportation to and from these activities.

- a. ...

2. While receiving respite care services, the participant's routine is maintained in order to attend school, school activities, or other community activities that he/she would typically participate in if not in the center-based respite facility.

**B. Service Limits**

1. Respite care services are limited to 720 hours per participant per POC year.

2. Requests for an extension of the service limit are subject to the department's established approval process and require proper justification and documentation.

**C. Service Exclusions**

1. ...

2. Respite care services-out of home may not be billed for participants receiving the following services:

- a. shared living;

- b. companion care; or

- c. host home.

- d. Repealed.

D. Provider Qualifications. The provider must possess a current, valid license as a respite care center issued by the department.

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 for Citizens with Developmental Disabilities, LR 33:2451 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

**§16329. Shared Living Services**

A. Shared living services assist the participant in acquiring, retaining and improving the self-care, adaptive and leisure skills needed to reside successfully in a shared home setting within the community. Services are chosen by the participant and developed in accordance with his/her goals and wishes with regard to compatibility, interests, age and privacy in the shared living setting.

1. A shared living services provider delivers supports which include:

- a. 24-hour staff availability;

- b. assistance with activities of daily living included in the participant's POC;

- c. a daily schedule;

- d. health and welfare needs;

- e. transportation;

- f. any non-residential ROW services delivered by the shared living services provider; and

- g. other responsibilities as required in each participant's POC.

2. - 3. Repealed.

B. An ICF/DD may elect to permanently relinquish its ICF/DD license and all of its Medicaid facility need review approved beds from the total number of certificate of need (CON) beds for that home and convert it into a shared living waiver home or in combination with other ROW residential options as deemed appropriate in the approved conversion agreement.

1. In order to convert, provider request must be approved by the department and by OCDD.

2. ICF/DD residents who choose transition to a shared living waiver home must also agree to conversion of their residence.

3. If choosing ROW services, persons may select any ROW services and provider(s) based upon freedom of choice.

#### C. Shared Living Options

1. Shared Living Conversion Option. The shared living conversion option is only allowed for providers of homes which were previously licensed and Medicaid certified as an ICF/DD for up to a maximum of eight licensed and Medicaid-funded beds on October 1, 2009.

a. The number of participants for the shared living conversion option shall not exceed the licensed and Medicaid-funded bed capacity of the ICF/DD on October 1, 2009, or up to six individuals, whichever is less.

b. The ICF/DD used for the shared living conversion option must meet the department's operational, programming and quality assurances of health and safety for all participants.

c. The provider of shared living services is responsible for the overall assurances of health and safety for all participants.

d. The provider of shared living conversion option may provide nursing services and professional services to participants utilizing this residential services option.

2. Shared Living Non-Conversion (New) Option. The shared living non-conversion option is allowed only for new or existing ICF/DD providers to establish a shared living waiver home for up to a maximum of three individuals.

a. The shared living waiver home must be located separate and apart from any ICF/DD.

b. The shared living waiver home must be either a home owned or leased by the waiver participants or a home owned or leased and operated by a licensed shared living provider.

c. The shared living waiver home must meet department's operational, programming and quality assurances for home and community-based services.

d. The shared living provider is responsible for the overall assurances of health and safety for all participants.

#### D. Service Exclusions

1. ...

2. Payments shall not be made for environmental accessibility adaptations when the provider owns or leases the residence.

3. Participants may receive one-time transitional services only if the participant owns or leases the home and the service provider is not the owner or landlord of the home.

a. - d. Repealed.

4. MFP participants cannot participate in ROW shared living services which serve more than four persons in a single residence.

5. Transportation-community access services cannot be billed or provided for participants receiving shared living services, as this is a component of shared living services.

6. The following services are not available to participants receiving shared living services:

- a. community living supports;
- b. respite care services;
- c. companion care;
- d. host home; or
- e. personal emergency response system.

E. Provider Qualifications. Providers must be approved by the department and have a current, valid license as a supervised independent living 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 for Citizens with Developmental Disabilities, LR 33:2452 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

#### §16331. Specialized Medical Equipment and Supplies

Repealed.

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 for Citizens with Developmental Disabilities, LR 33:2452 (November 2007), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

#### §16333. Support Coordination

A. Support coordination services are provided to all ROW participants to assist them in gaining access to needed waiver services, Medicaid state plan services, as well as needed medical, social, educational and other services, regardless of the funding source for the services. Support coordinators provide information and assistance to waiver participants by directing and managing their services in compliance with the rules and regulations governing case management services.

1. Support coordinators shall be responsible for ongoing monitoring of the provision of services included in the participant's approved POC.

2. Support coordinators shall also participate in the evaluation and re-evaluation of the participant's POC.

B. Support coordinators are responsible for providing assistance to participants who choose the self-direction option with their review of the self-direction employer handbook and for being available to these participants for on-going support and help with carrying out their employer responsibilities.

C. Provider Qualifications. Providers must have a current, valid license as a case management agency and meet all other requirements for targeted case management services as set forth in LAC 50:XV.Chapter 105 and the Medicaid targeted case management manual.

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 for Citizens with Developmental Disabilities, LR 33:2453 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

### **§16335. Supported Employment**

A. Supported employment provides assistance in an integrated work setting to assist in the achievement and attainment of work related skills and includes on-going support to maintain employment.

1. - 3. Repealed.

B. Supported employment services include:

1. ...

2. services that assist a participant to develop and operate a micro-enterprise;

a. this service consists of:

i. assisting the participant to identify potential business opportunities;

ii. ...

iii. identification of the supports that are necessary in order for the participant to operate the business; and

iv. ...

3. enclave services which is an employment situation in competitive employment in which a group of eight or fewer workers with disabilities are working at a particular work setting. The workers with disabilities may be disbursed throughout the company and among workers without disabilities or congregated as a group in one part of the business;

4. mobile work crews which is 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); and

5. all transportation from the agency to all work sites related to provision of the service. The provider is responsible for furnishing the transportation.

C. Service Limits

1. The required minimum number of service hours per day per participant is as follows for:

a. individual placement services, the minimum is one hour;

b. services that assist a participant to develop and operate a micro-enterprise, the minimum is one hour;

c. an enclave, the minimum is 2.5 hours; and

d. a mobile work crew, the minimum is 2.5 hours.

2. Two half-day units may be billed if the participant spends a minimum of five hours at the service site.

3. Participants may receive more than one vocational or habilitative service per day as long as the service and billing requirements for each service are met.

4. Transportation to and from the service site is offered and billable as a component of the support employment service; however, transportation is payable only when a supported employment service is provided on the same day.

D. Service Exclusions

1. ...

2. Any time less than one hour for individual placement and micro-enterprise is not billable or payable.

3. - 3.c. ...

4. Any time less than 2.5 hours for enclaves and mobile crews is not billable or payable.

5. ...

a. Travel training for the purpose of teaching the recipient how to use transportation services may be included in determining the total service numbers hours provided per day, but only for the period of time specified in the POC.

6. - 6.c. ...

7. Services are not available to individuals who are eligible to participate in programs funded under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act.

8. No rounding up of hours is allowed.

E. Provider Qualifications. In order to enroll in the Medicaid Program, providers must have a compliance certificate from the Louisiana Rehabilitation Services as a community rehabilitation program or 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 for Citizens with Developmental Disabilities, LR 33:2453 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

### **§16337. Transportation-Community Access**

A. Transportation-community access services enable participants to gain access to waiver and other community services, activities and resources. These services are necessary to increase independence, productivity, community inclusion and to support self-directed employees benefits as outlined in the participant's POC. Transportation-community access services shall be offered as documented in the participant's approved POC.

1. The participant must be present to receive this service.

2. Whenever possible, the participant must utilize the following resources for transportation:

a. - b. ...

B. Service Limits

1. Community access trips are limited to three per day and must be arranged for geographic efficiency.

2. Greater than three trips per day require approval from the department or its designee.

a. Repealed.

C. Service Exclusions

1. Transportation services offered through ROW shall not replace the medical transportation services covered under the Medicaid state plan or transportation services provided as a means to get to and from school.

2. Separate payment will not be made for transportation-community access and the following services:

a. shared living services; or

b. community living services.

3. Transportation-community access will not be used to transport participants to day habilitation, pre-vocational, or supported employment services.

D. Provider Qualifications. Friends and family members who furnish transportation-community access services to waiver participants must be enrolled as Medicaid friends and family transportation providers.

1. In order to receive reimbursement for transporting Medicaid recipients to waiver services, family and friends must maintain:

- a. the state minimum automobile liability insurance coverage;
- b. a current state inspection sticker; and
- c. a current valid driver's license.

2. No special inspection by the Medicaid agency will be conducted.

- a. - b. Repealed.

3. Documentation of compliance with the three listed requirements for this class of provider must be submitted when enrollment in the Medicaid agency is sought. Acceptable documentation shall be the signed statement of the individual enrolling for payment that all three requirements are met.

- a. The statement must also have the signature of two witnesses.

4. Family and friends transportation providers are limited to transporting up to three specific waiver participants.

E. Vehicle Requirements. All vehicles utilized by for profit and non-profit transportation services providers for transporting waiver recipients must comply with all of the applicable state laws and regulations and are subject to inspection by the department or its designee.

- 1. - G. Repealed.

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 for Citizens with Developmental Disabilities, LR 33:2454 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

### **Chapter 165. Self-Direction Initiative**

#### **§16501. Self-Direction Service Option**

A. The self-direction initiative is a voluntary, self-determination option which allows the waiver participant to coordinate the delivery of designated ROW services through an individual direct support professional rather than through a licensed, enrolled provider agency. Selection of this option requires that the recipient utilize a payment mechanism approved by the department to manage the required fiscal functions that are usually handled by a provider agency.

B. Recipient Responsibilities. Waiver participants choosing the self-direction service option must understand the rights, risks and responsibilities of managing their own care and individual budget. If the participant is unable to make decisions independently, he must have an authorized representative who understands the rights, risks and responsibilities of managing his care and supports within his individual budget. Responsibilities of the participant or authorized representative include:

- 1. - 2. ...

- a. Participants must adhere to the health and welfare safeguards identified by the support team, including:

- i. ...

- ii. compliance with the requirement that employees under this option must have criminal background checks prior to working with waiver participants;

- 3. ...

- a. This annual budget is determined by the recommended service hours listed in the participant's POC to meet his needs.

b. The participant's individual budget includes a potential amount of dollars within which the participant, or his authorized representative, exercises decision-making responsibility concerning the selection of services and service providers.

C. Termination of Self-Direction Service Option. Termination of participation in the self-direction service option requires a revision of the POC, the elimination of the fiscal agent and the selection of the Medicaid-enrolled waiver service provider(s) of choice.

- 1. Voluntary Termination. The waiver participant may choose at any time to withdraw from the self-direction service option and return to the traditional provider agency management of services.

- 2. Involuntary Termination. The department may terminate the self-direction service option for a participant and require him to receive provider-managed services under the following circumstances:

- a. the health or welfare of the participant is compromised by continued participation in the self-direction service option;

- b. the participant is no longer able to direct his own care and there is no responsible representative to direct the care;

- c. there is misuse of public funds by the participant or the authorized representative; or

- d. over three payment cycles in the period of a year, the participant or authorized representative:

- i. ...

- ii. fails to follow the personal purchasing plan and the POC;

- C.2.d.iii. - D. ...

E. Relief coverage for scheduled or unscheduled absences, which are not classified as respite care services, can be covered by other participant-directed providers and the terms can be part of the agreement between the participant and the primary companion care 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 for Citizens with Developmental Disabilities, LR 33:2455 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

### **Chapter 167. Provider Participation**

#### **§16701. General Provisions**

- A. ...

- 1. meet all of the requirements for licensure and the standards for participation in the Medicaid Program as a home and community-based services provider in accordance with state laws and the rules promulgated by the department;

- 2. comply with the regulations and requirements specified in LAC 50:XXI, Subparts 1 and 13 and the ROW provider manual;

- 3. comply with all of the state laws and regulations for conducting business in Louisiana, and when applicable, with the state requirements for designation as a non-profit organization; and

- 4. comply with all of the training requirements for providers of waiver services.

B. Providers must maintain adequate documentation to support service delivery and compliance with the approved POC and provide said documentation upon the department's request.

C. In order for a provider to bill for services, the waiver participant and the direct service worker or professional services practitioner rendering service must be present at the time the service is rendered.

1. Exception. The following services may be provided when the participant is not present:

a. - c. ...

2. All services must be documented in service notes which describe the services rendered and progress towards the participant's personal outcomes and his/her POC.

D. If transportation is provided as part of a waiver service, the provider must comply with all of the state laws and regulations applicable to vehicles and drivers.

E. All services rendered shall be prior approved and in accordance with the POC.

F. Providers, including direct care staff, cannot live in the same residence as the participant, except host home contractors and companion care workers.

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 for Citizens with Developmental Disabilities, LR 33:2455 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

### §16703. Staffing Restrictions and Requirements

A. Payments shall not be made to persons who are legally responsible for the care of the waiver participants which include:

1. parents of minor children;
2. spouses for each other;
3. legal guardians for adults or children with developmental disabilities; or
4. parents for their adult child with developmental disabilities, regardless of the legal status of the adult child.

B. In order to receive payment, relatives must meet the criteria for the provision of the service and the same provider qualifications specified for the service as other providers not related to the participant.

1. Relatives must also comply with the following requirements:

- a. become an employee of the participant's chosen waiver provider agency;
- b. become a Medicaid enrolled provider agency; or
- c. if the self-direction option is selected, relatives must:
  - i. become an employee of the self-direction participant; and
  - ii. have a Medicaid provider agreement executed by the fiscal agent as authorized by the Medicaid 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, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

### Chapter 169. Reimbursement

#### §16901. Reimbursement Methodology

A. Reimbursement for the following services shall be a prospective flat rate for each approved unit of service

provided to the waiver participant. One quarter hour (15 minutes) is the standard unit of service, which covers both the service provision and administrative costs for these services:

1. - 3.e. ...

- f. registered dietician;
4. support coordination; or
5. supported employment:
  - a. individual placement; and
  - b. micro-enterprise.
6. Repealed.

B. The following services are reimbursed at the cost of the adaptation device, equipment or supply item:

1. environmental accessibility adaptations; and
  - a. upon completion of the environmental accessibility adaptations and prior to submission of a claim for reimbursement, the provider shall give the participant a certificate of warranty for all labor and installation work and supply the participant with all manufacturers' warranty certificates;
  2. assistive technology/specialized medical equipment and supplies.
3. Repealed.

C. The following services are reimbursed at a per diem rate:

1. ...
2. companion cares; and
3. shared living services.
  - a. Per diem rates are established based on the number of individuals sharing the living service module for both shared living non-conversion and shared living conversion services.

D. The following services are reimbursed at a per one-half-day unit of service based on a minimum of 2.5 hours spent on-site by the participant:

1. day habilitation;
2. pre-vocational; and
3. supported employment:
  - a. mobile crew; and
  - b. enclave.

E. ...

F. Nursing services are reimbursed at either an hourly or per visit rate for the allowable procedure codes.

G. ...

H. Transition expenses from an ICF/DD or nursing facility to a community living setting are reimbursed at the cost of the service(s) up to a lifetime maximum rate of \$3,000.

I. - J. ...

K. Effective for dates of service on or after August 1, 2010, the reimbursement for residential options waiver services shall be reduced by 2 percent of the rates in effect on July 31, 2010.

1. The following services shall be excluded from the rate reduction:

- a. personal emergency response services;
- b. environmental accessibility adaption services;
- c. specialized medical equipment and supplies; and
- d. support coordination 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 for Citizens with Developmental

Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

**§16903. Direct Support Staff Wages**

A. In order to maximize staffing stability and minimize turnover among direct support staff, providers of the following services furnished under the residential options waiver are required to pay direct support workers an hourly wage that is at least 29 percent (\$1.50) more than the federal minimum wage in effect as of July 23, 2007 or the current federal minimum wage, whichever is higher:

1. community living supports;
2. respite services-out of home;
3. shared living;
4. day habilitation;
5. pre-vocational services; and
6. supported employment.
7. Repealed.

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 for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert  
Secretary

1408#057

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

Laboratory and Radiology Services  
Reimbursement Methodology  
Manual Pricing  
(LAC 50:XIX.Chapter 43)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50: XIX.4329 and §§4334-4337 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 provisions of 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.

Due to a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for laboratory and radiology

services to reduce the reimbursement rates (*Louisiana Register*, Volume 39, Number 5). The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for laboratory and radiology services to adopt a manual pricing payment methodology for covered services that do not have Medicare established rates (*Louisiana Register*, Volume 40, Number 5). This Emergency Rule is being promulgated to continue the provisions of the May 20, 2014 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued access to Medicaid covered services.

Effective September 18, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for laboratory and radiology services.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XIX. Other Services**

**Subpart 3. Laboratory and X-Ray**

**Chapter 43. Billing and Reimbursement**

**Subchapter B. Reimbursement**

**§4329. Laboratory Services (Physicians and Independent Laboratories)**

A. - L.3.a. ...

M. Effective for dates of service on or after May 20, 2014, the reimbursement for laboratory services shall be based on usual and customary billed charges or the Medicaid fee on file as of May 19, 2014, whichever is lesser.

1. If laboratory services do not have Medicare established rates, fees will be based on review of statewide billed charges for that service in comparison with set charges for similar services.

2. If there is no similar service, fees are based upon the consultant physicians' review and recommendations.

3. Reimbursement shall be the lesser of the billed charges or the Medicaid fee on file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), P.L. 98-369, 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 28:1025 (May 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1897 (September 2009), LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3028 (October 2011), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:95 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:1284 (May 2013), LR 40:

**§4334. Radiology Services**

A. - J. ...

K. Effective for dates of service on or after May 20, 2014, the reimbursement for radiology services shall be based on usual and customary billed charges or the Medicaid fee on file as of May 19, 2014, whichever is lesser.

1. If radiology services do not have Medicare established rates, fees will be based on review of statewide billed charges for that service in comparison with set charges for similar services.

2. If there is no similar service, fees are based upon the consultant physicians' review and recommendations.

3. Reimbursement shall be the lesser of the billed charges or the Medicaid fee on file.

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, Bureau of Health Services Financing, LR 35:1897 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3029 (October 2011), LR 39:1284 (May 2013), LR 40:

### **§4335. Portable Radiology Services**

A. - H. ...

I. Effective for dates of service on or after May 20, 2014, the reimbursement for portable radiology services shall be based on usual and customary billed charges or the Medicaid fee on file as of May 19, 2014, whichever is lesser.

1. If portable radiology services do not have Medicare established rates, fees will be based on review of statewide billed charges for that service in comparison with set charges for similar services.

2. If there is no similar service, fees are based upon the consultant physicians' review and recommendations.

3. Reimbursement shall be the lesser of the billed charges or the Medicaid fee on file.

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, Bureau of Health Services Financing, LR 30:1026 (May 2004), amended LR 35:1898 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3029 (October 2011), LR 39:1284 (May 2013), LR 40:

### **§4337. Radiation Therapy Centers**

A. - H. ...

I. Effective for dates of service on or after May 20, 2014, the reimbursement for radiology services provided by radiation therapy centers shall be based on usual and customary billed charges or the Medicaid fee on file as of May 19, 2014, whichever is lesser.

1. If radiology services provided by radiation therapy centers do not have Medicare established rates, fees will be based on review of statewide billed charges for that service in comparison with set charges for similar services.

2. If there is no similar service, fees are based upon the consultant physicians' review and recommendations.

3. Reimbursement shall be the lesser of the billed charges or the Medicaid fee on file.

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, Bureau of Health Services Financing, LR 35:1898 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3029 (October 2011), LR 39:1284 (May 2013), LR 40:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert  
Secretary

1408#058

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Bureau of Health Services Financing**

Medicaid Eligibility  
Former Foster Care Adolescents  
(LAC 50:III.2308)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:III.2308 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 provisions of 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 352 of the 2008 Regular Session of the Louisiana Legislature authorized the Department of Health and Hospitals to adopt provisions pursuant to the Chafee Option which provide regular Medicaid coverage or an alternative benefits package to independent youth aging out of foster care. In compliance with Act 352, the department adopted provisions pursuant to the Chafee Option to establish a new Medicaid eligibility group to provide Medicaid coverage to youth between the ages of 18 and 21 who are transitioning out of foster care (*Louisiana Register*, Volume 35, Number 11).

The Patient Protection and Affordable Care Act of 2010 and Education Reconciliation Act of 2010 (collectively referred to as the Affordable Care Act) require Medicaid to expand coverage to foster care adolescents ages 18 to 26 who are transitioning out of foster care. In compliance with the Affordable Care Act, the department promulgated an Emergency Rule which adopted provisions to establish a new Medicaid eligibility group to provide Medicaid coverage to former foster care adolescents from age 18 to 26 who are transitioning out of foster care (*Louisiana Register*, Volume 40, Number 1).

The department promulgated an Emergency Rule which amended the provisions of the December 31, 2013 Emergency Rule to clarify the provisions and to correct the Section number in order to ensure that these provisions are promulgated appropriately in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 40, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 20, 2014 Emergency Rule. This action is being taken to avoid federal sanctions and to promote the health and well-being of individuals in foster care by maintaining their access to health care services after they age out of the foster care system.

Effective September 19, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the new Medicaid eligibility group for former foster care adolescents.



**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part III. Eligibility**  
**Subpart 3. Eligibility Groups and Factors**  
**Chapter 23. Eligibility Groups and Medicaid**  
**Programs**

**§2308. Former Foster Care Adolescents**

A. Pursuant to the Patient Protection and Affordable Care Act of 2010 (collectively referred to as the Affordable Care Act), the Department of Health and Hospitals hereby implements a Medicaid eligibility group, effective December 31, 2013, to provide health care coverage to youth who are transitioning out of foster care to self-sufficiency upon reaching age 18 or at a higher age selected by the department. This eligibility group will be called former foster care adolescents.

B. Eligibility Requirements. Youth who age out of foster care and meet all of the following requirements may receive Medicaid health care coverage under this new eligibility group.

1. The youth must be from age 18 up to age 26.
2. The youth must have been in foster care and in state custody, either in Louisiana or another state, and receiving Medicaid upon turning age 18 or upon aging out of foster care at a higher age selected by the department.
3. The youth must live in Louisiana.

C. Income, resources and insurance status are not considered when determining eligibility.

D. Individuals determined eligible in this group shall receive coverage of medically necessary health care services provided under the Medicaid state plan.

1. The assistance unit shall consist of the youth only.

E. Eligibility for the program will continue until the youth reaches age 26 unless the youth:

1. moves out of state;
2. requests closure of the case;
3. is incarcerated; or
4. dies.

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, Bureau of Health Services Financing, LR 40:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert  
Secretary

1408#059

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals**  
**Bureau of Health Services Financing**

Medicaid Eligibility  
Income Disregards for Children  
(LAC 50:III.10305)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:III.10305 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 provisions of 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 adopted a Rule promulgating the Medicaid eligibility manual in its entirety by reference, including section Z-200 which addresses income disregards for children under age 19 (*Louisiana Register*, Volume 22, Number 5). The May 20, 1996 Rule was repromulgated on July 20, 1996 to make corrections to the price of the manual (*Louisiana Register*, Volume 22, Number 7). The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing eligibility income disregards to establish an income disregard that shall allow for eligibility for home and community-based services as though the individual was a resident of a nursing facility or an intermediate care facility for persons with intellectual disabilities (*Louisiana Register*, Volume 38, Number 9).

The Patient Protection and Affordable Care Act of 2010 and Education Reconciliation Act of 2010 (collectively referred to as the Affordable Care Act) require all poverty level children between the ages of 0-18 to have the same minimum income limit to be eligible. The May 20, 1996 and July 20, 1996 Rules includes different limits disregards for children ages 0 to 5 and 6 to 18. In compliance with the Affordable Care Act, the department promulgated an Emergency Rule which amended the provisions governing income disregards to establish equal income limits for children under age 19 (*Louisiana Register*, Volume 40, Number 1). This Emergency Rule is being promulgated to continue the provisions of the December 31, 2013 Emergency Rule. This action is being taken to avoid federal sanctions.

Effective August 30, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing Medicaid financial eligibility.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part III. Eligibility**  
**Subpart 5. Financial Eligibility**  
**Chapter 103. Income**

**§10305. Income Disregards**  
A. - B.5. ...

C. Effective December 31, 2013, the income of children ages 6 to 19 from 100 percent up to 142 percent of the federal poverty level shall be disregarded.

D. Reserved.

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 34:1629 (August 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1898 (September 2009), LR 40:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert  
Secretary

1408#060

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

Medicaid Eligibility  
Income Disregards for Pregnant Minors  
(LAC 50:III.10305)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:III.10305 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 provisions of 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 promulgated a final Rule which repealed the provisions of the June 20, 2003 Rule governing income disregards for low income pregnant women in order to adopt more restrictive eligibility standards (*Louisiana Register*, Volume 39, Number 12). As a result of the Medicaid eligibility changes for January 2014, these income disregard provisions were determined to no longer be applicable to the financial eligibility determination for Medicaid coverage of low income pregnant women in the LaMOMS Program.

In compliance with the Patient Protection and Affordable Care Act of 2010, the department promulgated an Emergency Rule which amended the provisions governing the Medicaid eligibility group for pregnant unmarried minors (PUMs) by disregarding the income of parents when determining eligibility for pregnant women up to age 18 (*Louisiana Register*, Volume 40, Number 1). This Emergency Rule is being promulgated to continue the provisions of the December 31, 2013 Emergency Rule. This action is being taken to avoid federal sanctions and to promote the health and well-being of pregnant minors by maintaining their access to health care services.

Effective August 30, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing Medicaid financial eligibility.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part III. Eligibility

##### Subpart 5. Financial Eligibility

#### Chapter 103. Income

##### §10305. Income Disregards

A. - B.5. ...

C. Reserved.

D. Effective December 31, 2013, the income of parents or siblings of pregnant unmarried minors (PUMs) or pregnant minor unmarried mothers (MUMs) will not be included when determining Medicaid eligibility for a PUM or pregnant MUM.

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 34:1629 (August 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1898 (September 2009), LR 40:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert  
Secretary

1408#061

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

Medicaid Eligibility  
Medically Needy Program  
Behavioral Health Services  
(LAC 50:III.2313)

The Department of Health and Hospitals, Bureau of Health Services Financing hereby repeals and replaces all of the Rules governing the Medically Needy Program, and adopts LAC 50:III.2313 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 provisions of 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 promulgated a Rule in order to reinstate the Title XIX Medically Needy Program (MNP) and to establish coverage restrictions (*Louisiana Register*, Volume 24, Number 5). All Behavioral health services are restricted from coverage under the Medically Needy Program.

In February 2012, the department adopted provisions in the Medicaid Program to restructure the existing behavioral health services delivery system into a comprehensive service delivery model called the Louisiana behavioral health partnership (LBHP). Certain recipients enrolled in the Medically Needy Program, whose Medicaid eligibility is based solely on the provisions of §1915(i) of Title XIX of the Social Security Act, are eligible to only receive behavioral health services. These recipients have difficulties accessing behavioral health services through the LBHP due to the service restrictions currently in place in the Medically Needy Program.

Therefore, the department promulgated an Emergency Rule which revised the provisions governing the Medically Needy Program in order to include behavioral health coverage for MNP recipients that qualify for the program under the provisions of §1915(i) of Title XIX of the Social Security Act. This Emergency Rule also repealed and replaced all of the Rules governing the Medically Needy Program in order to repromulgate these provisions in a clear and concise manner for inclusion in the *Louisiana Administrative Code* in a codified format (*Louisiana Register*, Volume 38, Number 12).

The department promulgated an Emergency Rule which amended the provisions governing the Medically Needy Program to further clarify the provisions governing covered services (*Louisiana Register*, Volume 39, Number 4). The department promulgated an Emergency Rule which amended the April 20, 2013 Emergency Rule to further clarify the provisions governing covered services (*Louisiana Register*, Volume 40, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 20, 2014 Emergency Rule.

This action is being taken to promote the health and welfare of MNP recipients who are in need of behavioral health services, and to assure their continued access to these services.

Effective September 19, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Medically Needy Program.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part III. Eligibility**

#### **Subpart 3. Eligibility Groups and Factors**

#### **Chapter 23. Eligibility Groups and Medicaid Programs**

#### **§2313. Medically Needy Program**

A. The Medically Needy Program (MNP) provides Medicaid coverage when an individual's or family's income and/or resources are sufficient to meet basic needs in a categorical assistance program, but not sufficient to meet medical needs according to the MNP standards.

1. The income standard used in the MNP is the federal medically needy income eligibility standard (MNIES).

2. Resources are not applicable to child- (C-) related MNP cases.

3. MNP eligibility cannot be considered prior to establishing income ineligibility in a categorically related assistance group.

#### **B. MNP Eligibility Groups**

##### **1. Regular Medically Needy**

a. Children and parents who meet all of the low-income families with children (LIFC) related categorical requirements and whose income is at or below the MNIES are eligible to receive regular MNP benefits. Regular medically needy coverage is only applicable to individuals included in the C-related category of assistance.

b. Individuals in the aged (A-), blind (B-), or disability (D-) related categorical assistance groups cannot receive regular MNP.

c. The certification period for regular MNP cannot exceed six months.

#### **2. Spend-Down Medically Needy**

a. Spend-down MNP is considered after establishing financial ineligibility in regular MNP or other categorically related Medicaid programs and excess income remains. Allowable medical bills/expenses incurred by the income unit are used to reduce (spend-down) the income to the allowable MNP limits.

b. The following individuals may be considered for spend-down MNP:

i. individuals or families who meet all of the LIFC related categorical requirements;

ii. non-institutionalized individuals (A-, B-, or D-related categories); and

iii. institutionalized individuals or couples (A-, B-, or D-related categories) with Medicare co-insurance whose income has been spent down to the MNIES.

c. The certification period for spend-down MNP begins no earlier than the spend-down date and shall not exceed three months.

#### **3. Long Term Care (LTC) Spend-Down MNP**

a. Individuals or couples residing in Medicaid LTC facilities, not on Medicare-coinsurance with resources within the limits, but whose income exceeds the special income limits (three times the current federal benefit rate), are eligible for LTC spend-down MNP.

#### **4. C-Related Caretaker Relative MNP**

a. A qualified relative may be included in a C-related MNP certification as a caretaker relative. There must be at least one minor child applying for or enrolled in Medicaid. A caretaker relative for MNP purposes is an adult who:

i. is in the LIFC income unit with a minor child;

ii. is a qualified relative of a child who is eligible for supplemental security income (SSI), prohibited AFDC provisions (PAP), or Child Health and Maternity Program (CHAMP); and

iii. is not eligible for inclusion in the Medicaid certification of a sibling(s) because of income.

b. An essential person may be included with a qualified relative in an MNP caretaker relative certification, but there can be no essential person if there is no qualified relative certified in C-related MNP.

i. Stepparents or individuals who do not meet the above LIFC essential person criteria must qualify for Medicaid as individuals under the A, B, or D categorical assistance groups.

#### **5. Louisiana Behavioral Health Partnership (LBHP) 1915(i) MNP**

a. The LBHP Medically Needy Program is considered only for the individuals who meet the level of

need requirements of §1915 of title XIX of the Social Security Act, and who have been determined to be ineligible for other full Medicaid programs, including the regular MNP and spend-down MNP.

b. LBHP 1915(i) MNP recipients are only eligible to receive behavioral health services through the LBHP. They do not qualify for other Medicaid covered services.

c. The certification period for LBHP 1915(i) regular MNP recipients cannot exceed six months. For the LBHP 1915(i) spend-down MNP, the certification period begins no earlier than the spend-down date and shall not exceed three months.

C. The following services are covered in the Medically Needy Program for non-1915(i) recipients:

1. inpatient and outpatient hospital services;
2. intermediate care facilities for persons with intellectual disabilities (ICF/ID) services;
3. intermediate care and skilled nursing facility (ICF and SNF) services;
4. physician services, including medical/surgical services by a dentist;
5. nurse midwife services;
6. certified registered nurse anesthetist (CRNA) and anesthesiologist services;
7. laboratory and x-ray services;
8. prescription drugs;
9. early and periodic screening, diagnosis and treatment (EPSDT) services;
10. rural health clinic services;
11. hemodialysis clinic services;
12. ambulatory surgical center services;
13. prenatal clinic services;
14. federally qualified health center services;
15. family planning services;
16. durable medical equipment;
17. rehabilitation services (physical therapy, occupational therapy, speech therapy);
18. nurse practitioner services;
19. medical transportation services (emergency and non-emergency);
20. home health services for individuals needing skilled nursing services;
21. chiropractic services;
22. optometry services;
23. podiatry services;
24. radiation therapy; and
25. behavioral health services.

D. The following behavioral health services are covered for LBHP 1915(i) MNP recipients:

1. inpatient and outpatient hospital services;
2. emergency medical services;
3. physician/psychiatrist services;
4. treatment by a licensed mental health professional;
5. community psychiatric support and treatment;
6. psychosocial rehabilitation;
7. crisis intervention;
8. case conference [1915(b) services];
9. treatment planning [1915(b) services]; and
10. prescription drugs.

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, Bureau of Health Services Financing, LR 40:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert  
Secretary

1408#062

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

Nursing Facilities  
Licensing Standards  
(LAC 48:I.9704, 9707, and Chapter 99)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.9704, §9707 and Chapter 99 in the Medical Assistance Program as authorized by R.S. 36:254. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, 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 promulgated an Emergency Rule which amended the licensing standards governing nursing facilities in order to clarify the provisions for Alzheimer's special care disclosure, and to revise the provisions governing approval of plans and physical environment (*Louisiana Register*, Volume 40, Number 5). This Emergency Rule is being promulgated to continue the provisions of the May 20, 2014 Emergency Rule. This action is being taken to promote the health and well-being of Louisiana residents in nursing facilities.

Effective September 18, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the licensing standards for nursing facilities.

#### Title 48

#### PUBLIC HEALTH—GENERAL

#### Part I. General Administration

#### Subpart 3. Licensing and Certification

#### Chapter 97. Nursing Facilities

#### Subchapter A. General Provisions

#### §9704. Alzheimer's Special Care Disclosure

A. - D.5. ...

E. The provider's Alzheimer's special care disclosure documentation shall contain the following information:

1. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.121-1300.125.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 27:312 (March 2001), amended by the

Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

### **§9707. Approval of Plans**

A. Plans and specifications for new construction of, or to, a nursing facility, and for any major alterations or renovations to a nursing facility, shall be submitted for approval to the Department of Public Safety, Office of the State Fire Marshal for review in accordance with R.S. 40:1563(L), R.S.40:1574 and LAC 55:V.Chapter 3.

1. Plans and specifications for new construction, major alterations, and major renovations shall be prepared by or under the direction of a licensed architect and/or a qualified licensed engineer where required by the Louisiana architecture and engineering licensing laws of R.S. 37:141, et seq., R.S. 37:681 et seq., and respective implementing regulations.

2. No residential conversions shall be considered for a nursing facility license.

B. The plans and specifications shall comply with all of the following:

1. DHH nursing facility licensing requirements and the Office of Public Health's (OPH) nursing home regulations (see LAC 51:XX); and

2. the Office of the State Fire Marshal's requirements for plan submittals and compliance with all codes required by that office.

2.a. - 3. Repealed.

C. Notice of satisfactory review from the department and the Office of the 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, regulations, ordinances, codes, or rules of any responsible agency.

C.1. - E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:46 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2630 (September 2011), LR 40:

## **Chapter 99. Nursing Facilities**

### **Subchapter A. Physical Environment**

#### **§9901. General Provisions**

A. The nursing facility shall be designed, constructed, equipped, and maintained to protect the health and safety of residents, personnel, and the public.

B. The nursing facility shall provide a safe, clean, orderly, homelike environment.

C. If the nursing facility determines that a licensing provision of this Subchapter A prohibits the provision of a culture change environment, the nursing facility may submit a written waiver request to the Health Standards Section (HSS) of the Department of Health and Hospitals, asking that the provision be waived and providing an alternative to the licensing provision of this Subchapter. The department shall consider such written waiver request, shall consider the health and safety concerns of such request and the proposed alternative, and shall submit a written response to the nursing facility within 60 days of receipt of such waiver request.

D. Any construction-related waiver or variance request of any provision of the *Public Health—Sanitary Code* (LAC 51) shall be submitted in writing to the state health officer for his/her consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:62 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

#### **§9903. Nurse/Care Team Work Areas**

A. Each floor and/or household of a nursing facility shall have a nurse/care team work area in locations that are suitable to perform necessary functions. These nurse/care team work areas may be in centralized or decentralized locations, as long as the locations are suitable to perform necessary functions.

1. Each centralized nurse/care team area shall be equipped with working space and accommodations for recording and charting purposes by nursing facility staff with secured storage space for in-house resident records.

a. Exception. Accommodations for recording and charting are not required at the central work area where decentralized work areas are provided.

2. Each decentralized work area, where provided, shall contain working space and accommodations for recording and charting purposes with secured storage space for administrative activities and in-house resident records.

3. The nurse/care team work areas shall be equipped to receive resident calls through a communication system from resident rooms, toileting and bathing facilities.

a. In the case of an existing centralized nurse/care team work area, this communication may be through audible or visible signals and may include wireless systems.

b. In those facilities that have moved to decentralized nurse/care team work areas, the facility may utilize other electronic systems that provide direct communication from the resident to the staff.

B. There shall be a medicine preparation room or area. Such room or area shall contain a work counter, preparation sink, refrigerator, task lighting and lockable storage for controlled drugs.

C. There shall be a clean utility room on each floor designed for proper storage of nursing equipment and supplies. Such room shall contain task lighting and storage for clean and sterile supplies.

D. There shall be a separate soiled utility room designed for proper cleansing, disinfecting and sterilizing of equipment and supplies. At a minimum, it shall contain a clinical sink or equivalent flushing-rim sink with a rinsing hose or bed pan sanitizer, hand washing facilities, soiled linen receptacles and waste receptacle. Each floor of a nursing facility shall have a soiled utility room.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:62 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

## §9905. Resident Rooms

A. ...

B. Each resident's bedroom shall have a floor at or above grade level, shall accommodate a maximum of two residents, and be so situated that passage through another resident's bedroom is unnecessary.

1. Exception. Resident bedrooms in existing nursing facilities shall be permitted to accommodate no more than four residents unless the cost of renovations to the existing nursing facility exceeds the values stipulated by R.S. 40:1574.

C. Private resident bedrooms shall measure at least 121 square feet of bedroom area, exclusive of wardrobes, closet space, vestibules or toilet rooms, and shall have a clear width of not less than 11 feet.

D. Double occupancy resident bedrooms containing two beds shall measure at least 198 square feet of bedroom area, exclusive of wardrobes, closet space, vestibules or toilet rooms, and shall have a clear width of not less than 11 feet.

E. In existing nursing facilities, or portions thereof, where plans were approved by the department and the Office of State Fire Marshal prior to January 20, 1998, there shall be at least three feet between the sides and foot of the bed and any wall, other fixed obstruction, or other bed, unless the furniture arrangement is the resident's preference and does not interfere with service delivery.

F. Each resident's bedroom shall have at least one window to the outside atmosphere with a maximum sill height of 36 inches. Windows with sills less than 30 inches from the floor shall be provided with guard rails.

1. Each resident's bedroom window shall be provided with shades, curtains, drapes, or blinds.

2. Operable windows shall be provided with screens.

G - H. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:62 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

## §9907. Resident Room Furnishings

A. ...

1. a clean supportive frame in good repair;

2. - 5. ...

B. Screens or noncombustible ceiling-suspended privacy curtains which extend around the bed shall be provided for each bed in multi-resident bedrooms to assure resident privacy. Total visual privacy without obstructing the passage of other residents either to the corridor, closet, lavatory, or adjacent toilet room nor fully encapsulating the bedroom window shall be provided.

C. Each resident shall be provided with a call device located within reach of the resident.

D. Each resident shall be provided a bedside table with at least two drawers. As appropriate to resident needs, each resident shall have a comfortable chair with armrests, waste receptacle, and access to mirror unless medically contraindicated.

1. Each resident who has tray service to his/her room shall be provided with an adjustable overbed table positioned so that the resident can eat comfortably.

E. Each resident shall be provided an individual closet that has minimum dimensions of 1 foot 10 inches in depth by 2 feet 6 inches in width. A clothes rod and shelf shall be provided that is either adjustable or installed at heights accessible to the resident. Accommodations shall be made for storage of full-length garments. The shelf may be omitted if the closet provides at least two drawers. The following exceptions may apply.

1. Individual wardrobe units having nominal dimensions of 1 foot 10 inches in depth by 2 feet 6 inches in width are permitted. A clothes rod and shelf shall be provided that is either adjustable or installed at heights accessible to the resident. Accommodations shall be made for storage of full-length garments. The shelf may be omitted if the unit provides at least two drawers.

2. In existing nursing facilities, or portions thereof, where plans were approved by the department and the State Fire Marshal prior to January 20, 1998, each resident shall be provided an individual wardrobe or closet that has nominal dimensions of 1 foot 10 inches in depth by 2 feet in width.

F. Each resident shall be provided with a bedside light or over-the-bed light capable of being operated from the bed.

1. Nursing facilities, or portions thereof, where plans were approved by the department and the state fire marshal prior to May 1, 1997 shall be exempt from this provision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:63 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

## §9909. Locked Units, Restraints and Seclusion

A. Locked Units

1. Nursing facilities may have specific locked units for housing residents suffering from severe dementia or Alzheimer's disease. The locked units may only house, limit and restrict free access of those residents suffering from severe dementia or Alzheimer's who may be a danger to themselves or others.

2. Nursing facilities providing locked units shall develop admission criteria. There shall be documentation in the resident's record to indicate the unit is the least restrictive environment possible, and placement in the unit is needed to facilitate meeting the resident's needs.

3. Guidelines for admission shall be provided to the resident, his/her family and his/her authorized representative.

4. Locked units are designed and staffed to provide the care and services necessary for the resident's needs to be met.

a. The locked unit shall have designated space for dining and/or group and individual activities that is separate and apart from the resident bedrooms and bathrooms.

b. The dining space shall contain tables for eating within the locked unit.

c. The activities area(s) shall contain seating, and be accessible to the residents within the locked unit.

5. There shall be sufficient staff to respond to emergency situations in the locked unit at all times.

6. The resident on the locked unit has the right to exercise those rights which have not been limited as a result of admission to the unit.

7. Care plans shall address the reasons for the resident being in the unit and how the nursing facility is meeting the resident's needs.

8. All staff designated to provide care and services on locked units shall have training regarding unit policies and procedures, admission and discharge criteria, emergency situations and the special needs of the residents on the unit.

9. Admission to a locked unit shall be in compliance with R.S. 40:1299.53 and 40:2010.8.

B. Restraints. The resident has the right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical symptoms.

C. Seclusion. The resident has the right to be free from verbal, sexual, physical and mental abuse, corporal punishment, and involuntary seclusion.

D. - G. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:63 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

#### **§9911. Hand-Washing Stations, Toilet Rooms and Bathing Facilities**

A. A hand-washing station shall be provided in each resident room.

1. Omission of this station shall be permitted in a single-bed or two-bed room when a hand-washing station is located in an adjoining toilet room that serves that room only.

B. Each resident shall have access to a toilet room without having to enter the corridor area. In nursing facilities built prior to August 26, 1958, each floor occupied by residents shall be provided with a toilet room and hand-washing station.

1. One toilet room shall serve no more than two residents in new construction or no more than two resident rooms in renovation projects. In nursing facilities built prior to August 26, 1958, toilets and hand-washing stations shall each be provided at a rate of 1 per 10 beds or fraction thereof.

2. Toilet rooms shall be easily accessible, conveniently located, well lighted and ventilated to the outside atmosphere. Fixtures shall be of substantial construction, in good repair and of such design to enable satisfactory cleaning.

3. Separate male and female toilet rooms for use by staff and guests shall be provided.

4. Each toilet room shall contain a toilet, hand-washing station and mirror.

5. Doors to single-use resident toilet rooms shall swing out of the room.

6. Doors to single-use resident toilet rooms shall be permitted to utilize privacy locks that include provisions for emergency access.

7. In multi-use toilet rooms provisions shall be made for resident privacy.

C. Each floor occupied by residents shall be provided with a bathing facility equipped with a toilet, hand-washing station, and bathing unit consisting of a bathtub, shower, or whirlpool unit.

Table. Repealed.

1. A minimum of one bathtub, shower, or whirlpool unit shall be provided for every 10 residents, or fraction thereof, not otherwise served by bathing facilities in resident rooms. In nursing facilities built prior to August 26, 1958, showers or tubs shall each be provided at a rate of 1 per 15 beds or fraction thereof.

2. Bathing facilities shall be easily accessible, conveniently located, well lighted and ventilated to the outside atmosphere. Fixtures shall be of substantial construction, in good repair, and of such design to enable satisfactory cleaning.

3. Tub and shower bottoms shall be of nonslip material. Grab bars shall be provided to prevent falling and to assist in maneuvering in and out of the tub or shower.

4. Separate bathing facilities shall be provided for employees who live on the premises.

5. In multi-use bathing facilities provisions shall be made for resident privacy.

6. Wall switches for controlling lighting, ventilation, heating or any other electrical device shall be so located that they cannot be reached from a bathtub, shower, or whirlpool.

D. - H. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:63 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

#### **§9913. Dining and Resident Activities**

A. The nursing facility shall provide one or more areas designated for resident dining and activities.

B. Smoking is not permitted in the dining room and other public areas as specified by R.S. 40:1300.256(B)(11).

C. Dining room(s) or dining area(s) shall be sufficient in space and function to accommodate the needs of the residents without restriction. Dining areas shall be adequately furnished, well lighted, and well ventilated. Dining areas shall be sufficient in space to comfortably accommodate the persons who usually occupy that space, including persons who utilize walkers, wheelchairs and other ambulating aids or devices.

D. There shall be at least one well lighted and ventilated living/community room with sufficient furniture.

E. There shall be sufficient space and equipment to comfortably accommodate the residents who participate in group and individual activities. These areas shall be well lighted and ventilated and be adequately furnished to accommodate all activities.

F. Areas used for corridor traffic or for storage of equipment shall not be considered as areas for dining or activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:64 (January 1998), amended by the

Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

**§9915. Linen and Laundry**

A. The nursing facility shall have available, at all times, a quantity of bed and bath linen essential for proper care and comfort of residents.

B. - G ...

H. Clean linen shall be transported and stored in a manner to prevent its contamination.

I. Nursing facilities providing in-house laundry services shall have a laundry system designed to eliminate crossing of soiled and clean linen.

J. Nursing facilities that provide in house laundry services and/or household washers and dryers shall have policies and procedures to ensure safety standards, infection control standards and manufacturer's guidelines are met.

K. There shall be hand washing facilities available for use in any designated laundry area.

L. Provisions shall be made for laundering personal clothing of residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:64 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

**§9917. Equipment and Supplies**

A. The nursing facility shall maintain all essential mechanical, electrical, and resident care equipment in safe operating condition.

B. - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:64 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

**§9919. Other Environmental Conditions**

A. A hard surfaced off-the-road parking area to provide parking for one car per five licensed beds shall be provided. This is a minimum requirement and may be exceeded by local ordinances. Where this requirement would impose an unreasonable hardship, a written request for a lesser amount may be submitted to the department for waiver consideration.

B. The nursing facility shall make arrangements for an adequate supply of safe potable water even when there is a loss of normal water supply. Service from a public water supply must be used, if available. Private water supplies, if used, shall meet the requirements of the LAC Title 51, *Public Health—Sanitary Code*.

C. An adequate supply of hot water shall be provided which shall be adequate for general cleaning, washing and sanitization of cooking and food service dishes and other utensils and for bathing and laundry use. Hot water supply to the hand washing and bathing faucets in the resident areas shall have automatic control to assure a temperature of not less than 100°F, nor more than 120°F, at the faucet outlet. Supply system design shall comply with the Louisiana State Plumbing Code and shall be based on accepted engineering procedures using actual number and types of fixtures to be installed.

D. The nursing facility shall be connected to the public sewerage system, if such a system is available. Where a public sewerage is not available, the sewerage disposal system shall conform to the requirements of the LAC Title 51, *Public Health—Sanitary Code*.

E. The nursing facility shall maintain a comfortable sound level conducive to meeting the need of the residents.

F. All plumbing shall be properly maintained and conform to the requirements of the LAC Title 51, *Public Health—Sanitary Code*.

G. All openings to the outside atmosphere shall be effectively screened. Exterior doors equipped with closers in air conditioned buildings need not have screens.

H. Each room used by residents shall be capable of being heated to a minimum of 71°F in the coldest weather and capable of being cooled to a maximum of 81°F in the warmest weather.

I. Lighting levels in all areas shall be adequate to support task performance by staff personnel and independent functioning of residents. A minimum of 6' to 10' candelas over the entire stairway, corridors, and resident rooms measured at an elevation of 30 inches above the floor and a minimum of 20' to 30' candelas over areas used for reading or close work shall be available.

J. Corridors used by residents shall be equipped on each side with firmly secured handrails, affixed to the wall. Handrails shall comply with the requirements of the state adopted accessibility guidelines.

K. There shall be an effective pest control program so that the nursing facility is free of pest and rodent infestation.

L. - R. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:64 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to [MedicaidPolicy@la.gov](mailto:MedicaidPolicy@la.gov). Ms. Castello 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.

Kathy H. Kliebert  
Secretary

1408#063

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

Outpatient Hospital Services  
Non-Rural, Non-State Public Hospitals  
Supplemental Payments  
(LAC 50:V.5315, 5515, 5717, 5915 and 6117)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.5315, §5515, §5717, §5915 and §6117 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 provisions of 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 amended the provisions governing the reimbursement methodology for outpatient hospital services to provide supplemental Medicaid payments to qualifying non-rural, non-state public hospitals for state fiscal year 2013 (*Louisiana Register*, Volume 39, Number 6).

The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient hospital services in order to revise the qualifying criteria and reimbursement methodology for non-rural, non-state public hospitals (*Louisiana Register*, Volume 39, Number 7). The department promulgated an Emergency Rule which amended the provisions of the July 1, 2013 Emergency Rule in order to further revise the qualifying criteria and reimbursement methodology for non-rural, non-state public hospitals and to correct the *Code of Federal Regulation* citation (*Louisiana Register*, Volume 39, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 20, 2013 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program.

Effective September 18, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for outpatient hospital services rendered by non-rural, non-state public hospitals.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part V. Hospital Services

##### Subpart 5. Outpatient Hospitals

#### Chapter 53. Outpatient Surgery

##### Subchapter B. Reimbursement Methodology

#### §5315. Non-Rural, Non-State Public Hospitals

A. Effective for dates of service on or after July 1, 2013, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for outpatient surgical services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare outpatient upper payment limits as determined in accordance with 42 CFR §447.321.

1. Qualifying Criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a non-teaching hospital by the department and must:

a. be located in a Medicare metropolitan statistical area (MSA) per 42 CFR 413.231(b)(1);

b. provide inpatient obstetrical and neonatal intensive care unit services; and

c. per the cost report period ending in SFY 2012, have a Medicaid inpatient day utilization percentage in excess of 21 percent and a Medicaid newborn day utilization

percentage in excess of 65 percent as documented on the as filed cost report.

2. ...

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, Bureau of Health Services Financing, LR 36:2867 (December 2010), amended LR 39:1473 (June 2013), LR 40:

#### Chapter 55. Clinic Services

##### Subchapter B. Reimbursement Methodology

#### §5515. Non-Rural, Non-State Public Hospitals

A. Effective for dates of service on or after July 1, 2013, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for clinic services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare outpatient upper payment limits as determined in accordance with 42 CFR §447.321.

1. Qualifying Criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a non-teaching hospital by the department and must:

a. be located in a MSA per 42 CFR 413.231(b)(1);

b. provide inpatient obstetrical and neonatal intensive care unit services; and

c. per the cost report period ending in SFY 2012, have a Medicaid inpatient day utilization percentage in excess of 21 percent and a Medicaid newborn day utilization percentage in excess of 65 percent as documented on the as filed cost report.

2. ...

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, Bureau of Health Services Financing, LR 36:2867 (December 2010), amended LR 39:1473 (June 2013), LR 40:

#### Chapter 57. Laboratory Services

##### Subchapter B. Reimbursement Methodology

#### §5717. Non-Rural, Non-State Public Hospitals

A. Effective for dates of service on or after July 1, 2013, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for laboratory services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare outpatient upper payment limits as determined in accordance with 42 CFR §447.321.

1. Qualifying Criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a non-teaching hospital by the department and must:

a. be located in a MSA per 42 CFR 413.231(b)(1);

b. provide inpatient obstetrical and neonatal intensive care unit services; and

c. per the cost report period ending in SFY 2012, have a Medicaid inpatient day utilization percentage in excess of 21 percent and a Medicaid newborn day utilization percentage in excess of 65 percent as documented on the as filed cost report.

2. ...

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, Bureau of Health Services Financing, LR 36:2868 (December 2010), amended LR 39:1473 (June 2013), LR 40:

**Chapter 59. Rehabilitation Services**  
**Subchapter B. Reimbursement Methodology**

**§5915. Non-Rural, Non-State Public Hospitals**

A. Effective for dates of service on or after July 1, 2013, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for rehabilitation services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare outpatient upper payment limits as determined in accordance with 42 CFR §447.321.

1. Qualifying criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a non-teaching hospital by the department and must:

- a. be located in a MSA per 42 CFR 413.231(b)(1);
- b. provide inpatient obstetrical and neonatal intensive care unit services; and
- c. per the cost report period ending in SFY 2012, have a Medicaid inpatient day utilization percentage in excess of 21 percent and a Medicaid newborn day utilization percentage in excess of 65 percent as documented on the as filed cost report.

2. ...

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, Bureau of Health Services Financing, LR 36:2867 (December 2010), amended LR 39:1473 (June 2013), LR 40:

**Chapter 61. Other Outpatient Hospital Services**

**Subchapter B. Reimbursement Methodology**

**§6117. Non-Rural, Non-State Public Hospitals**

A. Effective for dates of service on or after July 1, 2013, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for outpatient services other than clinic services, diagnostic laboratory services, outpatient surgeries and rehabilitation services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare outpatient upper payment limits as determined in accordance with 42 CFR §447.321.

1. Qualifying criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a non-teaching hospital by the department and must:

- a. be located in a MSA per 42 CFR 413.231(b)(1);
- b. provide inpatient obstetrical and neonatal intensive care unit services; and
- c. per the cost report period ending in SFY 2012, have a Medicaid inpatient day utilization percentage in excess of 21 percent and a Medicaid newborn day utilization percentage in excess of 65 percent as documented on the as filed cost report.

2. ...

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, Bureau of Health Services Financing, LR 36:2867 (December 2010), amended LR 39:1473 (June 2013), LR 40:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert  
Secretary

1408#064

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals**  
**Bureau of Health Services Financing**  
**and**  
**Office of Aging and Adult Services**

Personal Care Services—Long-Term  
Freedom of Choice and Service Delivery  
(LAC 50:XV.12901 and 12913)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XV.12901 and §12913 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 provisions of 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 long-term personal care services (LT-PCS) under the Medicaid state plan. The department promulgated an Emergency Rule which amended the provisions governing LT-PCS in order to restrict the number of participants an individual can concurrently represent, and to adopt provisions for the removal of service providers from the waiver freedom of choice list when certain departmental proceedings are pending against the provider, and to offer freedom of choice to the provider's waiver participants. This Emergency Rule also clarifies the provisions governing service delivery (*Louisiana Register*, Volume 40, Number 5). This Emergency Rule is being promulgated to continue the provisions of the May 20, 2014 Emergency Rule. This action is being taken to promote the health and well-being of waiver participants to assure that these individuals are safely maintained in their homes and communities.

Effective September 18, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing long-term personal care services.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XV. Services for Special Populations**

**Subpart 9. Personal Care Services**

**Chapter 129. Long Term Care**

**§12901. General Provisions**

A. - F.2.b. ...

3. No individual may concurrently serve as a responsible representative for more than two participants in OAAS-operated Medicaid home and community-based service programs. This includes but is not limited to:

- a. the Program of All-Inclusive Care for the Elderly;
- b. long-term personal care services;
- c. the community choices waiver; and
- d. the adult day health care waiver.

G. The Department of Health and Hospitals may remove an LT-PCS service provider from the LT-PCS provider freedom of choice list and offer freedom of choice to LT-PCS participants when:

1. one or more of the following departmental proceedings are pending against a LT-PCS participant's service provider:

- a. revocation of the provider's home and community-based services license;
- b. exclusion from the Medicaid Program;
- c. termination from the Medicaid Program; or
- d. withholding of Medicaid reimbursement as authorized by the department's surveillance and utilization review (SURS) Rule (LAC 50:I.Chapter 41);

2. the service provider fails to timely renew its home and community-based services license as required by the home and community-based services providers licensing standards Rule (LAC 48:I.Chapter 50); or

3. the service provider's assets have been seized by the Louisiana Attorney General's Office.

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 29:911 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2082 (November 2006), LR 34:2577 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2450 (November 2009), LR 39:2506 (September 2013), LR 40:

### **§12913. Service Delivery**

A. - B. ...

C. Participants are not permitted to receive LT-PCS while living in a home or property owned, operated, or controlled by an owner, operator, agent, or employee of a licensed provider of long-term care services, and providers are prohibited from providing and billing for services under these circumstances. Participants may not live in the home of a direct support worker unless the direct support worker is related by blood or marriage to the participant.

1. The provisions of §12913.C may be waived with prior written approval by OAAS or its designee.

D. - F. ...

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 29:913 (June 2003), amended LR 30:2833 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2581 (December 2008), amended by the Department of Health and

Hospitals, Bureau of Health Financing and the Office of Aging and Adult Services, LR 39:2509 (September 2013), LR 40:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert  
Secretary

1408#065

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Bureau of Health Services Financing**

Professional Services Program  
Physicians Services  
Reimbursement Methodology  
(LAC 50:IX.15113)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:IX.15113 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 provisions of 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.

As a result of a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for physician services to reduce the reimbursement rates and discontinue reimbursement for certain procedures (*Louisiana Register*, Volume 39, Number 12). The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for physician services to adopt a manual pricing payment methodology for covered services that do not have Medicare established rates (*Louisiana Register*, Volume 40, Number 5). This Emergency Rule is being promulgated to continue the provisions of the May 20, 2014 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued access to Medicaid covered services.

Effective September 18, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for physician services covered in the Professional Services Program.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part IX. Professional Services Program**  
**Subpart 15. Reimbursement**

**Chapter 151. Reimbursement Methodology**  
**Subchapter B. Physician Services**  
**§15113. Reimbursement**

- A. - I.3. ...
- J. - J.4. Reserved.
- K. ...

L. The reimbursement for newly payable services not covered by Medicare, when there is no established rate set by Medicare, shall be based on review of statewide billed charges for that service in comparison with set charges of a similar service.

1. If there is no similar procedure or service, the reimbursement shall be based upon a consultant physicians' review and recommendations.

2. For procedures which do not have established Medicare fees, the Department of Health and Hospitals, or its designee, shall make determinations based upon a review of statewide billed charges for that service in comparison with set charges for similar services.

3. Reimbursement shall be the lesser of the billed charges or the Medicaid fee on file.

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, Bureau of Health Services Financing, LR 36:1252 (June 2010), amended LR 36:2282 (October 2010), amended LR 37:904 (March 2011), LR 39:3301 (December 2013), LR 40:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert  
Secretary

1408#066

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals**  
**Bureau of Health Services Financing**

Psychiatric Residential Treatment Facilities  
Licensing Standards  
(LAC 48:I.Chapter 90)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.Chapter 90 as authorized by R.S. 40:2179-2179.1. This Emergency Rule is promulgated in accordance with the provisions of 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 amended the provisions governing the licensing of psychiatric residential treatment

facilities (PRTFs) in order to revise the licensing standards as a means of assisting PRTFs to comply with the standards (*Louisiana Register*, Volume 39, Number 9). The department has now determined that it is necessary to amend the provisions governing the licensing standards for PRTFs in order to remove service barriers, clarify appeal opportunities, avoid a reduction in occupancy of PRTFs in rural locations, and clarify the process for cessation of business. This action is being taken to avoid imminent peril to the public health, safety and welfare of the children and adolescents who need these services. It is estimated that implementation of this Emergency Rule will have no programmatic costs for state fiscal year 2014-2015.

Effective August 20, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the licensing of psychiatric residential treatment facilities.

**Title 48**

**PUBLIC HEALTH—GENERAL**  
**Part I. General Administration**

**Subpart 3. Licensing**

**Chapter 90. Psychiatric Residential Treatment**  
**Facilities (under 21)**

**Subchapter A. General Provisions**

**§9003. Definitions**

- A. ...

\* \* \*

*Cessation of Business—Repealed.*

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 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 30:54 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:371 (February 2012), LR 39:2510 (September 2013), LR 40:

**Subchapter B. Licensing**

**§9015. Licensing Surveys**

- A. - D. ...

E. If deficiencies have been cited during a licensing survey, regardless of whether an acceptable plan of correction is required, the department may issue appropriate sanctions, including, but not limited to:

1. civil fines;
2. directed plans of correction;
3. provisional licensure;
4. denial of renewal; and/or
5. license revocations.

- F. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:375 (February 2012), amended LR 40:

**§9017. Changes in Licensee Information or Personnel**

- A. - D.2. ...

3. A PRTF that is under provisional licensure, license revocation or denial of license renewal may not undergo a CHOW.

- E. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:375 (February 2012), amended LR 40:

**§9019. Cessation of Business**

A. Except as provided in §9089 of these licensing regulations, a license shall be immediately null and void if a PRTF ceases to operate.

1 - 3. Repealed.

B. A cessation of business is deemed to be effective the date on which the PRTF stopped offering or providing services to the community.

C. Upon the cessation of business, the provider shall immediately return the original license to the department.

D. Cessation of business is deemed to be a voluntary action on the part of the provider. The provider does not have a right to appeal a cessation of business.

E. Prior to the effective date of the closure or cessation of business, the PRTF shall:

1. give 30 days' advance written notice to:
  - a. HSS;
  - b. the prescribing physician; and
  - c. the parent(s) or legal guardian or legal representative of each client; and
2. provide for an orderly discharge and transition of all of the clients in the facility.

F. In addition to the advance notice of voluntary closure, the PRTF shall submit a written plan for the disposition of clients' medical records for approval by the department. The plan shall include the following:

1. the effective date of the voluntary closure;
2. provisions that comply with federal and state laws on storage, maintenance, access, and confidentiality of the closed provider's clients' medical records;
3. an appointed custodian(s) who shall provide the following:
  - a. access to records and copies of records to the client or authorized representative, upon presentation of proper authorization(s); and
  - b. physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss and destruction; and
4. public notice regarding access to records, in the newspaper with the largest circulation in close proximity to the closing provider, at least 15 days prior to the effective date of closure.

G. If a PRTF fails to follow these procedures, the owners, managers, officers, directors, and administrators may be prohibited from opening, managing, directing, operating, or owning a PRTF for a period of two years.

H. Once the PRTF has ceased doing business, the PRTF shall not provide services until the provider has obtained a new initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:375 (February 2012), amended LR 40:

**§9023. Denial of License, Revocation of License, Denial of License Renewal**

A. - C.3. ...

D. Revocation of License or Denial of License Renewal. A PRTF license may be revoked or may be denied renewal

for any of the following reasons, including but not limited to:

1. - 13. ...

14. bribery, harassment, or intimidation of any resident or family member designed to cause that resident or family member to use or retain the services of any particular PRTF; or

15. failure to maintain accreditation or failure to obtain accreditation.

16. Repealed.

E. If a PRTF license is revoked or renewal is denied, or the license is surrendered in lieu of an adverse action, any owner, officer, member, director, manager, or administrator of such PRTF may be prohibited from opening, managing, directing, operating, or owning another PRTF for a period of two years from the date of the final disposition of the revocation, denial action, or surrender.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:376 (February 2012), amended LR 40:

**§9025. Notice and Appeal of License Denial, License Revocation, License Non-Renewal, and Appeal of Provisional License**

A. - B. ...

1. The PRTF shall request the informal reconsideration within 15 calendar days of the receipt of the notice of the license denial, license revocation, or license non-renewal. The request for informal reconsideration must be in writing and shall be forwarded to the Health Standards Section.

2. - D. ...

E. If a timely administrative appeal has been filed by the facility on a license denial, license non-renewal, or license revocation, the Division of Administrative Law shall conduct the hearing pursuant to the Louisiana Administrative Procedure Act.

E.1. - G.2. ...

3. The provider shall request the informal reconsideration in writing, which shall be received by the Health Standards Section within five days of receipt of the notice of the results of the follow-up survey from the department.

a. Repealed.

4. The provider shall request the administrative appeal within 15 days of receipt of the notice of the results of the follow-up survey from the department. The request for administrative appeal shall be in writing and shall be submitted to the Division of Administrative Law, or its successor.

a. Repealed.

H. - H.1. ...

I. If a timely administrative appeal has been filed by a facility with a provisional initial license that has expired or by an existing provider whose provisional license has expired under the provisions of this Chapter, the Division of Administrative Law shall conduct the hearing pursuant to the Louisiana Administrative Procedure Act.

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:377 (February 2012), amended LR 40:

**§9027. Complaint Surveys**

A. - J.1. ...

a. The offer of the administrative appeal, if appropriate, as determined by the Health Standards Section, shall be included in the notification letter of the results of the informal reconsideration. The right to administrative appeal shall only be deemed appropriate and thereby afforded upon completion of the informal reconsideration.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:378 (February 2012), amended LR 40:

**§9029. Statement of Deficiencies**

A. - C.1. ...

2. The written request for informal reconsideration of the deficiencies shall be submitted to the Health Standards Section and will be considered timely if received by HSS within 10 calendar days of the provider's receipt of the statement of deficiencies.

3. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:379 (February 2012), amended LR 40:

**Subchapter H. Additional Requirements for Mental Health PRTFs**

**§9093. Personnel Qualifications, Responsibilities, and Requirements**

A. - 2. ...

b. The clinical director is responsible for the following:

i. providing clinical direction for each resident at a minimum of one hour per month, either in person on-site, or via telemedicine pursuant to R.S. 37:1261-1292 et seq., and LAC 46:XLV.408 and Chapter 75 et seq.;

(a). - 3.a.iv. ...

b. A LMHP or MHP shall provide for each resident a minimum weekly total of 120 minutes of individual therapy.

3.c. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:397 (February 2012), amended LR 39:2511 (September 2013), LR 40:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello 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.

Kathy H. Kliebert  
Secretary

1408#055

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

State Children's Health Insurance Program  
LaCHIP Affordable Plan Benefits Administration  
(LAC 50:III.Chapter 205)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:III.20501 and §§20505-20507 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XXI of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of 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 adopted provisions to implement phase five of the Louisiana Children's Health Insurance Program (LaCHIP) as a stand-alone program under Title XXI provisions to provide coverage to uninsured children whose family income is from 200 percent up to 250 percent of the federal poverty level (*Louisiana Register*, Volume 34, Number 4).

The department promulgated an Emergency Rule which amended the April 2008 Rule in order to transfer the administration of health care services covered under the LaCHIP Affordable Plan (phase 5) to the health plans participating in the BAYOU HEALTH Program, and the administration of behavioral health services to the statewide management organization in the Louisiana Behavioral Health Partnership (*Louisiana Register*, Volume 38, Number 12).

This Emergency Rule also revised the cost sharing provisions in order to remove the co-payment, co-insurance, and deductible requirements since they will no longer be attributable to the LaCHIP Affordable Plan Program. Only the monthly premium per household shall apply. This Emergency Rule is being promulgated to continue the provisions of the January 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs, and to promote the health and welfare of LaCHIP Affordable Plan recipients.

Effective August 29, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the LaCHIP Affordable Plan in order to transfer the administration of these services to the BAYOU HEALTH Program and the Louisiana Behavioral Health Partnership.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part III. Eligibility**

**Subpart 11. State Children's Health Insurance Program Chapter 205. Louisiana Children's Health Insurance Program (LaCHIP)—Phase V**

**§20501. General Provisions**

A. ...

B. The department retains the oversight and management of this LaCHIP expansion with health care benefits provided

though the BAYOU HEALTH Program and behavioral health services provided through the Louisiana Behavioral Health Partnership (LBHP).

C. Phase five is a cost-sharing program. Families who are enrolled in phase five of LaCHIP will be responsible for paying premiums.

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

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:660 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

#### **§20505. Covered Services**

A. Children covered in phase five of the LaCHIP expansion shall receive health care benefits through an array of covered services offered by health plans participating in the BAYOU HEALTH Program, and behavioral health services administered by the statewide management organization under the LBHP. The following services shall be included:

1. - 8. ...
9. inpatient and outpatient behavioral health services other than those listed in any other provisions of §20503:
  - 9.a. - 10. ...
  11. nursing care services;
    - a. Repealed.
  12. ...
  13. inpatient substance abuse treatment services, including residential substance abuse treatment services:
    - a. inpatient admissions must be pre-certified. Emergency services are covered if, upon review, presentation is determined to be life-threatening, resulting in admission to inpatient, partial hospital or intensive outpatient level of care;
    - b. ...
  14. outpatient substance abuse treatment services:
    - a. all services must be pre-certified;
    - b. ...
  15. case management services;
    - a. Repealed.
  16. - 16.a. ...
  17. hospice care:
    - a. Repealed.
  18. medical transportation; and
    - a. Repealed.
  19. ...

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

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:660 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

#### **§20507. Cost Sharing**

A. Phase five of LaCHIP is a cost-sharing program with premiums limited to no more than 5 percent of the family's annual income.

B. The following cost-sharing criteria shall apply.

1. - 1.a. ...
2. - 3.e. Repealed.

C. Non-payment of premiums may result in disenrollment from LaCHIP. Recipients shall be allowed a 60-day grace period prior to disenrollment for non-payment.

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

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:661 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert  
Secretary

1408#067

### **DECLARATION OF EMERGENCY**

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

2014-2015 Oyster Season

In accordance with the emergency provisions of the Administrative Procedure Act, Louisiana Revised Statutes (R.S.) 49:953, and under the authority of R.S. 56:433, R.S. 56:435.1, and R.S. 56:435.1.1(D) notice is hereby given that the secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby declare the 2014/2015 oyster season as follows:

The Little Lake public oyster seed grounds, as described in *Louisiana Administrative Code* (LAC) 76:VII.521, the Barataria Bay, Deep Lake, and Lake Tambour public oyster seed grounds, as described in LAC 76:VII.517, and the Vermilion/East and West Cote Blanche Bay/Atchafalaya Bay public oyster seed grounds, as described in LAC 76:VII.507 and 76:VII.509 shall open one-half hour before sunrise on Wednesday, September 3, 2014. As per R.S. 56:433.B(1), no harvest of oysters for market sales is allowed on any public oyster area prior to the second Monday in October. Therefore, any and all vessels harvesting on the open public oyster seed grounds between September 3, 2014 and October 12, 2014 shall be harvesting seed oysters for bedding purposes only and shall not have sacks or other containers typically used to hold oysters on board the harvest vessel.

All remaining public oyster seed grounds and reservations, as described in R.S. 56:434, LAC 76:VII.511, LAC 76:VII.513, and LAC 76:VII.517, including Lake Borgne, Bay Junop, Lake Mechant, the Lake Machias/Fortuna sacking-only area of the public grounds which is generally Lake Fortuna and Lake Machias to a line from Mozambique Point to Point Gardner to Grace Point at the Mississippi River gulf outlet, and the sacking-only area in the American Bay area which is that portion of the public grounds within Bay Long west of a line running generally north/south from a point at 29 degrees 31 minutes 13.78 seconds N latitude, 89 degrees 34 minutes 9.79 seconds W longitude to a point at 29 degrees 29 minutes 40.67 seconds N latitude, 89 degrees 34 minutes and 8.48

seconds W longitude, shall open at one-half hour before sunrise on Monday, October 20, 2014.

During the 2014/2015 open oyster season, the following provisions shall be in effect:

1. the take of oysters from that portion of Mississippi Sound (St. Bernard Parish) west of a line of longitude at 89 degrees 22 minutes and 50.0 seconds and east of a line of longitude at 89 degrees 29 minutes and 0.0 seconds shall be restricted to harvest for market sales only (sacking-only);

2. any vessel from which any person(s) takes or attempts to take oysters from the public oyster seed grounds and reservations described above shall:

a. be limited to a daily take and possession limit not to exceed 50 sacks of oysters per vessel, except for in Lake Mechant and Bay Junop where the limit shall not exceed 40 sacks per vessel, and except for in Calcasieu Lake where the limit shall not exceed 10 sacks per person per vessel per day. A sack of oysters for the purposes of this declaration of emergency shall be defined as the size described in R. S. 56:440. The daily take and possession limit shall not apply to vessels harvesting seed oysters for bedding purposes. The possession limit shall not apply to vessels operating under a valid oyster cargo vessel permit;

b. be limited to either harvesting market oysters for direct sale (sacking) or harvesting seed oysters for bedding purposes on any one day and is specifically prohibited from doing both;

3. if any person on a vessel takes or attempts to take oysters from the public oyster seed grounds or reservations described above, all oysters contained on that vessel shall be deemed to have been taken from said seed ground or reservation from the time harvest begins until all oysters are off-loaded dockside.

The oyster season in the west cove portion of the Calcasieu Lake public oyster area, as described in R.S. 56:435.1.1, shall open one-half hour before sunrise on Monday, October 27, 2014. The sack limit for west cove portion of Calcasieu Lake is set at 10 sacks per person per vessel per day as provided for in R.S. 56:435.1.1. However, these conservation actions shall not supersede public health closures.

The following areas shall remain closed for the entire 2014/2015 oyster season:

1. the Bay Gardene public oyster seed reservation;
2. the Hackberry Bay public oyster seed reservation, including the 2012 and 2014 cultch plants;
3. the Sister Lake public oyster seed reservation, including the 2012 cultch plant;
4. the Lake Chien and lake felicity public oyster seed grounds;
5. the east side of the Calcasieu Lake public oyster area;
6. Sabine Lake public oyster area (as described in R.S. 56:435.1);
7. the recent cultch plants within the following coordinates:

**California Bay (2011) – Plaquemines Parish**

- a. 29 degrees 30 minutes 40.42 seconds N  
89 degrees 34 minutes 03.19 seconds W
- b. 29 degrees 30 minutes 27.18 seconds N  
89 degrees 33 minutes 21.85 seconds W

- c. 29 degrees 29 minutes 54.99 seconds N  
89 degrees 33 minutes 20.24 seconds W
- d. 29 degrees 30 minutes 02.74 seconds N  
89 degrees 34 minutes 03.93 seconds W

**Bay Crab (2012) – Plaquemines Parish**

- a. 29 degrees 34 minutes 41.72 seconds N  
89 degrees 36 minutes 22.86 seconds W
- b. 29 degrees 34 minutes 31.45 seconds N  
89 degrees 35 minutes 48.68 seconds W
- c. 29 degrees 34 minutes 08.12 seconds N  
89 degrees 36 minutes 07.94 seconds W
- d. 29 degrees 34 minutes 23.03 seconds N  
89 degrees 36 minutes 43.20 seconds W

**Lake Fortuna (2012) – St. Bernard Parish**

- a. 29 degrees 39 minutes 08.04 seconds N  
89 degrees 30 minutes 28.93 seconds W
- b. 29 degrees 38 minutes 33.31 seconds N  
89 degrees 29 minutes 15.45 seconds W
- c. 29 degrees 38 minutes 10.57 seconds N  
89 degrees 29 minutes 40.71 seconds W
- d. 29 degrees 39 minutes 04.41 seconds N  
89 degrees 30 minutes 32.61 seconds W

**3-Mile Pass (2013) – St. Bernard Parish**

- a. 30 degrees 03 minutes 56.09 seconds N  
89 degrees 22 minutes 32.52 seconds W
- b. 30 degrees 03 minutes 56.70 seconds N  
89 degrees 22 minutes 15.40 seconds W
- c. 30 degrees 03 minutes 18.00 seconds N  
89 degrees 22 minutes 06.30 seconds W
- d. 30 degrees 03 minutes 30.49 seconds N  
89 degrees 22 minutes 38.17 seconds W

**Drum Bay (2013) – St. Bernard Parish**

- a. 29 degrees 53 minutes 13.00 seconds N  
89 degrees 17 minutes 40.21 seconds W
- b. 29 degrees 53 minutes 16.51 seconds N  
89 degrees 16 minutes 51.12 seconds W
- c. 29 degrees 52 minutes 56.17 seconds N  
89 degrees 16 minutes 49.80 seconds W
- d. 29 degrees 52 minutes 53.99 seconds N  
89 degrees 17 minutes 40.43 seconds W

The secretary of the Department of Wildlife and Fisheries is authorized to take emergency action as necessary to close areas if oyster mortalities are occurring or to delay the season or close areas where significant spat catch has occurred with good probability of survival, or where it is found that there are excessive amounts of non-living reef material in seed oyster loads, or if oyster resources and/or reefs are being adversely impacted, or if enforcement problems are encountered. The secretary shall notify the chairman of the Wildlife and Fisheries Commission of his intention to close an area.

The secretary is authorized to take emergency action to reopen areas previously closed if the threat to the resource has ended, or may open areas if substantial oyster resources are located.

Notice of any opening, delaying or closing of a season will be made by public notice at least 72 hours prior to such action unless such closure is ordered by the Louisiana Department of Health and Hospitals for public health concerns.

Billy Broussard  
Chairman



## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### 2014-2015 Waterfowl Season Dates

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, and under the authority of R.S. 56:115, the Secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopts the following emergency rule.

The hunting season for ducks, coots and geese during the 2014-2015 hunting season shall be as follows:

#### **Ducks and Coots:** 60 days

- Coastal Zone: November 15 - Dec. 7  
December 20 - January 25  
West Zone: November 15 - December 14  
December 20 - January 18  
East Zone: November 22 - December 7  
(Including December 13 - January 25  
Catahoula Lake)

Youth Waterfowl Weekend - November 8-9 in the Coastal Zone, Nov. 8 and Jan. 24 in the West Zone, November 15 and Jan. 31 in East Zone.

Daily Bag Limits: The daily bag limit on ducks is 6 and may include no more than 4 mallards (no more than 2 of which may be females), 1 canvasback, 1 mottled duck, 1 black duck, 3 wood ducks, 3 scaup, 2 redheads, and 2 pintails.

Daily bag limit on coots is 15.

Mergansers - The daily bag limit for mergansers is 5, only 2 of which may be hooded mergansers. Merganser limits are in addition to the daily bag limit for ducks.

Possession Limit - The possession limit on ducks, coots and mergansers is three times the daily bag limit.

#### **GEESE:**

#### **Light Geese (Snow, Blue and Ross') and White-Fronted Geese**

- Coastal Zone: November 15 - December 14  
(74 days) December 20 - February 1  
West Zone: November 15 - December 14  
(74 days) December 20 - February 1  
East Zone: November 8 - December 7  
(74 days) December 13 - January 25

Daily bag limit on light geese (snow, blue and Ross'): 20

Possession limit on light geese (snow, blue and Ross'):

None

Daily Limit on white-fronted geese: 2

Possession Limit on white-fronted geese: 6

NOTE: During the open Canada goose season, the daily bag limit is 3 dark geese (White-fronted and Canada) no more than 2 of which may be White-fronted geese.

#### **Canada Geese: Closed In The Area Described Below**

- Coastal Zone: November 15 - December 14  
(73 days) December 20 - January 31  
West Zone: November 15 - December 14  
(73 days) December 20 - January 31  
East Zone: November 8 - December 7  
(74 days) December 13 - January 25

Daily Limit on Canada geese: 3 in aggregate with White-fronts

Possession limit on Canada geese: 9

NOTE: During the open Canada goose season, the daily bag limit is 3 dark geese (White-fronted and Canada) no more than 2 of which may be White-fronted geese.

The Canada goose Season will be open statewide except for a portion of southwest Louisiana. The closed area is described as follows: Beginning at the Texas State Line, proceeding east along Hwy. 82 to the Calcasieu Ship Channel, then north along the Calcasieu Ship Channel to its junction with the Intracoastal Canal, then east along the Intracoastal Canal to its juncture with LA Hwy. 82, then south along LA Hwy. 82 to its juncture with Parish Road 3147, then south and east along Parish Road 3147 to Freshwater Bayou Canal, then south to the Gulf of Mexico, then west along the shoreline of the Gulf of Mexico to the Texas State Line, then north to the point of beginning at LA Hwy. 82. Open waters of Lake Arthur and the Mermentau River, from the Hwy 14 bridge southward, will also be closed to Canada goose hunting.

#### **Conservation Order for Light Geese (Snow, Blue and Ross's):**

- Coastal Zone: December 15 - December 19  
February 2 - March 1  
West Zone: December 15 - December 19  
February 2 - March 1  
East Zone: December 8 - December 12  
January 26 - March 1

Only snow, blue and Ross's geese may be taken under the terms of the Conservation Order, which allows the use of electronic calls and unplugged shotguns and eliminates the daily bag and possession limits. During the Conservation Order, shooting hours begins one-half hour before sunrise and extends until one-half hour after sunset.

**RAILS:** November 15 - January 7

**King and Clapper:** Daily bag limit 15 in the aggregate, Possession 45.

**Sora and Virginia:** Daily bag 25 in the aggregate and possession 75.

**GALLINULES:** November 15 - January 7  
Daily bag limit 15, Possession limit 45

#### **SNIPE:**

- Coastal Zone: November 1 - December 7  
December 20 - February 27  
West Zone: November 8 - December 14  
December 20 - February 27  
East Zone: November 8 - December 7  
December 13 - February 27

Daily bag limit 8, Possession limit 24

Shooting Hours: One-half hour before sunrise to sunset, except at the Spanish Lake Recreation Area in Iberia Parish where shooting hours, including the Conservation Order, end at 2 p.m.

#### **Extended Falconry Seasons for Rails And Gallinules:**

**Statewide:** November 3 - February 1

(16 days of the total season lengths for rails, gallinules and extended falconry seasons were used during the September teal season.)

**Extended Falconry Seasons for Ducks:**

- Coastal Zone: November 3 - February 1
- West Zone: November 3 - February 1
- East Zone: November 3 - February 1

A Declaration of Emergency is necessary because the U.S. Fish and Wildlife Service establishes the framework for all migratory species. In order for Louisiana to provide hunting opportunities to the 200,000 sportsmen, selection of season dates, bag limits and shooting hours must be established and presented to the U.S. Fish and Wildlife Service immediately.

The aforementioned season dates, bag limits and shooting hours will become effective November 1, 2014 and extend through one-half hour after sunset on March 1, 2015.

Billy Broussard  
Chairman

1408#085

**DECLARATION OF EMERGENCY**

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

**Fall Inshore Shrimp—Opening Dates**

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and shall have the authority to open or close outside waters and to increase the minimum mesh size provided in R.S. 56:499 for any trawl, skimmer net, or butterfly net for the duration of any special shrimp season or regular shrimp season extension, the Wildlife and Fisheries Commission does hereby set the 2014 Spring Shrimp Season in Louisiana state waters to open as follows:

That portion of state inside waters from the Mississippi/Louisiana state line westward to the Atchafalaya River Ship Channel at Eugene Island as delineated by the River Channel Buoy Line to open at 6 pm August 18, 2014; and,

That portion of state inside waters from the Atchafalaya River Ship Channel at Eugene Island as delineated by the River Channel Buoy Line westward to the Louisiana/Texas state line to open at one-half hour before sunrise August 18, 2014.

The commission also hereby grants authority to the Secretary of the Department of Wildlife and Fisheries to delay or advance these opening dates if biological and technical data indicate the need to do so, and; to close any portion of Louisiana's inside waters to protect small juvenile white shrimp if biological and technical data indicate the need to do so, or enforcement problems develop. The Secretary is further granted the authority to open any area, or re-open any previously closed area, and to open and close special shrimp seasons in any portion of state waters.

Billy Broussard  
Chairman

1408#086

**DECLARATION OF EMERGENCY**

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

**Spring Inshore Shrimp Season Closure in the  
Mermentau, Calcasieu, Sabine and  
Portions of the Lake Pontchartrain Basin**

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on May 1, 2014 which authorized the secretary of the Department of Wildlife and Fisheries to close the 2014 spring inshore shrimp season in any portion of Louisiana's inside waters to protect small white shrimp if biological and technical data indicate the need to do so, or enforcement problems develop, the secretary hereby declares:

The 2014 spring inshore shrimp season will close on July 21, 2014 at 6 a.m. in that portion of state inside waters from the western shore of Freshwater Bayou Canal westward to the Louisiana/Texas state line; and, in that portion of Lake Borgne seaward of a line extending one-half mile from the shoreline.

The spring inshore shrimp season in the Vermilion/Teche River Basin closed on July 3, 2014 and closed on July 15, 2015 in the Terrebonne, Barataria and portions of the Lake Pontchartrain Basins. Effective with this closure, all state inside waters except for the open waters of Breton and Chandeleur Sounds as described by the double-rig line in R.S. 56:495.1(A)2 and, that portion of Mississippi Sound beginning at a point on the Louisiana-Mississippi Lateral Boundary at 30 degrees 09 minutes 39.6 seconds north latitude and -89 degrees 30 minutes 00.0 seconds west longitude due south to a point at 30 degrees 05 minutes 00.0 seconds north latitude and -89 degrees 30 minutes 00.0 seconds west longitude; thence southeasterly to a point on the western shore of Three-Mile Pass at 30 degrees 03 minutes 00.0 seconds north latitude and -89 degrees 22 minutes 23.0 seconds west longitude; thence northeasterly to a point on Isle Au Pitre at 30 degrees 09 minutes 20.5 seconds north latitude and -89 degrees 11 minutes 15.5 seconds west longitude, which is a point on the double-rig line will be closed to shrimping.

All state outside waters seaward of the Inside/Outside Shrimp Line, as described in R.S. 56:495 will remain open to shrimping until further notice except for those areas closed to recreational and commercial fishing due to the Deepwater Horizon oil spill disaster.

The number, distribution and percentage of small juvenile white shrimp taken in biological samples within these waters has rapidly increased in recent weeks and these waters are being closed to protect these developing shrimp.

Robert J. Barham  
Secretary

1408#008

# Rules

## RULE

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Boll Weevil Eradication Commission

Boll Weevil Eradication (LAC 7:XV.123 and Chapter 3)

Under the enabling authority of R.S. 3:1604.1, R.S. 3:1652 and R.S. 3:1655, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, and the Boll Weevil Eradication Commission are amending these rules and regulations to establish a fee for the inspection and certification of cotton for the presence of the boll weevil, and to define the established fee as a “maintenance inspection fee.” This action deletes the term “assessment” and replaces it with “maintenance inspection fee,” deletes reference to both the 2003 referendum and voter eligibility in any referendum, and replaces wording, modifies sentence structure, verbiage, and sentence location to provide clarity regarding the context of the regulation.

This action will also amend these rules and regulations to add the boll weevil to the plant pest/disease and host materials listing. Other additions to this listing include Asian citrus psyllid, citrus greening, citrus canker, Texas phoenix decline, and the respective hosts of these pests or diseases. Sugarcane pests/diseases also are amended in the listing. These changes are necessary to address additional pests and diseases threatening Louisiana agriculture.

In 2003, the cotton producers and the landlords of cotton producers agreed, by a 90 percent favorable vote, to participate in and fund the Boll Weevil Eradication Program. By the end of 2011, the boll weevil was successfully eradicated in the state of Louisiana. Currently, over \$170,000,000 have been spent on boll weevil eradication (\$77.6 million by the state, \$25,000,000 by the United States Department of Agriculture, and \$68,000,000 by the cotton producers).

This action is required because the October, 2013 Louisiana Supreme Court ruling in *Krielow v. Louisiana Department of Agriculture and Forestry*, which declared R.S. 3:3534 and R.S. 3:3544, statutes that allow a voting majority of rice producers to levy an assessment on all producers, to be unconstitutional, calls into question the constitutionality of the current boll weevil assessment voted on by referendum of the cotton producers. This action is further required in order to provide for cotton producers in the state of Louisiana a means to continue their support of the program and protect the huge investment that has been made, thus insuring the marketability of Louisiana cotton in

commerce while maintaining Louisiana’s boll weevil-free status.

Louisiana’s Boll Weevil Eradication Program is essential to the health, safety and welfare of the citizens of this state. The program has significantly reduced the amount of insecticides applied to cotton (by as much as 70 percent) resulting in a slower buildup of insect resistance to insecticides, increases in the numbers of beneficial insects in cotton, and increases in the utilization of integrated pest management practices. In addition to these environmental benefits, Louisiana’s cotton producers have experienced an average increase in yield of approximately 50 percent since the inception of the program, resulting in an average economic benefit of \$231 per acre per year from eradication.

Moreover, this action will allow program personnel to continue to inspect, monitor and certify that all cotton in this state and any equipment and regulated articles moving into and out of the state are free of boll weevils. Failure to adopt and amend these rules would have long-lasting detrimental effects on the Louisiana cotton industry, and could require crop quarantines restricting interstate shipment of cotton to mills, restrict interstate movement of equipment and regulated articles, and adversely affect the implementation of integrated pest management practices which help protect the environment. Further, failure to adopt and amend these rules would jeopardize the more than \$170,000,000 investment made to successfully eradicate the boll weevil in Louisiana by restricting or preventing inspection mechanisms currently in place aimed at detecting any boll weevil re-introduction or re-infestation.

For these reasons, the re-introduction or re-infestation of the boll weevil poses an imminent peril to the health and welfare of the Louisiana’s citizens and the state’s commercial cotton industry. As a result of this imminent peril, the Department of Agriculture and Forestry hereby exercises its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop and fruit diseases by establishing the maintenance inspection fee set out in these regulations.

This Rule shall have the force and effect of law five days after its promulgation in the official journal of the state of Louisiana.

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XV. Plant Protection and Quarantine

#### Chapter 1. Crop Pests and Diseases

#### Subchapter A. General Plant Quarantine Provisions

#### §123. Host Materials

A. The following materials are declared to be host materials for the plant pests or diseases indicated.

Plant Pest/Disease	Host Materials
	* * *
D. All sugarcane pests and diseases	Sugar cane plants, stalks, cuttings and seed; maize.
	* * *
K. Asian citrus psyllid <i>Diaphorina citri</i>	All plants and plant parts, including but not limited to nursery stock, cuttings, and budwood, except seed and fruit, of: <i>Aegle marmelos</i> , <i>Aeglopsis chevalieri</i> , <i>Afraegle gabonensis</i> , <i>Afraegle paniculata</i> , <i>Amyris madrensis</i> , <i>Atalantia</i> spp. (including <i>Atalantia monophylla</i> ), <i>Balsamocitrus dawei</i> , <i>Bergera</i> (=Murraya) <i>koenigii</i> , <i>Calodendrum capense</i> , <i>Choisya ternata</i> , <i>Choisya arizonica</i> , X <i>Citroncirus webberi</i> , <i>Citropsis articulata</i> , <i>Citropsis gillettiana</i> , <i>Citrus madurensis</i> (= X <i>Citrofortunella microcarpa</i> ), <i>Citrus</i> spp., <i>Clausena anisum-olens</i> , <i>Clausena excavata</i> , <i>Clausena indica</i> , <i>Clausena lansium</i> , <i>Eremocitrus glauca</i> , <i>Eremocitrus</i> hybrid, <i>Esenbeckia berlandieri</i> , <i>Fortunella</i> spp., <i>Limonia acidissima</i> , <i>Merrillia caloxylon</i> , <i>Microcitrus australasica</i> , <i>Microcitrus australis</i> , <i>Microcitrus papuana</i> , X <i>Microcitronella</i> spp., <i>Murraya</i> spp., <i>Naringi crenulata</i> , <i>Pamburus missionis</i> , <i>Poncirus trifoliata</i> , <i>Severinia buxifolia</i> , <i>Swinglea glutinosa</i> , <i>Tetradium ruticarpum</i> , <i>Toddalia asiatica</i> , <i>Triphasia trifolia</i> , <i>Vepris</i> (=Toddalia) <i>lanceolata</i> , and <i>Zanthoxylum fagara</i> .
L. Citrus greening (Huanglongbing) <i>Candidatus Liberibacter asiaticus</i>	All plants and plant parts, including but not limited to nursery stock, cuttings, budwood, and propagative seed (but excluding fruit), of: <i>Aegle marmelos</i> , <i>Aeglopsis chevalieri</i> , <i>Afraegle gabonensis</i> , <i>Afraegle paniculata</i> , <i>Amyris madrensis</i> , <i>Atalantia</i> spp. (including <i>Atalantia monophylla</i> ), <i>Balsamocitrus dawei</i> , <i>Bergera</i> (=Murraya) <i>koenigii</i> , <i>Calodendrum capense</i> , <i>Choisya ternata</i> , <i>Choisya arizonica</i> , X <i>Citroncirus webberi</i> , <i>Citropsis articulata</i> , <i>Citropsis gillettiana</i> , <i>Citrus madurensis</i> (= X <i>Citrofortunella microcarpa</i> ), <i>Citrus</i> spp., <i>Clausena anisum-olens</i> , <i>Clausena excavata</i> , <i>Clausena indica</i> , <i>Clausena lansium</i> , <i>Eremocitrus glauca</i> , <i>Eremocitrus</i> hybrid, <i>Esenbeckia berlandieri</i> , <i>Fortunella</i> spp., <i>Limonia acidissima</i> , <i>Merrillia caloxylon</i> , <i>Microcitrus australasica</i> , <i>Microcitrus australis</i> , <i>Microcitrus papuana</i> , X <i>Microcitronella</i> spp., <i>Murraya</i> spp., <i>Naringi crenulata</i> , <i>Pamburus missionis</i> , <i>Poncirus trifoliata</i> , <i>Severinia buxifolia</i> , <i>Swinglea glutinosa</i> , <i>Tetradium ruticarpum</i> , <i>Toddalia asiatica</i> , <i>Triphasia trifolia</i> , <i>Vepris</i> (=Toddalia) <i>lanceolata</i> , and <i>Zanthoxylum fagara</i> .
M. Citrus canker <i>Xanthomonas axonopodis</i> pv <i>citri</i>	All plants or plant parts, including fruit and seeds, of any of the following: All species, clones, cultivars, strains, varieties, and hybrids of the genera <i>Citrus</i> and <i>Fortunella</i> , and all clones, cultivars, strains, varieties, and hybrids of the species <i>Clausena lansium</i> , and <i>Poncirus trifoliata</i> , and <i>Swinglea glutinosa</i> . The most common of these are: lemon, pummelo, grapefruit, key lime, persian lime, tangerine, satsuma, tangor, citron, sweet orange, sour orange, mandarin, tangelo, ethrog, kumquat, limequat, calamondin, trifoliolate orange, tabog, and wampi.
N. Texas Phoenix decline A phytoplasma disease	All <i>Phoenix</i> spp. palms, queen palm <i>Syagrus romanzoffiana</i> and cabbage palm <i>Sabal palmetto</i> .
O. Boll weevil <i>Anthonomus grandis</i> Boheman	All parts of cotton and wild cotton plants of the genus <i>Gossypium</i> , seed cotton, cottonseed, cotton lint, gin trash, used cotton harvesting equipment, and any other farm products, equipment, means of conveyance and any other articles which may serve as host materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:319 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 16:294 (April 1990), LR 18:701 (July 1992), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 40:1516 (August 2014).

### Chapter 3. Boll Weevil

#### §301. Maintenance Inspection Fee

A. In accordance with R.S. 3:1655(D), the state entomologist is authorized to assess fees to defray the costs of inspections or the issuance of certificates or permits for the shipment of agricultural products, commodities, packaging, or equipment. There is hereby established a fee for the inspection and certification of cotton for the presence of the boll weevil to ensure the marketability of cotton in commerce and maintain Louisiana's boll weevil-free status. The fee shall be \$6 per acre for each acre of cotton planted in the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1652, and 1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995), amended LR 40:1517 (August 2014).

#### §303. Definitions Applicable to Boll Weevil

A. ...

B. The following words and terms are defined for the purposes of this Chapter.

\* \* \*

*Boll Weevil Eradication Program*—a program which includes the survey, inspection, and monitoring of all regulated articles for the presence of boll weevil, and the subsequent activities, which include but are not limited to the issuance of certificates or permits, required to maintain Louisiana's boll weevil-free status and eradicate the boll weevil should one or more be detected.

\* \* \*

*Maintenance Inspection Fee*—the fee paid by cotton producers to finance, in whole or in part, a program to inspect cotton for the presence of the boll weevil in the state and to issue certificates or permits in accordance with R.S. 3:1655(D). The charge to the producer is calculated at the rate of \$6 per acre for each acre of cotton planted in the state.

*Penalty Fee*—the fee assessed against a cotton producer for late reporting of acreage, underreporting of acreage, or late payment of maintenance inspection fees. It does not refer to penalty or fine assessed for any violation of the regulations.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1652, and 1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995), amended LR 23:195 (February 1997), LR 37:2583 (September 2011), LR 40:1517 (August 2014).

### **§307. Conditions Governing Movement and Handling of Regulated Articles**

A. - B. ...

1. The commissioner may issue certificates for the movement of regulated articles when such articles:

a. - b. ...

c. have been grown, manufactured, stored or handled in such a manner that, in the judgment of the commissioner, no infestation would be transmitted; or

d. have been examined by the commissioner and found to be free from infestation.

2. The commissioner may issue permits for the movement of noncertified regulated articles in order to allow movement of such articles into, within or from the state of Louisiana, in accordance with procedures approved by the commissioner, when the commissioner has determined that movement will not result in the spread of the boll weevil.

C. ...

1. The commissioner may grant a certificate, permit or written waiver. Any person who claims movement under the terms of a certificate, permit or written waiver shall have the burden of proof as to the issuance of any such certificate, permit or written waiver and any other related matter.

2. The commissioner may cancel any certificate, permit or written waiver good cause, including but not limited to, a determination that the holder thereof has failed to comply with any condition for the use of such certificate, permit, written waiver or with any terms or conditions of a compliance agreement or has obtained a certificate, permit or written waiver on falsified information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:18 (January 1995), amended LR 40:1518 (August 2014).

### **§309. Compliance Agreements**

A. The commissioner may, as a condition of issuance of a certificate, permit or written waiver, require a compliance agreement stipulating one or more expressed conditions of the certificate, permit or written waiver, as required by the commissioner, which may include but are not limited to:

1. - 4. ...

B. The commissioner may cancel any compliance agreement for good cause, including but not limited to a finding that the holder has failed to comply with any conditions of the agreement, and the commissioner may do so summarily and ex parte if he finds that public health, safety or welfare requires emergency action. The commissioner may cancel or void any compliance agreement upon a determination that the compliance agreement is no longer consistent with the purposes of the boll weevil eradication program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental

Sciences, Boll Weevil Eradication Commission, LR 21:18 (January 1995), amended LR 40:1518 (August 2014).

### **§311. Inspection, Movement and Enforcement**

A. The commissioner is authorized to stop any person and inspect any regulated article or means of conveyance moving into, within or from the state of Louisiana when he has reason to believe that such regulated article or means of conveyance is infested with the boll weevil. The commissioner is authorized to issue a stop order on, seize or treat any regulated article found to be infested with the boll weevil moving in violation of the boll weevil eradication law or this Chapter and may destroy or otherwise dispose of any infested cotton where the destruction of the cotton is necessary to effectuate the purposes of the boll weevil eradication program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:18 (January 1995), amended LR 40:1518 (August 2014).

### **§313. Purchase and Destruction of Cotton to Effectuate Program Objectives**

A. When the commissioner deems the purchase of cotton necessary to effectuate the purposes of the boll weevil eradication program, he shall make a written determination to purchase.

1. The written determination to purchase shall contain the reasons for the determination, the purchase price, and shall be mailed to or served upon the cotton producer. The purchase price shall be determined by appraisal, the appraisal shall have been completed within 72 hours of the mailing or issuance for service of the written determination to purchase, and the appraisal shall, to the extent practical, utilize the ASCS farm-established yield for the current year.

2. The cotton producer shall promptly take all steps necessary to convey title to the commissioner. In the event that the cotton producer fails to take all steps necessary to convey title to the commissioner within 10 days of receipt of a written determination to purchase, the commissioner may destroy the cotton, compensating the cotton producer for the purchase price less the loss of the resale price and cost of destruction.

3. ...

B. Whenever the commissioner has reason to believe that the destruction of cotton is necessary to effectuate the purposes of the boll weevil eradication program, he shall make a written determination of destruction.

1. The written determination of destruction shall contain the reason for the destruction, the payment to the cotton producer, if applicable, and shall be mailed to or served upon the cotton producer. The cotton producer shall take all steps necessary to cooperate with the commissioner in the destruction of the cotton. In the event that the cotton producer fails to take all steps necessary to cooperate in the destruction of the cotton, the cotton producer shall be in violation of this Chapter.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1610.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:19 (January 1995), amended LR 40:1518 (August 2014).

### **§315. Quarantine: Authority and Procedures**

A. - E. ...

F. All persons and all parties affected by a quarantine shall cooperate in the affectation of the quarantine and shall do nothing to cause a breach of the terms of the quarantine order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:19 (January 1995), amended LR 40:1519 (August 2014).

### **§319. Reporting of Cotton Acreage**

A. All cotton producers growing cotton in the state of Louisiana shall certify their planted cotton acreage by the later of July 15 or at final certification of the current growing season at the FSA office responsible for the parish or parishes in which they produce cotton. The certification shall be filed for each year of the program and shall include the actual acreage and location of cotton planted during the current growing season.

B. All cotton producers growing cotton in the state of Louisiana shall, for each year of the program, also complete and sign a cotton acreage reporting and payment form provided by the commissioner and return the signed and completed form to the department along with FSA Form 578 at the time that the maintenance inspection fee is paid to the department.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1607, 1609, and 1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:20 (January 1995), amended LR 23:195 (February 1997), LR 37:2583 (September 2011), LR 40:1519 (August 2014).

### **§321. Maintenance Inspection Fees, Payment and Penalties**

A. The annual maintenance inspection fee on cotton producers in the Louisiana eradication zone shall be \$6 per acre for each acre of cotton planted in the state. Each cotton producer shall pay his annual maintenance inspection fee directly to the department no later than July 15 or final certification with the FSA for that growing season, whichever is later. The signed and completed cotton acreage reporting and payment form with FSA Form 578 attached shall be submitted with the annual payment of the maintenance inspection fee.

B. A cotton producer may request a waiver of all or part of the maintenance inspection fee for any crop year in which he plants cotton in accordance with the following procedure. The decision to grant a waiver of all or part of any maintenance inspection fee for a crop year is within the discretion of the commission.

1. A cotton producer who requests a waiver of the maintenance inspection fee for a crop year must submit a written request for a waiver to the commission.

2. The commission must receive the written request, through mail, fax or other form of actual delivery, on or before 4:30 p.m. central time on August 1 of the crop year for which the waiver is requested. A written request for a waiver will be deemed to be timely when the papers are

mailed on or before the due date. Timeliness of the mailing shall be shown only by an official United States postmark or by official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof. A fax will be deemed to be timely only upon proof of actual receipt of the transmission.

3. ...

4. Each cotton producer who has filed a timely request for a waiver with the commission shall be notified of the date, time and place that the commission is scheduled to consider the request for a waiver at least 10 days prior to the commission meeting. The commission shall not consider an untimely written request.

5. A cotton producer, whose timely request for a waiver is denied by the commission, shall be entitled to pay his maintenance inspection fee without imposition of a per acre penalty fee if he pays the maintenance inspection fee within 30 days after receiving written notification of the commission's decision.

6. The commission has the authority to inspect any cotton field in which a cotton producer has claimed to have destroyed the cotton crop. Failure of the cotton producer to allow inspection shall be a violation of this Chapter.

C. Any cotton producer planting a fraction of an acre shall be assessed at a prorated maintenance inspection fee rate for that fractional acre.

D. Any cotton producer failing to certify his planted cotton acreage by the later of July 15 or the date of final certification of the current growing season shall, in addition to the maintenance inspection fee and other applicable penalties, be subject to a penalty fee of \$2 per acre.

E. Any cotton producer failing to pay all maintenance inspection fees by the later of July 15 or the date of final certification of the current growing season shall, in addition to the maintenance inspection fee and other applicable penalties, be subject to a penalty fee of \$1.50 per acre.

F. Reserved.

G. Failure to pay all program costs, including maintenance inspection fees and penalty fees, shall be a violation of this Chapter. Any cotton growing on a cotton producer's acreage which is subject to the maintenance inspection fee shall be subject to destruction by the commissioner should the cotton producer fail to pay all program costs, including maintenance inspection fees and penalty fees, within 30 days of notification of the default.

H. The commissioner shall have the right to collect some or all of the program costs, including maintenance inspection fees and penalty fees, by contracting with another entity, public or private, for collection. The commissioner shall provide notification of any such decision to all affected parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1609, 1610, 1612, 1652, and 1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:20 (January 1995), amended LR 21:669 (July 1995), LR 23:195 (February 1997), LR 24:2231 (December 1998), LR 25:829 (May 1999), LR 29:859 (June 2003), LR 30:1142 (June 2004), LR 30:2443 (November 2004), LR 37:2583 (September 2011), LR 40:1519 (August 2014).

**§323. Program Participation**  
**[Formerly §327]**

A. All cotton producers growing cotton in Louisiana shall participate in the boll weevil eradication program in accordance with the Louisiana boll weevil eradication law and these regulations.

B. Cotton producers shall destroy cotton stalks in every field planted in cotton, on or before December 31 of each crop year. Cotton stalk destruction shall consist of shredding or disking in a manner that destroys standing cotton stalks. Cotton stalks that come up in a failed field must also be destroyed by December 31 of the crop year. Failure to destroy stalks by December 31 of each crop year shall be a violation of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609, 1612, 1613.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 27:280 (March 2001), amended LR 30:2444 (November 2004), LR 40:1520 (August 2014).

**§325. Voter Eligibility**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1613.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:21 (January 1995), repealed LR 40:1520 (August 2014).

**§327. Program Participation**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609, 1612.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 27:280 (March 2001), amended LR 30:2444 (November 2004), repealed LR 40:1520 (August 2014).

Mike Strain, DVM  
Commissioner

1408#018

**RULE**

**Department of Children and Family Services**  
**Economic Stability Section**

**Use of TANF Benefits (LAC 67:III.1259 and 5351)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) has amended LAC 67:III, Subpart 2, Family Independence Temporary Assistance Program (FITAP), Chapter 12, Subchapter B, Section 1259 and Subpart 13, Kinship Care Subsidy Program (KCSP), Chapter 53, Subchapter B, Section 5351. Adoption is pursuant to the authority granted to the department by Louisiana’s temporary assistance for needy families (TANF) block grant.

Sections 1259 and 5351 have been amended to prevent the use of cash assistance provided under the FITAP and KCSP programs from being used in any electronic benefit transfer (EBT) transaction at certain types of retailers and establishments or at any retailer for the purchase of jewelry.

The Rule is aimed at preventing TANF transactions at certain types of retailers or establishments determined to be inconsistent with the purpose of TANF, which is to provide cash assistance to eligible families to help pay for ongoing basic needs, such as food, shelter, and clothing.

This action was made effective by an Emergency Rule dated and effective April 21, 2014.

**Title 67**

**SOCIAL SERVICES**

**Part III. Economic Stability**

**Subpart 2. Family Independence Temporary Assistance Program**

**Chapter 12. Application, Eligibility, and Furnishing Assistance**

**Subchapter B. Conditions of Eligibility**

**§1259. Use of FITAP Benefits**

A. FITAP benefits shall not be used in any electronic benefit transfer transaction in:

1. any liquor store;
2. any gambling casino or gaming establishment;
3. any retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment purposes, any adult bookstores, any adult paraphernalia store, or any sexually oriented business;
4. any tattoo, piercing, or commercial body art facility;
5. any nail salon;
6. any jewelry store;
7. any amusement ride, amusement attraction, or video arcade;
8. any bail bonds company;
9. any night club, bar, tavern, or saloon;
10. any cruise ship;
11. any psychic business; or
12. any establishment where persons under age 18 are not permitted.

B. FITAP benefits shall not be used in any electronic benefit transfer transaction at any retailer for the purchase of:

1. an alcoholic beverage as defined in R.S. 14.93.10(3);
2. a tobacco product as defined in R.S. 14.91.6(B);
3. a lottery ticket as defined in R.S. 47:9002(2); or
4. jewelry.

C. For purposes of this Section, the following definitions and provisions apply.

1. The term *liquor store* is defined as any retail establishment that sells exclusively or primarily intoxicating liquor. It does not include a grocery store that sells both intoxicating liquor and groceries, including staple foods.

2. The terms *gambling casino* and *gaming establishment* do not include a grocery store that sells groceries, including staple foods, and that also offers, or is located within the same building or complex as casino, gambling, or gaming activities, or any other establishment that offers casino, gambling, or gaming activities incidental to the principal purpose of the business.

3. The term *electronic benefit transfer transaction* means the use of a credit or debit card service, automated teller machine, point-of-sale terminal, or access to an online

system for the withdrawal of funds or the processing of a payment for merchandise or a service.

4. The term *commercial body art facility* is defined as any location, place, area, or business whether permanent or temporary, which provides consumers access to personal services workers who for remuneration perform any of the following procedures:

a. tattooing or the insertion of pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, to produce an indelible mark or figure visible under the skin;

b. body piercing or the creation of an opening in the body of a human being for the purpose of inserting jewelry or other decoration; but does not for the purposes of this Part, include piercing an ear with a disposable, single use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear; or

c. the application of permanent cosmetics or pigments under the skin of a human being for the purpose of permanently changing the color or other appearance of the skin, including but not limited to permanent eyeliner, eye shadow, or lip color.

5. *Adult paraphernalia store* is defined as an establishment having a substantial or significant portion of its stock, including but not limited to, clothing, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement.

6. *Sexually oriented business* is defined as any commercial enterprise that has as its primary business the offering of a service or the sale, rent, or exhibit of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer.

7. *Nail salon* is defined as a commercial establishment that provides nail services of any kind including, but not limited to trimming, filing, decorating, shaping, sculpting, or in any way caring for the nails and skin of another person's hands or feet together with massaging the hands, arms, legs, and feet.

8. *Jewelry* is defined as consisting of precious stones and/or precious metals worn as adornment or apparel. This includes costume jewelry.

9. *Amusement attraction* is defined as any building or structure which provides amusement, pleasure, thrills, or excitement. This includes movie theaters and video arcades. *Amusement attraction* does not include any enterprise principally devoted to the exhibition of products of agriculture, industry, education, science, religion, or the arts.

10. *Amusement ride* is defined as any mechanized device or combination of devices which carries passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement. This includes inflatables.

11. *Bail* is defined as security given by a person to assure his appearance, or a third-party's, before the proper court whenever required.

12. *Bar* is defined as business that holds a class A-general retail permit and the primary purpose of such business is to serve alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages,

including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets, as further defined by R.S. 1300:253.

13. *Cruise ship* is defined as any commercial ship used for the domestic or international carriage of passengers.

14. *Psychic* is defined as any person or establishment engaged in the occupation of occult science including a fortune-teller, palmist, astrologist, numerologist, clairvoyant, craniologist, phrenologist, card reader, spiritual reader, tea leaf reader, prophet, *psychic* or advisor or who in any other manner claims or pretends to tell fortunes or claims or pretends to disclose mental faculties of individuals for any form of compensation.

D. The FITAP case of a FITAP recipient who is determined to have violated the provisions of this Section shall be closed for the following time periods:

1. 12 months for the first offense;
2. 24 months for the second offense; and
3. permanently for the third offense.

AUTHORITY NOTE: Promulgated in accordance with P.L. 112-96.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 39:3061 (November 2013), amended LR 40:1520 (August 2014).

### **Subpart 13. Kinship Care Subsidy Program (KCSP) Chapter 53. Application, Eligibility, and Furnishing Assistance**

#### **Subchapter B. Conditions of Eligibility**

##### **§5351. Use of KCSP Benefits**

A. KCSP benefits shall not be used in any electronic benefit transfer transaction in:

1. any liquor store;
2. any gambling casino or gaming establishment;
3. any retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment purposes, any adult bookstores, any adult paraphernalia store, or any sexually oriented business;
4. any tattoo, piercing, or commercial body art facility;
5. any nail salon;
6. any jewelry store;
7. any amusement ride, amusement attraction, or video arcade;
8. any bail bonds company;
9. any night club, bar, tavern, or saloon;
10. any cruise ship;
11. any psychic business; or
12. any establishment where persons under age 18 are not permitted.

B. KCSP benefits shall not be used in any electronic benefit transfer transaction at any retailer for the purchase of:

1. an alcoholic beverage as defined in R.S. 14:93.10(3);
2. a tobacco product as defined in R.S. 14:91.6(B);
3. a lottery ticket as defined in R.S. 47:9002(2);

or

4. jewelry.

C. For purposes of this Section, the following definitions and provisions apply.

1. The term *liquor store* is defined as any retail establishment that sells exclusively or primarily intoxicating



liquor. It does not include a grocery store that sells both intoxicating liquor and groceries, including staple foods.

2. The terms *gambling casino* and *gaming establishment* do not include a grocery store that sells groceries, including staple foods, and that also offers, or is located within the same building or complex as casino, gambling, or gaming activities, or any other establishment that offers casino, gambling, or gaming activities incidental to the principal purpose of the business.

3. The term *electronic benefit transfer transaction* means the use of a credit or debit card service, automated teller machine, point-of-sale terminal, or access to an online system for the withdrawal of funds or the processing of a payment for merchandise or a service.

4. The term *commercial body art facility* means any location, place, area, or business whether permanent or temporary, which provides consumers access to personal services workers who for remuneration perform any of the following procedures:

a. tattooing or the insertion of pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, to produce an indelible mark or figure visible under the skin;

b. body piercing or the creation of an opening in the body of a human being for the purpose of inserting jewelry or other decoration; but does not for the purposes of this Part, include piercing an ear with a disposable, single use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear; or

c. the application of permanent cosmetics or pigments under the skin of a human being for the purpose of permanently changing the color or other appearance of the skin, including but not limited to permanent eyeliner, eye shadow, or lip color.

5. *Adult paraphernalia store* is defined as an establishment having a substantial or significant portion of its stock, including, but not limited to, clothing, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement.

6. *Sexually oriented business* is defined as any commercial enterprise that has as its primary business the offering of a service or the sale, rent, or exhibit of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer.

7. *Nail salon* is defined as a commercial establishment that provides nail services of any kind including, but not limited to trimming, filing, decorating, shaping, sculpting, or in any way caring for the nails and skin of another person's hands or feet together with massaging the hands, arms, legs, and feet.

8. *Jewelry* is defined as consisting of precious stones and/or precious metals worn as adornment or apparel. This includes costume jewelry.

9. *Amusement attraction* is defined as any building or structure which provides amusement, pleasure, thrills, or excitement. This includes movie theaters and video arcades. *Amusement attraction* does not include any enterprise principally devoted to the exhibition of products of agriculture, industry, education, science, religion, or the arts.

10. *Amusement ride* is defined as any mechanized device or combination of devices which carries passengers

along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement. This includes inflatables.

11. *Bail* is defined as security given by a person to assure his appearance, or a third-party's, before the proper court whenever required.

12. *Bar* is defined as business that holds a class A-general retail permit and the primary purpose of such business is to serve alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets, as further defined by R.S. 1300:253.

13. *Cruise ship* is defined as any commercial ship used for the domestic or international carriage of passengers.

14. *Psychic* is defined as any person or establishment engaged in the occupation of occult science including a fortune-teller, palmist, astrologist, numerologist, clairvoyant, craniologist, phrenologist, card reader, spiritual reader, tea leaf reader, prophet, *psychic* or advisor or who in any other manner claims or pretends to tell fortunes or claims or pretends to disclose mental faculties of individuals for any form of compensation.

D. The KCSP case of a KCSP recipient who is determined to have violated the provisions of this Section shall be closed for the following time periods:

1. 12 months for the first offense;
2. 24 months for the second offense; and
3. permanently for the third offense.

AUTHORITY NOTE: Promulgated in accordance with P.L. 112-96.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 39:3061 (November 2013), amended LR 40:1521 (August 2014).

Suzy Sonnier  
Secretary

1408#045

## RULE

**Department of Health and Hospitals  
Office of the Secretary  
and  
Department of Children and Family Services  
Office of the Secretary**

Community and Family Support System  
Flexible Family Fund (LAC 48:I.Chapter 161)

The Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary amend §16103, §16105, §16107, §16109, §16111, §16113 and §16115 of Part I concerning the community and family support system flexible family fund as authorized by R.S. 28:821 and as directed by House Bill 1 of the 2012 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management,

cost sharing, and other measures as permitted under federal law.” This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 378 of the 1989 Regular Session of the Louisiana Legislature and Act 1011 of the 1991 Regular Session of the Louisiana Legislature created and continued the community and family support system (R.S. 28:821 et seq.). The original Rule was promulgated to implement the cash subsidy program to provide a cash stipend to families of eligible children with severe and profound disabilities to offset the cost of keeping their children at home. The Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary amended the provisions governing the community and family support system flexible family fund by introducing a universal screening protocol for all children with identified qualifying exceptionalities for severity of functional limitations and changed terminology for qualifying exceptionalities to reflect current usage. The Rule also changed the name of the program from cash subsidy to flexible family fund. (*Louisiana Register*, Volume 37, Number 9).

As a result of a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals promulgated an Emergency Rule which amended the provisions governing the flexible family fund to enact financial eligibility criteria for children receiving a home and community-based services waiver (*Louisiana Register*, Volume 38, Number 9). This Rule is being promulgated to continue the provisions of the October 1, 2012 Emergency Rule.

#### Title 48

### PUBLIC HEALTH—GENERAL

#### Part I. General Administration

#### Subpart 11. Community and Family Support System

#### Chapter 161. Community and Family Support

#### System—Flexible Family Fund

#### §16103. Definitions

\* \* \*

*Family*—the basic *family* unit consists of one or more adults and children, if any, related by blood, marriage, adoption, and residence in the same household.

*Family Income*—money or its equivalent in exchange for labor or services, from the sale of goods or property, or as profit from financial investments, benefits, entitlement, and any income that is not from working or from whatever source of gross income, which means all income from whatever source derived including (but not be limited to) the following:

1. interest;
2. rents;
3. royalties;
4. dividends;
5. alimony and separate maintenance payments;
6. annuities;
7. income from life insurance and endowment contracts;
8. pensions; and
9. income from an interest in an estate or trust.

\* \* \*

*Proof of Family Income*—documentation of income, which for the flexible family fund, is a copy of the most recent tax return and all schedule attachments for each family member.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:1135 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2584 (September 2011), LR 40:1523 (August 2014).

#### §16105. Application Process

A. - B. ...

C. For the application to be complete, the documentation listed in §16103 of this Rule, which identifies a qualifying exceptionality and proof of family income for families whose children receive a home and community-based services waiver, must accompany the application for the flexible family fund, and the application must be signed by the responsible care giver and received by the appropriate agency through the mail.

D. Applications for the flexible family fund shall be screened at the point of initial application to determine whether the child has a qualifying exceptionality, to determine financial eligibility for families whose children receive waiver services, to determine that the child is appropriately served by the agency and to ensure that applications are routed to the appropriate agency. When family income exceeds 650 percent of the federal poverty level and the child is a home and community-based services waiver recipient, the child will be ineligible for participation in the flexible family fund.

E. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1020 (May 2002), LR 33:1136 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2585 (September 2011), LR 40:1523 (August 2014).

#### §16107. Determining Children Eligible for the Flexible Family Fund

A. - F. ...

G. Children who receive a home and community-based services waiver and whose family income is at or less than 650 percent of the federal poverty level are eligible to participate in the flexible family fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:863 (July 1997), LR 28:1020 (May 2002), LR 33:1136 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2586 (September 2011), LR 40:1523 (August 2014).

**§16109. Children Ineligible for the Flexible Family Fund**

A. - A.2. ...

3. children in residence at the Louisiana School for the Deaf and the Louisiana School for the Visually Impaired; and

4. children receiving a home and community-based services waiver and whose family income exceeds 650 percent of the federal poverty level.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:187 (February 1992), amended LR 23:863 (July 1997), LR 28:1021 (May 2002), LR 33:1136 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2586 (September 2011), LR 40:1524 (August 2014).

**§16111. Eligibility Determination**

A. - D. ...

E. There shall be financial eligibility criteria for the flexible family fund for recipients of a home and community-based services waiver.

1. DHH will determine if recipients of a home and community-based services waiver meet the financial eligibility requirements for the flexible family fund.

2. Recipients of a home and community-based services waiver whose family income exceeds 650 percent of the federal poverty level will be excluded from the flexible family fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:187 (February 1992), amended LR 23:863 (July 1997), LR 28:1021 (May 2002), LR 33:1137 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2586 (September 2011), LR 40:1524 (August 2014).

**§16113. Payment Guidelines**

A. - C. ...

D. The family of recipients of a home and community-based services waiver is required to report to OCDD accurate and current family income. If a flexible family fund recipient becomes certified for a home and community-based services waiver, the family is required to report this change in status to OCDD and submit proof of family income. Documentation must be received by OCDD within 30 days of the change in income or home and community-based services waiver recipient status.

E. If it is discovered that the family of the recipient of a home and community-based services waiver sent in inaccurate family income eligibility documentation or that the family did not update OCDD with changes in income, and the recipient no longer meets the financial eligibility requirements as defined in §16111 of this Rule, OCDD may follow-up with recoupment of funds paid during the period of ineligibility. If it is discovered that the family of the flexible family fund recipient did not update OCDD of certification of home and community-based services and the recipient did not meet the family financial eligibility requirements §16111 of this Rule, OCDD may follow-up

with recoupment of funds paid during the period of ineligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:864 (July 1997), LR 28:1021 (May 2002), LR 33:1137 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2587 (September 2011), LR 40:1524 (August 2014).

**§16115. Terminations**

A. - A.6. ...

7. failure to comply with the provisions of the individual agreement or the flexible family fund, including the requirement to maintain quarterly contact with the agency administering the flexible family fund and the requirement to provide required documentation, including proof of income for families of children receiving a home and community-based services waiver;

8. child's exceptionality or degree of severity no longer meets eligibility criteria;

9. child attains age 18 years;

10. responsible care giver fails to maintain the child in an approved educational program; or

11. income for the family of the child receiving a home and community-based services waiver exceeds 650 percent of the federal poverty level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:864 (July 1997), LR 28:1022 (May 2002), LR 33:1137 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2587 (September 2011), LR 40:1524 (August 2014).

Kathy H. Kliebert  
Secretary

1408#011

**RULE**

**Department of Economic Development  
Office of Business Development**

**Research and Development Tax Credit Program  
(LAC 13:I.Chapter 29)**

Under the authority of R.S. 47:6015 and R.S. 36:104, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development amends and repromulgates LAC 13:I.2901 et seq., relative to the administration of the research and development tax credit program.

The purpose of this regulation is to explain the procedure employed for the administration of the research and development tax credit program under R.S. 47:6015 as enacted by Act 257 of the 2013 Regular Session of the Legislature. The regulation discusses definitions for the terms professional services firms and custom manufacturing and custom fabricating, discusses what documentation is

required for submission to LED for credits, and LED examination criteria.

## 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 under this 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 30:977 (May 2004), amended by the Office of Business Development, LR 36:1768 (August 2010), amended by the Office of the Secretary, LR 38:350 (February 2012), amended by the Office of Business Development, LR 40:49 (January 2014), LR 40:1525 (August 2014).

##### §2903. Definitions

A. Terms not otherwise defined in this Chapter shall have the same meaning given to them in R.S. 51:2353 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.

*Affiliate*—a company that shares more than 50 percent common ownership or other means of control with respect to another company.

*Base Amount*—70 percent of the average annual qualified research expenditures within Louisiana during the three preceding taxable years.

*Business Component*—any product, process, computer software, technique, formula, or invention which is to be held for sale, lease, license, or used in a trade or business of the taxpayer.

*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.

*Custom Fabricator* or *Custom Manufacturer*—companies that assemble, fabricate, or manufacturer parts, equipment, assemblies, vessels, software or other products (“specified item”) in response to specific design criteria and delivery schedule provided by the customer/client.

a. The typical business model acquisition process utilized by *custom fabricators* and/or manufacturers is as follows:

- i. the customer/client providing the *custom fabricator* and/or manufacturer with the detail specific design criteria for the specified item in a document generally referred to as a “request for proposal”;
- ii. after review and analysis, the *custom fabricator* and/or manufacturer submits a “proposal” to the

customer/client in which they commit to a specific price and delivery schedule to assemble, fabricate, or manufacturer the specified item requested by the customer/client in their request for proposal;

iii. if the proposal is acceptable, the customer/client will generally issue a “purchase order” commitment document to the *custom fabricator* and/or manufacturer agreeing to the terms of their proposal, and authorizing the custom fabricator or manufacturer to begin work per their proposal; and

iv. although the *custom fabricator* or manufacturer generally commits to a fixed price to produce the requested item, they have effectively negated most, if not all, material or unusual commercial transaction risks by their ability to analyze the required design criteria before committing to a specific price and delivery schedule within their proposal.

*LED*—Louisiana Department of Economic Development.

*Person*—any natural *person* or legal entity including an individual, corporation, partnership, or limited liability company.

*Professional Services Firm*—a firm who is primarily engaged in work which requires specialized education, knowledge, labor, judgment, is predominantly mental or intellectual in nature and which may require the holding of a professional license. These types of firms engage in activities which include, but are not limited to, architecture, engineering, legal services and accounting.

*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;

e. 26 U.S.C. §41 also excludes expenditures associated with certain activities from the definition of qualified research. These activities include:

i. research conducted after the beginning of commercial production;

ii. activities related to the adaptation of an existing business component to a particular customer’s requirements or needs;

iii. activities related to the reproduction, in whole or in part, of an existing business component from a physical examination of the business component, plans, blueprints, detailed specifications or publically available information with respect to such component;

iv. activities related to management functions or techniques, efficiency surveys, market research, testing or development, routine data collection or routine testing or inspections for quality controls;

v. research conducted using the social sciences including economics and business management, as well as behavioral sciences, arts and humanities; and

vi. research funded by a contract, grant, or otherwise by another person or governmental entity.

*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 30:977 (May 2004), amended by the Office of the Secretary, LR 38:351 (February 2012), amended by the Office of Business Development, LR 40:49 (January 2014), LR 40:1525 (August 2014).

#### **§2904. Type, Amount and Duration of Credit**

A. Type. Any taxpayer meeting the following criteria shall be allowed a refundable tax credit to be applied against income and corporation franchise taxes due:

1. employs 50 or more persons (including affiliates) and claims for the taxable year a federal income tax credit under 26 U.S.C. §41(a) for increasing research activities;

2. employs less than 50 persons (including affiliates), and incurs qualified research expenses for the taxable year, as defined in 26 U.S.C. §41(b); and

3. receives a small business innovation research grant, as defined in R.S. 47:6015(D).

B. Amount. The amount of the credit authorized shall be equal to:

1. 8 percent of the difference between the Louisiana qualified research expenses for the taxable year minus the base amount, if the applicant is an entity that employs 100 or more persons (including affiliates); or

2. 20 percent of the difference, between the Louisiana qualified research expenses for the taxable year minus the base amount, if the applicant is an entity that employs 50 to 99 persons (including affiliates); or

3. 40 percent of the state's apportioned share of the taxpayer's qualified research expenses conducted in the state if the applicant is an entity that employs fewer than 50 persons (including affiliates); or

4. 40 percent of the small business innovation research grant award received during the tax year.

C. Duration. No credit shall be allowed for research expenditures incurred or small business innovation research grant funds received after December 31, 2019.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 36:1768 (August 2010), amended by the Office of the Secretary, LR 38:351 (February 2012), amended by the Office of Business Development, LR 40:50 (January 2014), LR 40:1526 (August 2014).

#### **§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 LED.

B. The application for a credit certification shall be submitted on a form provided by the LED and shall include, but not be limited to the following information:

1. an application fee of \$250, payable to Louisiana Department of Economic Development;

2. appropriate supporting documentation:

a. for taxpayers employing 50 or more residents, a federal income tax return and evidence of the amount of federal research credit for the same taxable year;

b. for taxpayers employing up to 50 residents:

i. either:

(a). a federal income tax return and evidence of the amount of federal research credit for the same taxable year; or

(b). a report by a certified public accountant (“CPA”) authorized to practice in Louisiana which comports with the agreed-upon accounting procedures established by LED; and

ii. evidence of the amount of qualified research expenses for the same taxable year;

c. for taxpayers claiming credits based upon the federal small business innovation research grant, evidence of the amount of such grant;

d. the LED may also require documentation, including but not limited to the following, as proof of an expenditure prior to certification:

i. wages:

(a). copy of W-2 for each employee who participates in qualifying research and development activities;

(b). percentage of each employee’s salary that is dedicated to qualifying research and development activities; and

(c). Louisiana Workforce Commission quarterly report of wages paid for the company for the third and fourth quarter of the tax year in question;

ii. supplies:

(a). invoices with date of purchase included;

iii. contracted research:

(a). invoices with applicable dates or periods of work; and

(b). contracts for the research to be performed;

e. in order for any research and development project to qualify, the requesting company must identify:

i. the business component that was developed or improved;

ii. the uncertainty that existed in the capability, method or design related to such business component;

iii. how the research was technological in nature; and

iv. the process of experimentation undertaken;

3. the total amount of qualified research expenses and the qualified research expenses in this state;

4. the total number of Louisiana residents employed by the taxpayer and the number of those Louisiana residents directly engaged in research and development;

5. the average wages of the Louisiana resident employees not directly engaged in research and development and the average wages of the Louisiana resident employees directly engaged in research and development;

6. the average value of benefits received by all Louisiana resident employees;

7. the cost of health insurance coverage offered to all Louisiana resident employees;

8. any other information required by LED.

C. LED 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.

D. In order for credits to be awarded, a taxpayer must claim the expenditures within one year after December 31 of the year in which the expenditure was incurred. For example, company A buys a piece of equipment that would qualify for the research and development tax credit on May 15, 2011. In order for company A to receive a credit on that expenditure, the application for credit on that expense must be received by December 31, 2012.

E. Each year LED shall perform a detailed examination of at least 10 percent of all applications received prior to the issuance of credits on such applications.

1. LED shall select applications for examination based on one or more of the following:

- a. a random sampling;
- b. applicant's business sector; and
- c. other selection criteria as determined by LED.

2. Upon notice that their application has been selected for examination, the applicant shall provide all supporting documentation requested by LED to show the amount of qualified expenses for such taxable year.

3. The applicant bears the burden of proving that its activities meet the definition of qualified research under 26 U.S.C. §41(d).

4. LED still retains the right to examine a taxpayer's application after the issuance of credits and any credits disallowed following such examination shall be subject to recovery, recapture or offset.

F. If LED reviews a submission and determines that an applicant is not eligible for tax credits for a tax year, the company shall have six months from the date of disallowance to resubmit additional documentation for reconsideration. LED will not consider any additional documentation after this six month period.

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 30:977 (May 2004), amended by the Office of Business Development, LR 36:1768 (August 2010), LR 40:51 (January 2014), LR 40:1526 (August 2014).

### **§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(G); and

2. a consent by the taxpayer that the Department of Revenue may disclose to LED, 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 LED for the effective administration of this program, provided that such tax information, shall remain confidential in the possession of LED.

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 30:978 (May 2004), amended by

the Office of the Secretary, LR 38:352 (February 2012), amended by the Office of Business Development, LR 40:52 (January 2014), LR 40:1527 (August 2014).

### **§2913. Ineligible Businesses**

A. For tax years beginning on or after January 1, 2013, the following types of businesses will be ineligible to participate in the program, unless specifically invited by the secretary of LED to:

1. professional services firms that do not have a pending or issued United States patent related to the qualified research expenditures claimed; and

2. businesses primarily engaged in custom manufacturing and custom fabricating that do not have a pending or issued United States patent related to the qualified research expenditures claimed.

B. Only expenditures directly related to the business component for which a professional services firm or business primarily engaged in custom manufacturing or custom fabricating has a pending or issued patent will be eligible for research and development credits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 40:52 (January 2014), amended LR 40:1527 (August 2014).

### **§2915. Agreed-Upon Accounting Procedures**

A. The CPA shall attest under the agreed-upon accounting procedures that the company's activities for each new or improved business component are those that would qualify for research and development credits under the *Internal Revenue Code*.

B. The CPA, CPA firm or an affiliate of the CPA or CPA firm shall not attest to the research and development agreed-upon accounting procedures if:

1. the CPA, CPA firm or affiliate of the CPA or CPA firm performed any other services outside the agreed-upon procedures related to the underlying application for the same tax year. These activities would include all attest and non-attestation services; including, but not limited to identification and quantification analysis, quantified benefits projection, application preparation, etc.; or

2. the CPA, CPA firm or an affiliate of the CPA or CPA firm has any financial interest in the issuance of credits on a company's application.

C. The agreed upon-accounting procedures shall be available to the public as follows:

1. posted on [www.louisianaeconomicdevelopment.com](http://www.louisianaeconomicdevelopment.com);

2. available for viewing during regular business hours at LED offices; and

3. available upon written request from the program administrator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 40:52 (January 2014), amended LR 40:1527 (August 2014).

Anne G. Villa  
Undersecretary

1408#044

## RULE

### Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Curriculum and Instruction (LAC 28: CXV.2317)

Editor's Note: The following Rule is being repromulgated to correct a codification error. The original Rule can be viewed in its entirety in the July 20, 2014 edition of the *Louisiana Register* on pages 1328-1329

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has adopted revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §2317, High Schools and §2318, The College Diploma. The policy revisions align high school entrance requirements with the new Jump Start career education program and phase out the basic core graduation requirements.

#### Title 28 EDUCATION

#### Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

#### Chapter 23. Curriculum and Instruction

#### Subchapter A. Standards and Curricula

#### §2317. High Schools

A. - D. ...

E. A Louisiana state high school diploma cannot be denied to a student who meets the state minimum high school graduation requirements.

F. - G. ...

H. Prior to the beginning of the school year, students may switch diploma pathways provided they have the consent of their parent or guardian and have been advised by a school counselor.

I. Community Service Diploma Endorsement

1. LEAs may allow students to earn a community service diploma endorsement.

2. Entering freshmen in 2013-2014 and beyond may earn the community service diploma endorsement by completing documented community service according to the following schedule:

- a. ninth grade—10 hours;
- b. tenth grade—20 hours;
- c. eleventh grade—25 hours;
- d. twelfth grade—25 hours;
- e. total—80 hours.

3. The LEAs shall collect documentation of community service hours on forms provided on the LDE website.

4. Students transferring into a participating LEA after the ninth grade or students graduating early may receive an endorsement provided that the minimum requirement for each year they attend a participating LEA is met and a total of 80 community service hours are completed prior to graduation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:154, R.S. 17:1944, and R.S. 17:1945.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 36:1485 (July 2010), LR 37:1137 (April 2011), LR 38:754 (March 2012), LR 39:1038 (April 2013), LR 39:2216

(August 2013), LR 40:1328 (July 2014), repromulgated LR 40:1528 (August 2014).

Heather Cope  
Executive Director

1408#020

## RULE

### Office of the Governor Board of Pardons Committee on Parole

Meetings and Hearings of the Committee and Violations of Parole (LAC 22: XI.513, 1113, and 1115)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Board of Pardons, Committee on Parole, has amended its rules and promulgated rules of LAC 22: XI.513, 1113, and 1115. This rulemaking provides that an offender's final revocation hearing must be scheduled within 60 calendar days of the offender's return to prison unless the offender waives the right to a final revocation hearing, provides that a delay may only be authorized for good cause, provides for due process at the revocation hearing, and that the Committee on Parole may order that the offender's parole not be revoked.

#### Title 22

#### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

#### Part XI. Committee on Parole

#### Chapter 5. Meetings and Hearings of the Committee on Parole

#### §513. Single-Member Action

A.1.a. - c. ...

d. Consideration to delay an offender's revocation hearing beyond 60 calendar days of the offender's return to prison (arrest or detainment), but such a delay may only be authorized by a committee member for good cause.

A.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2300 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2264 (August 2013), LR 40:1528 (August 2014).

#### Chapter 11. Violations of Parole

#### §1113. Revocation Hearing

A. When the Division of Probation and Parole has found probable cause and a preliminary hearing has been conducted, a revocation hearing shall be scheduled, unless the offender waives his right to a final revocation hearing. The revocation hearing shall be conducted within 60 calendar days after the offender's return to prison. Any delay for good cause must be approved by the chairman or designee. The purpose of the final revocation hearing is to determine if one or more conditions of parole have been violated by the offender, and if such violation(s) are serious enough to warrant re-incarceration of the offender to serve the balance of his sentence.

B. The revocation hearing is a public hearing and shall be conducted as outlined in Chapter 3 of these rules. The

same procedural and substantive rights which are afforded to an offender at a preliminary hearing are afforded at the revocation.

C.1.a. - 2. ...

3. The offender may be allowed to present mitigating circumstances.

D. - F.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2306 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2273 (August 2013), LR 40:1528 (August 2014).

### **§1115. Decision of the Parole Panel**

A.1. - 6. ...

7. do not revoke, continue on supervision.

B.1. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2306 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2274 (August 2013), amended by the Office of the Governor, Board of Pardons, LR 40:59 (January 2014), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 40:1529 (August 2014).

Sheryl M. Ranatza  
Chairman

1408#010

### **RULE**

#### **Department of Health and Hospitals Board of Dentistry**

##### **Sterilizer Monitoring Log and Record Retention (LAC 46:XXXIII.1206)**

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), the Department of Health and Hospitals, Board of Dentistry has promulgated LAC 46:XXXIII.1206.

The Louisiana State Board of Dentistry has adopted LAC 46:XXXIII.1206 for clarification of the required sterilizer monitoring recommended by the Federal Centers for Disease Control.

### **Title 46**

#### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

##### **Part XXXIII. Dental Health Profession**

##### **Chapter 12. Transmission Prevention of Hepatitis B Virus, Hepatitis C Virus, and Human Immunodeficiency Virus**

##### **§1206. Sterilizer Monitoring Log and Record Retention**

A. Each and every sterilizer utilized in a dental practice shall be monitored in accordance with the recommendations of the Federal Centers for Disease Control including those recommendations designated as strongly recommended and required. A written log of the monitoring shall be produced and maintained by the dentist. The log should include the date of the test, the method of the monitoring, the

manufacturer and type of the monitoring system as well as the name of the individual performing the monitoring.

B. The written log and all records of sterilizer monitoring shall be maintained for a period of two years from the date of the last test. The records of sterilizer monitoring shall include any and all documentation for the purchase of testing materials or kits and reports of each test conducted. The records shall be subject to inspection and review during an inspection conducted in accordance with LAC 46:XXXIII.1204. The board may request such documentation from licensees selected at random.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 40:1529 (August 2014).

Arthur F. Hickham, Jr.  
Executive Director

1408#090

### **RULE**

#### **Department of Health and Hospitals Bureau of Health Services Financing and Office of Behavioral Health**

Behavioral Health Services  
Supplemental Payments  
(LAC 50:XXXIII.Chapter 161)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health have adopted LAC 50:XXXIII.Chapter 161 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 XXXIII. Behavioral Health Services**

##### **Subpart 17. Supplemental Payments**

##### **Chapter 161. General Provisions**

##### **§16101. Qualifying Criteria**

A. Effective for dates of service on or after January 20, 2013, providers of behavioral health services may qualify for supplemental payments for services rendered to Medicaid recipients. To qualify for the supplemental payment, the behavioral health provider must be:

1. licensed as necessary by the state of Louisiana;
2. enrolled as a Medicaid provider; and
3. a government-owned and operated entity or a quasi-governmental entity.

B. Providers of the following services shall be eligible to receive supplemental payments:

1. providers furnishing services thru a statewide management organization;
2. children's mental health services;
3. behavioral health services;
4. home and community-based waiver services;
5. psychiatric residential treatment facility services;
6. therapeutic group home services;



7. substance abuse services; and
8. local government juvenile justice 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, Bureau of Health Services Financing and the Office of Behavioral Health, LR 40:1529 (August 2014).

**§16103. Payment Methodology**

A. The supplemental payment shall be calculated in a manner that will bring payments for these services up to the community rate level.

1. For purposes of these provisions, the community rate shall be defined as the rates paid by commercial payers for the same service.

B. The behavioral health provider shall periodically furnish satisfactory data for calculating the community rate as requested by the department.

C. The supplemental payment amount shall be determined by establishing a Medicare to community rate conversion factor for the behavioral health provider. At the end of each quarter, for each Medicaid claim paid during the quarter, a Medicare payment amount will be calculated and the Medicare to community rate conversion factor will be applied to the result. Medicaid payments made for the claims paid during the quarter will then be subtracted from this amount to establish the supplemental payment amount for that quarter.

1. The Medicare to community rate conversion factor shall be recalculated at least every three years.

D. The supplemental payments shall be made on a quarterly basis.

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, Bureau of Health Services Financing and the Office of Behavioral Health, LR 40:1530 (August 2014).

Kathy H. Kliebert  
Secretary

1408#075

**RULE**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

Inpatient Hospital Services  
Elective Deliveries  
(LAC 50:V.107)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:V.107 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 V. Hospital Services**

**Subpart 1. Inpatient Hospital Services**

**Chapter 1. General Provisions**

**§107. Elective Deliveries**

A. Induced deliveries and cesarean sections shall not be reimbursed when performed prior to 39 weeks gestation.

This shall not apply to deliveries when there is a documented medical condition that would justify delivery prior to 39 weeks gestation.

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, Bureau of Health Services Financing, LR 40:1530 (August 2014).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Kathy H. Kliebert  
Secretary

1408#076

**RULE**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

Medical Transportation Program  
Emergency Ambulance Services  
Supplemental Payments  
(LAC 50:XXVII.327 and 355)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:XXVII.327 and §355 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 XXVII. Medical Transportation Program**

**Chapter 3. Emergency Medical Transportation**

**Subchapter B. Ground Transportation**

**§327. Supplemental Payments for Ambulance Providers**

A. Effective for dates of service on or after September 20, 2011, quarterly supplemental payments shall be issued to qualifying ambulance providers for emergency medical transportation services rendered during the quarter.

B. Qualifying Criteria. Ambulance service providers must meet the following requirements in order to qualify to receive supplemental payments. The ambulance service provider must be:

1. licensed by the state of Louisiana;
2. enrolled as a Louisiana Medicaid provider; and
3. a provider of emergency medical transportation or air ambulance services pursuant to 42 CFR 440.170 and a provider of the corresponding medical and remedial care and services in the approved Medicaid state plan.

C. Payment Methodology. The supplemental payment to each qualifying ambulance service provider will not exceed the sum of the difference between the Medicaid payments otherwise made to these qualifying providers for emergency medical transportation and air ambulance services and the average amount that would have been paid at the equivalent community rate.

D. The supplemental payment will be determined in a manner to bring payments for these services up to the community rate level. The *community rate* is defined as the average amount payable by commercial insurers for the same services.

E. Supplemental Payment Calculation. The following methodology shall be used to establish the quarterly supplemental payment for ambulance providers.

1. The department shall identify Medicaid ambulance service providers that were qualified to receive supplemental Medicaid reimbursement for emergency medical transportation services and air ambulance services during the quarter.

2. For each Medicaid ambulance service provider identified to receive supplemental payments, the department shall identify the emergency medical transportation and air ambulance services for which the Medicaid ambulance service providers were eligible to be reimbursed.

3. For each Medicaid ambulance service provider described in E.1, the department shall calculate the reimbursement paid to the Medicaid ambulance service providers for the emergency medical transportation and air ambulance services identified under E.2.

4. For each Medicaid ambulance service provider described in E.1, the department shall calculate the Medicaid ambulance service provider's equivalent community rate for each of the Medicaid ambulance service provider's services identified under E.2.

5. For each Medicaid ambulance service provider described in E.1, the department shall subtract an amount equal to the reimbursement calculation for each of the emergency medical transportation and air ambulance services under E.3 from an amount equal to the amount calculated for each of the emergency medical transportation and air ambulance services under E.4.

6. For each Medicaid ambulance service provider described in E.1, the department shall calculate the sum of each of the amounts calculated for emergency medical transportation and air ambulance services under E.5.

7. For each Medicaid ambulance service provider described in E.1, the department shall calculate each emergency ambulance service provider's upper payment limit by totaling the provider's total Medicaid payment differential from E.6.

8. The department will reimburse providers based on the following criteria.

a. For ambulance service providers identified in E.1 located in large urban areas and owned by governmental entities, reimbursement will be up to 100 percent of the provider's average commercial rate calculated in E.7.

b. For all other ambulance service providers identified in E.1, reimbursement will be up to 80 percent of the provider's average commercial rate calculated in E.7.

F. Calculation of Average Commercial Rate. The supplemental payment will be determined in a manner to bring payments for these services up to the average commercial rate level.

1. For purposes of these provisions, the *average community rate level* is defined as the average amount payable by the commercial payers for the same services.

2. The state will align the paid Medicaid claims with the Medicare fees for each HCPCS or CPT code for the

ambulance provider and calculate the Medicare payment for those claims. The state will then calculate an overall Medicare to commercial conversion factor for each ambulance provider by dividing the total amount of the average commercial payments for the claims by the total Medicare payments for the claims. The commercial to Medicare ratio for each provider will be re-determined at least every three years.

G. The supplemental payment will be made effective for emergency medical transportation provided on or after September 20, 2011. This payment is based on the average amount that would have been paid at the equivalent community rate. After the initial calculation for fiscal year 2011-2012, the department will rebase the equivalent community rate using adjudicated claims data for services from the most recently completed fiscal year. This calculation may be made annually, but shall be made no less than every three years.

H. The total amount to be paid by the state to qualified Medicaid ambulance service providers for supplemental Medicaid payments shall not exceed the total of the Medicaid payment differentials calculated under §327.E.6 for all qualified Medicaid ambulance service providers.

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, Bureau of Health Services Financing, LR 40:1530 (August 2014).

### **Subchapter C. Air Transportation**

#### **§355. Supplemental Payments for Ambulance Providers**

A. Effective for dates of service on or after September 20, 2011, quarterly supplemental payments shall be issued to qualifying ambulance providers for emergency medical air transportation services rendered during the quarter.

B. Qualifying Criteria. Ambulance service providers must meet the following requirements in order to qualify to receive supplemental payments. The ambulance service provider must be:

1. licensed by the state of Louisiana;
2. enrolled as a Louisiana Medicaid provider; and
3. a provider of emergency medical transportation or air ambulance services pursuant to 42 CFR 440.170 and a provider of the corresponding medical and remedial care and services in the approved Medicaid state plan.

C. Payment Methodology. The supplemental payment to each qualifying ambulance service provider will not exceed the sum of the difference between the Medicaid payments otherwise made to these qualifying providers for emergency medical transportation and air ambulance services and the average amount that would have been paid at the equivalent community rate.

D. The supplemental payment will be determined in a manner to bring payments for these services up to the community rate level. The *community rate* is defined as the average amount payable by commercial insurers for the same services.

E. Supplemental Payment Calculation. The following methodology shall be used to establish the quarterly supplemental payment for ambulance providers.

1. The department shall identify Medicaid ambulance service providers that were qualified to receive supplemental Medicaid reimbursement for emergency medical

transportation services and air ambulance services during the quarter.

2. For each Medicaid ambulance service provider identified to receive supplemental payments, the department shall identify the emergency medical transportation and air ambulance services for which the Medicaid ambulance service providers were eligible to be reimbursed.

3. For each Medicaid ambulance service provider described in E.1, the department shall calculate the reimbursement paid to the Medicaid ambulance service providers for the emergency medical transportation and air ambulance services identified under E.2.

4. For each Medicaid ambulance service provider described in E.1, the department shall calculate the Medicaid ambulance service provider's equivalent community rate for each of the Medicaid ambulance service provider's services identified under E.2.

5. For each Medicaid ambulance service provider described in E.1, the department shall subtract an amount equal to the reimbursement calculation for each of the emergency medical transportation and air ambulance services under E.3 from an amount equal to the amount calculated for each of the emergency medical transportation and air ambulance services under E.4.

6. For each Medicaid ambulance service provider described in E.1, the department shall calculate the sum of each of the amounts calculated for emergency medical transportation and air ambulance services under E.5.

7. For each Medicaid ambulance service provider described in E.1, the department shall calculate each emergency ambulance service provider's upper payment limit by totaling the provider's total Medicaid payment differential from B.6.

8. The department will reimburse providers based on the following criteria.

a. For ambulance service providers identified in E.1 located in large urban areas and owned by governmental entities, reimbursement will be up to 100 percent of the provider's average commercial rate calculated in E.7.

b. For all other ambulance service providers identified in E.1, reimbursement will be up to 80 percent of the provider's average commercial rate calculated in E.7.

F. Calculation of Average Commercial Rate. The supplemental payment will be determined in a manner to bring payments for these services up to the average commercial rate level.

1. For purposes of these provisions, the *average commercial rate level* is defined as the average amount payable by the commercial payers for the same services.

2. The state will align the paid Medicaid claims with the Medicare fees for each HCPCS or CPT code for the ambulance provider and calculate the Medicare payment for those claims. The state will then calculate an overall Medicare to commercial conversion factor for each ambulance provider by dividing the total amount of the average commercial payments for the claims by the total Medicare payments for the claims. The commercial to Medicare ratio for each provider will be re-determined at least every three years.

G. The supplemental payment will be made effective for air ambulance services provided on or after September 20, 2011. This payment is based on the average amount that

would have been paid at the equivalent community rate. After the initial calculation for fiscal year 2011-2012, the department will rebase the equivalent community rate using adjudicated claims data for services from the most recently completed fiscal year. This calculation may be made annually, but shall not be made less often than every three years.

H. The total amount to be paid by the state to qualified Medicaid ambulance service providers for supplemental Medicaid payments shall not exceed the total of the Medicaid payment differentials calculated under §327.E.6 for all qualified Medicaid ambulance service providers.

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, Bureau of Health Services Financing, LR 40:1531 (August 2014).

Kathy H. Kliebert  
Secretary

1408#077

## RULE

### Department of Health and Hospitals Bureau of Health Services Financing

Pregnant Women Extended Services  
Dental Services  
Program Termination  
(LAC 50:XV.Chapter 161)

The Department of Health and Hospitals, Bureau of Health Services Financing has repealed LAC 50:XV.Chapter 161 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 XV. Services for Special Populations

#### Subpart 13. Pregnant Women Extended Services

#### Chapter 161. Dental Services

#### §16101. Recipient Qualifications

Repealed.

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 30:434 (March 2004), amended LR 30:2834 (December 2004), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:1532 (August 2014).

#### §16103. Provider Responsibilities

Repealed.

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 30:434 (March 2004), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:1532 (August 2014).

#### §16105. Covered Services

Repealed.

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 30:434 (March 2004), amended LR 34:442 (March 2008), LR 34:1419 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1902 (September 2009), repealed LR 40:1532 (August 2014).

**§16107. Reimbursement**

Repealed.

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 30:434 (March 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1902 (September 2009), LR 36:2044 (September 2010), LR 37:3270 (November 2011), repealed LR 40:1533 (August 2014).

Kathy H. Kliebert  
Secretary

1408#078

**RULE**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

Professional Services Program  
Reimbursement Methodology  
Elective Deliveries  
(LAC 50:IX.15109)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:IX.15109 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 IX. Professional Services Program**

**Subpart 15. Reimbursement**

**Chapter 151. Reimbursement Methodology**

**Subchapter A. General Provisions**

**§15109. Elective Deliveries**

A. Induced deliveries and cesarean sections by physicians or nurse midwives shall not be reimbursed when performed prior to 39 weeks gestation. This shall not apply to deliveries when there is a documented medical condition that would justify delivery prior to 39 weeks gestation.

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, Bureau of Health Services Financing, LR 40:1533 (August 2014).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and

Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Kathy H. Kliebert  
Secretary

1408#079

**RULE**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

Rehabilitation Clinics  
Termination of Coverage for Recipients 21 and Older  
(LAC 50:XI.103 and 301)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XIII.103 and §301 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 XI. Clinic Services**

**Subpart 1. Rehabilitation Clinics**

**Chapter 1. General Provisions**

**§103. Services**

A. ...

B. Effective for dates of service on or after February 1, 2013, the department terminates the coverage of all rehabilitation services to recipients 21 years of age and older.

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 Human Resources, Office of Family Security, LR 9:13 (January 1983), repromulgated for inclusion in LAC, Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1021 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:1533 (August 2014).

**Chapter 3. Reimbursement**

**§301. Reimbursement Methodology**

A. ...

\* \* \*

B. Effective for dates of service on or after February 1, 2013, reimbursement shall not be made for services rendered to recipients 21 years of age and older.

C. - D. Reserved.

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 22:109 (February 1996), amended 23:731 (June 1997), repromulgated for inclusion in LAC, LR 30:1021 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:1533 (August 2014).

Kathy H. Kliebert  
Secretary

1408#080

## RULE

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Bird Dog Training Areas and  
Resident Game Hunting Season  
(LAC 76:V.321 and XIX.101, 103, 111, 113, and 115)

The Wildlife and Fisheries Commission has amended the general and wildlife management area rules and regulations for the 2014-2015 season, the resident game hunting season for the 2014-2016 hunting seasons, the general and wildlife management area rules and regulations for the 2015 turkey season, the turkey hunting areas, seasons, and bag limits for the 2015 turkey season, and regulations for bird dog training areas.

#### Title 76

#### WILDLIFE AND FISHERIES

#### Part V. Wild Quadrupeds and Wild Birds

#### Chapter 3. Wild Birds

#### §321. Bird Dog Training Areas

A. Purpose. Bird dog training areas (BDTA) are established to afford users of wildlife management areas (WMA) and other public land an opportunity to train pointing dogs and flushing retrievers or spaniels with live released birds. The BDTA is not intended to serve as a hunting preserve. The following regulations are adopted to ensure that users of the BDTA utilize the area as intended, and to minimize the potential for negative impacts on wildlife.

B. Establishment and Posting. BDTAs may be established on any WMA or other public land with written consent of the managing agency. Portions of the WMA/public land without significant wild quail populations, and where wildlife will not be negatively impacted are suitable for establishment of BDTAs. BDTAs must be marked with signs and/or paint clearly indicating the boundaries.

C. Permits and Licenses. Each person using the BDTA for dog training must have a valid self-clearing permit in his/her possession while engaged in dog training on the BDTA. Said permit must indicate the number and species of birds released for training purposes in the comments section. For purposes of this rule, a person or party will be considered to be engaged in dog training if they possess or release live bobwhite quail, mallards or pigeons at any time, or if they are present on the BDTA with pointing dogs, spaniels or retrievers during the time quail, woodcock, dove or waterfowl season is closed on the WMA/public land. All users of the BDTA must comply with the WMA/public land self-clearing permit requirements. Any person who takes or attempts to take released or wild bobwhite quail, mallards or pigeons on the BDTA must comply with applicable hunting license and WMA/public land permit requirements.

D. Dogs. Only recognizable breeds of pointing dogs, spaniels, and retrievers may be trained on the BDTA. All dogs must wear a collar or tag imprinted with the name and phone number of the owner or trainer. Trainers shall not knowingly allow or encourage their dogs to pursue rabbits, raccoons, or other wildlife.

E. Birds. Only bobwhite quail, mallards or pigeons may be released for dog training activities on the BDTA.

However, use of pigeons and mallards may be prohibited on specific BDTAs. Bobwhite quail, mallards and pigeons may only be released within the boundaries of the BDTA. Bobwhite quail, mallards and pigeons may be shot in conjunction with dog training activities. When WMA/public land hunting seasons are closed, only bobwhite quail, mallards and pigeons may be taken and possessed. When the WMA/public land quail, waterfowl or woodcock hunting season is closed, bobwhite quail, mallards and pigeons may only be shot within the boundaries of the BDTA. No more than 6 quail or mallards per day may be released, taken, or possessed per permittee. Wild quail may be taken on the BDTA at any time the BDTA is open to dog training and must be included in the 6-bird limit. There is no limit on the number of pigeons that may be taken, released, or possessed. All mallards must be toe-clipped, or fitted with a seamless band, or otherwise marked in accordance with federal regulations. Pigeons are not required to be banded. Persons in possession of live bobwhite quail or mallards must have a valid game breeders license or bill of sale from a licensed game breeder.

F. Firearms. When the WMA/public land hunting seasons are closed, only shotguns with shells containing shot not larger than lead size 8 or steel size 6 are permitted on the BDTA. Mallards may only be taken with steel or other approved non-toxic shot. Firearms must be encased or broken down upon entering and leaving the BDTA when the WMA hunting seasons are closed. Pistols capable of firing only blanks are also permitted.

G. Seasons. Unless specified, BDTAs are open to dog training all year. Closure periods may be adopted for some BDTAs. Such closure periods will be noted in the Louisiana Hunting Regulations brochure.

H. Hunter Orange Requirements. Persons engaged in dog training on BDTAs during WMA hunting seasons must comply with WMA/public land hunter orange requirements.

I. Wildlife Management Area/Public Land Regulations. Except as provided herein, all rules and hunting seasons applicable to the WMA/public land on which the BDTA is located are also applicable to the BDTA. Additional regulations may be adopted for some BDTAs and will be listed for each BDTA within the Louisiana Hunting Regulations brochure.

J. Violation of Rules. A person who is convicted or enters a guilty plea for violation of any provision of this rule shall be guilty of a class 2 violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:109(B), R.S. 56:115, and R.S. 56:141(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:2268 (September 2005), amended LR 33:1151 (June 2007), LR 40:1534 (August 2014).

#### Part XIX. Hunting and WMA Regulations

#### Chapter 1. Resident Game Hunting Season

#### §101. General

A. The resident game hunting season regulations are hereby adopted by the Wildlife and Fisheries Commission. A complete copy of the regulation pamphlet may be obtained from the department.

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

21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), LR 30:1493 (July 2004), LR 31:1627 (July 2005), LR 32:1253 (July 2006), LR 33:1399 (July 2007), LR 34:1447 (July 2008), LR 35:1278 (July 2009), LR 36:1580 (July 2010), LR 37:2206 (July 2011), LR 38:1747 (July 2012), LR 40:1534 (August 2014).

**§103. Resident Game Birds and Animals**

A. Shooting Hours—one-half hour before sunrise to one-half hour after sunset.

B. Consult regulation pamphlet for seasons or specific regulations on wildlife management areas or specific localities.

Species	Season Dates	Daily Bag Limit	Possession Limit
Quail	OPENS: 3rd Saturday of November	10	20

Species	Season Dates	Daily Bag Limit	Possession Limit
	CLOSES: Last Day of February		
Rabbit and Squirrel	OPENS: 1st Saturday of October CLOSES: Last Day of February	8	16
Squirrel *	OPENS: 1st Saturday of May for 23 days	3	6
Deer 2014-16	See Schedule	1 antlered and 1 antlerless (when legal)	6/season (not to exceed 3 antlered deer or 4 antlerless deer)

\*NOTE: Spring squirrel season is closed on the Kisatchie National Forest, National Wildlife Refuges, U.S. Army Corps of Engineers property. Some state wildlife management areas will be open, check WMA season schedule.

C. Deer Hunting Schedule—2014-2015

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
1	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Nov. CLOSES: Fri. after 2nd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. OPENS: Mon. after 1st Sat. of Jan. CLOSES: next to last Sun. of Jan.	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Sun. after 1st Sat. of Jan.
2	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: Next to last Sat. of Oct. CLOSES: Fri. before last Sat. of Oct. OPENS: Mon. after the last day of Modern Firearm Season in Jan. CLOSES: After 7 days.	OPENS: Last Sat. of Oct. CLOSES: Tues. before 2nd Sat. of Dec. in odd numbered years and on Wed. during even numbered years EXCEPT when there are 5 Sats. in Nov. and then it will close on the Tues. in odd numbered years or Wed. during even numbered years before the 1st Sat. of Dec.	OPENS: Wed. before the 2nd Sat. of Dec. in odd numbered years and on Thurs. during even numbered years EXCEPT when there are 5 Sats. in Nov., then it will open on the Wed. before the 1st Sat. of Dec. on odd years and Thurs. during even numbered years CLOSES: 40 days after opening in odd numbered years or 39 days after opening in even numbered years
3	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec.	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day OPENS: 1st Sat. of Dec. CLOSES: After 37 days	

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
4	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Nov. CLOSES: Fri. after 2nd Sat. of Nov.(EITHER SEX) OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan. (EITHER SEX FOR 1ST 7 DAYS, BUCKS ONLY FOR REMAINDER OF SEASON)	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: Mon. after 1st Sat. of Jan. CLOSES: next to last Sun. of Jan. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 3rd Sat. of Nov. CLOSES: Sun. after 3rd Sat. of Nov. (EITHER SEX) OPENS: Friday after Thanksgiving CLOSES: Sun. after Thanksgiving. (EITHER SEX) OPENS: 1st Sat. of Dec. CLOSES: Sun. after 1st Sat. of Dec. (EITHER SEX) OPENS: 2nd Sat. of Jan. CLOSES: Sun. after 2nd Sat. of Jan. (EITHER SEX) OPENS: 3rd Sat. of Jan. CLOSES: Sun. after 3rd Sat. of Jan. (EITHER SEX)	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Sun. after 1st Sat. of Jan. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 2nd Sat. of Dec. CLOSES: Sun. after 2nd Sat. of Dec. (EITHER SEX) OPENS: 3rd Sat. of Dec. CLOSES: Sun. after 3rd Sat. of Dec. (EITHER SEX) OPENS: 4th Sat. of Dec. CLOSES: Sun. after 4th Sat. of Dec. (EITHER SEX) OPENS: 1st Sat. of Jan. CLOSES: Sun. after 1st Sat. of Jan. (EITHER SEX)
5	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov. (EITHER SEX) OPENS: Day after the close of Modern Firearm Season CLOSES: After 7 consecutive days (EITHER SEX)	OPENS: Day after Thanksgiving Day CLOSES: 4th Sun. of Dec.(BUCKS ONLY)	
6	OPENS: 1st day of Oct. CLOSES: Feb. 15 (1st 15 days are BUCKS ONLY)	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec.	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Next to last Sun. of Jan.
7	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct.(EITHER SEX) OPENS: 1st Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Nov. (BUCKS ONLY).	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after 3rd Sat. of Oct. (EITHER SEX) OPENS: Mon. after 3rd Sun. of Oct. CLOSES: Fri Before 1st Sat. of Nov. (BUCKS ONLY) OPENS: 2 <sup>nd</sup> Sat of Nov. CLOSES: Sun. after Thanksgiving (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 3rd Sat. of Nov. CLOSES: Sun. after 3rd Sat. of Nov. (EITHER SEX) OPENS: Fri. after Thanksgiving. CLOSES: Sun. after Thanksgiving. (EITHER SEX)	OPENS: Mon. after Thanksgiving Day CLOSES: After 35 days(BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: Sat. after Christmas. CLOSES: Sun. after Christmas. (EITHER SEX)
8	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec.	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day.	OPENS: 1st Sat. of Dec. CLOSES: After 37 days.

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
9	OPENS: 1st day of Oct. CLOSES: Feb. 15 (1st 15 days are BUCKS ONLY)	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov.(BUCKS ONLY) OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.(EITHER SEX 1ST 7 DAYS, BUCKS ONLY FOR REMAINDER OF SEASON)	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: Fri. after Thanksgiving Day. CLOSES: Sun. after Thanksgiving day. (EITHER SEX)	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Next to last Sun. of Jan. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 2nd Sat. of Dec. CLOSES: Sun. after 2nd Sat. of Dec. (EITHER SEX) OPENS: Sat. after Christmas. CLOSES: Sun. after Christmas. (EITHER SEX) OPENS: 2nd Sat. in Jan. CLOSES: Sun. after 2nd Sat. in Jan. (EITHER SEX)
10	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. (EITHER SEX) OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec. (BUCKS ONLY)	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day(BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 1st Sat. of Dec. CLOSES: After 37 days(BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 3rd Sat. of Oct. CLOSES: Sun. after 3rd Sat. in Oct. (EITHER SEX) OPENS: 2nd Sat. of Nov. CLOSES: Sun. after 2nd Sat. of Nov. (EITHER SEX) OPENS: Fri. after Thanksgiving. CLOSES: Sun. after Thanksgiving. (EITHER SEX) OPENS: Sat. after Christmas. CLOSES: Sun. after Christmas. (EITHER SEX)	

D. Modern Firearm Schedule—2014-2015 (either sex seasons)

Parish	Area	Modern Firearm Either-Sex Days
West Carroll	Area 5	Opens Friday after Thanksgiving Day for 3 days.

E. Deer Hunting Schedule 2015-2016

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
1	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Nov. CLOSES: Fri. after 2nd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. OPENS: Mon. after 1st Sat. of Jan. CLOSES: next to last Sun. of Jan.	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Sun. after 1st Sat. of Jan.



Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
2	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: Next to last Sat. of Oct. CLOSES: Fri. before last Sat. of Oct. OPENS: Mon. after the last day of Modern Firearm Season in Jan. CLOSES: After 7 days.	OPENS: Last Sat. of Oct. CLOSES: Tues. before 2nd Sat. of Dec. in odd numbered years and on Wed. during even numbered years EXCEPT when there are 5 Sats. in Nov. and then it will close on the Tues. in odd numbered years or Wed. during even numbered years before the 1st Sat. of Dec.	OPENS: Wed. before the 2nd Sat. of Dec. in odd numbered years and on Thurs. during even numbered years EXCEPT when there are 5 Sats. in Nov., then it will open on the Wed. before the 1st Sat. of Dec. on odd years and Thurs. during even numbered years CLOSES: 40 days after opening in odd numbered years or 39 days after opening in even numbered years
3	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec.	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day OPENS: 1st Sat. of Dec. CLOSES: After 37 days	
4	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Nov. CLOSES: Fri. after 2nd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan. (EITHER SEX FOR 1ST 7 DAYS, BUCKS ONLY FOR REMAINDER OF SEASON)	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: Mon. after 1st Sat. of Jan. CLOSES: next to last Sun. of Jan. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 3rd Sat. of Nov. CLOSES: Sun. after 3rd Sat. of Nov. (EITHER SEX) OPENS: Friday after Thanksgiving CLOSES: Sun. after Thanksgiving. (EITHER SEX) OPENS: 1st Sat. of Dec. CLOSES: Sun. after 1st Sat. of Dec. (EITHER SEX) OPENS: 2nd Sat. of Jan. CLOSES: Sun. after 2nd Sat. of Jan. (EITHER SEX) OPENS: 3rd Sat. of Jan. CLOSES: Sun. after 3rd Sat. of Jan. (EITHER SEX)	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Sun. after 1st Sat. of Jan. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 2nd Sat. of Dec. CLOSES: Sun. after 2nd Sat. of Dec. (EITHER SEX) OPENS: 3rd Sat. of Dec. CLOSES: Sun. after 3rd Sat. of Dec. (EITHER SEX) OPENS: 4th Sat. of Dec. CLOSES: Sun. after 4th Sat. of Dec. (EITHER SEX) OPENS: 1st Sat. of Jan. CLOSES: Sun. after 1st Sat. of Jan. (EITHER SEX)
5	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov. (EITHER SEX) OPENS: Day after the close of Modern Firearm Season CLOSES: After 7 consecutive days (EITHER SEX)	OPENS: Day after Thanksgiving Day CLOSES: 2nd Sun. of Jan. (BUCKS ONLY)	
6	OPENS: 1st day of Oct. CLOSES: Feb. 15 (1st 15 days are BUCKS ONLY)	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec.	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Next to last Sun. of Jan.

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
7	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct.(EITHER SEX) OPENS: 1st Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Nov. (BUCKS ONLY).	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after 3rd Sat. of Oct. (EITHER SEX) OPENS: Mon. after 3rd Sun. of Oct. CLOSES: Fri Before 1st Sat. of Nov. (BUCKS ONLY) OPENS: 2 <sup>nd</sup> Sat of Nov. CLOSES: Sun. after Thanksgiving (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 3rd Sat. of Nov. CLOSES: Sun. after 3rd Sat. of Nov. (EITHER SEX) OPENS: Fri. after Thanksgiving. CLOSES: Sun. after Thanksgiving. (EITHER SEX)	OPENS: Mon. after Thanksgiving Day CLOSES: After 35 days(BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: Sat. after Christmas. CLOSES: Sun. after Christmas. (EITHER SEX)
8	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec.	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day.	OPENS: 1st Sat. of Dec. CLOSES: After 37 days.
9	OPENS: 1st day of Oct. CLOSES: Feb. 15 (1st 15 days are BUCKS ONLY)	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov.(BUCKS ONLY) OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.(EITHER SEX 1ST 7 DAYS, BUCKS ONLY FOR REMAINDER OF SEASON)	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: Fri. after Thanksgiving Day. CLOSES: Sun. after Thanksgiving day. (EITHER SEX)	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Next to last Sun. of Jan. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 2nd Sat. of Dec. CLOSES: Sun. after 2nd Sat. of Dec. (EITHER SEX) OPENS: Sat. after Christmas. CLOSES: Sun. after Christmas. (EITHER SEX) OPENS: 2nd Sat. in Jan. CLOSES: Sun. after 2nd Sat. in Jan. (EITHER SEX)
10	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. (EITHER SEX) OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec. (BUCKS ONLY)	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day(BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 1st Sat. of Dec. CLOSES: After 37 days(BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 3rd Sat. of Oct. CLOSES: Sun. after 3rd Sat. in Oct. (EITHER SEX) OPENS: 2nd Sat. of Nov. CLOSES: Sun. after 2nd Sat. of Nov. (EITHER SEX) OPENS: Fri. after Thanksgiving. CLOSES: Sun. after Thanksgiving. (EITHER SEX) OPENS: Sat. after Christmas. CLOSES: Sun. after Christmas. (EITHER SEX)	

F. 2015-2016 Modern Firearm Schedule (Either Sex Seasons)

Parish	Area	Modern Firearm Either-sex Days
West Carroll	Area 5	Opens Friday after Thanksgiving Day for days, and 1st Sat of Dec. for 2 days.

G. Farm-raised white-tailed deer on supplemented shooting preserves:

1. archery, firearm, primitive firearms—October 1-January 31 (either-sex).

H. Exotics on supplemented shooting preserves:

1. either sex—no closed season.
- I. Spring squirrel hunting:
  1. season dates—opens 1st Saturday of May for 23 days;
  2. closed areas:
    - a. Kisatchie National Forest, national wildlife refuges, and U.S. Army Corps of Engineers property and all WMAs except as provided in Paragraph 3 below;
    3. wildlife management area schedule—opens 1st Saturday of May for nine days on all WMAs except Fort

Polk, Peason Ridge, Camp Beauregard, Pass-a-Loutre and Salvador. Dogs are allowed during this season for squirrel hunting. Feral hogs may be taken on wildlife management areas during this season;

4. limits—daily bag limit is three and possession limit is six.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:109(B) and R.S. 56:141(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), repromulgated LR 25:1526 (August 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), repromulgated LR 29:1521 (August 2003), LR 30:1494 (July 2004), LR 31:1627 (July 2005), LR 32:1254 (July 2006), LR 33:115 (January 2007), LR 33:1399 (July 2007), LR 34:1447 (July 2008), LR 35:1280 (July 2009), LR 35:2856 (December 2009), LR 36:1580 (July 2010), LR 37: 2207 (July 2011), LR 38:1747 (July 2012), LR 40:1535 (August 2014).

### **§111. General and Wildlife Management Area Hunting Rules and Regulations**

#### **A. Hunting Seasons and Wildlife Management Area (WMA) Regulations**

1. The rules and regulations contained within this digest have been officially approved and adopted by the Wildlife and Fisheries Commission under authority vested by sections 115 and 116 of title 56 of the *Louisiana Revised Statutes* of 1950 and are in full force and effect in conjunction with all applicable statutory laws. The secretary of the Department of Wildlife and Fisheries (LDWF) has the authority to close or alter seasons in emergency situations in order to protect fish and wildlife resources.

2. Pursuant to section 40.1 of title 56 of the *Louisiana Revised Statutes* of 1950, the Wildlife and Fisheries Commission has adopted monetary values which are assigned to all illegally taken, possessed, injured or destroyed fish, wild birds, wild quadrupeds and other wildlife and aquatic life. Anyone taking, possessing, injuring or destroying fish, wild birds, wild quadrupeds and other wildlife and aquatic life shall be required to reimburse the LDWF a sum of money equal to the value of the wildlife illegally taken, possessed, injured or destroyed. This monetary reimbursement shall be in addition to any and all criminal penalties imposed for the illegal act.

#### **B. Resident Game Birds and Animals**

1. Shooting hours: one-half hour before sunrise to one-half hour after sunset.

#### **C. Other Season Dates**

1. Turkey. Please refer to turkey regulations.

2. Raccoon and Opossum. No closed season. Raccoon and opossum can be taken at night by one or more licensed hunters with one or more dogs and one .22 caliber or smaller rimfire firearm. A licensed hunter may take raccoon or opossum with .22 caliber or smaller rimfire firearm, .36 caliber or smaller muzzleloader rifle or shotgun during daylight hours. Hunting from boats or motor vehicles is prohibited. No bag limit for nighttime or daytime raccoon or opossum hunting during the open trapping season except on certain WMAs as listed. The remainder of the year, the raccoon and opossum bag limit for daytime or nighttime is two per person per day or night. No one who hunts raccoons or opossums as prescribed above shall pelt during the closed trapping season nor sell skins or carcasses of raccoons and

opossums taken during the open trapping season unless he is the holder of a valid trapping license which shall be required in addition to his basic hunting license. Pelting or selling carcasses is illegal during closed trapping season.

3. Nutria. On WMAs and private property nutria may be taken recreationally by licensed hunters from September 1 through the last day of February, during legal shooting hours by any legal hunting method with a daily limit of five. Except nutria may be taken on Atchafalaya Delta, Salvador/Timken, Pointe-Aux-Chenes and Pass-a-Loutre WMAs from September 1 to March 31. When taken with a shotgun, steel shot must be used. On WMAs during waterfowl seasons, nutria may be taken only with the use of shotguns with shot no larger than F steel, and during gun deer seasons, anyone taking nutria must display 400 square inches of “hunter orange” and wear a “hunter orange” cap or hat. Recreational nutria hunters must remove each nutria carcass in whole condition from the hunting area, except that nutria may be gutted. Possession of detached nutria parts, including nutria tails, by recreational hunters is illegal. Nutria harvested recreationally may not be pelted nor may such nutria or any nutria parts from recreationally taken nutria be sold, including the tail. Trespassing upon private property for the purpose of taking nutria or other furbearing animals is punishable by fines and possible jail time (R.S. 56:265). The Coastwide Nutria Control Program is a separate program and is in no way related to the nutria recreational season. For questions on the Coastwide Nutria Control Program, call the New Iberia office (337) 373-0032.

4. Blackbirds and Crows. The season for crows shall be September 1 through January 1 with no limit; however crows, blackbirds, cowbirds and grackles may be taken year round during legal shooting hours if they are depredating or about to depredate upon ornamentals or shade trees, agricultural crops, livestock, wildlife, or when concentrated in such numbers as to cause a health hazard. Louisiana has determined that the birds listed above are crop depredators and that crows have been implicated in the spread of the West Nile virus in humans. As described in 50 CFR Part 21, non-toxic shot must be used for the take of crows, blackbirds, cowbirds and grackles under the special depredation order. In addition an annual report has to be submitted to the U.S. Fish and Wildlife Service for those that participate in the take of these species.

5. Pheasant. Open concurrently with the quail season; no limit.

6. Falconry. Special permit required. Resident and migratory game species may be taken except turkeys. Seasons and bag limits are the same as for statewide and WMA regulations. Refer to LAC 76:V.301 for specific falconry rules.

7. Licensed Hunting Preserve, October 1-April 30, Pen-Raised Birds Only. No limit entire season. Refer to LAC 76:V.305 for specific hunting preserve rules.

8. Deer Management Assistance Program (DMAP). Refer to LAC 76:V.111 for specific DMAP rules. Deer management assistance tags must be in the possession of the hunter in order to harvest an antlerless deer. The tag shall be attached through the hock in such a manner that it cannot be removed before the deer is transported (including those taken on either-sex days and those taken with approved archery equipment or primitive firearms). Antlerless deer

harvested on property enrolled in DMAP does not count in the season or daily bag limit for hunters. Failure to do so is a violation of R.S. 56:115. Failing to follow DMAP rules and regulations may result in suspension and cancellation of the program on those lands involved. DMAP participants must follow the deer season schedule established for their respective areas.

9. Farm Raised White-Tailed Deer and Exotics on Licensed Supplemented Shooting Preserves

a. Definitions

*Exotics*—for purposes of this Section means any animal of the family Bovidae (except the Tribe Bovini [cattle]) or Cervidae which is not indigenous to Louisiana and which is confined on a supplemented hunting preserve. *Exotics* shall include, but are not limited to, fallow deer, red deer, elk, sika deer, axis deer, and black buck antelope.

*Hunting*—in its different tenses and for purposes of this Section means to take or attempt to take, in accordance with R.S. 56:8.

*Same as Outside*—for purposes of this Section means hunting on a supplemented hunting preserve must conform to applicable statutes and rules governing hunting and deer hunting, as provided for in title 56 of the *Louisiana Revised Statutes* and as established annually by the Wildlife and Fisheries Commission.

*Supplemented Hunting Preserve*—for purposes of this Section means any enclosure for which a current farm-raising license has been issued by the Department of Agriculture and Forestry (LDAF) with concurrence of the LDWF and is authorized in writing by the LDAF and LDWF to permit hunting.

*White-Tailed Deer*—for purposes of this Rule means any animal of the species *Odocoileus virginianus* which is confined on a supplemented hunting preserve.

b. Seasons:

i. farm-raised white-tailed deer: consult the regulations pamphlet;

ii. exotics: year round.

c. Methods of take:

i. white-tailed deer: same as outside;

ii. exotics: exotics may be taken with longbow (including compound bow and crossbow) and arrow; shotguns not larger than 10 gauge, loaded with buckshot or rifled slug; handguns and rifles no smaller than .22 caliber centerfire; or muzzleloading rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, using black powder or an approved substitute only, and using ball or bullet projectile, including sabot bullets only and other approved primitive firearms.

d. Shooting hours:

i. white-tailed deer: same as outside;

ii. exotics: one-half hour before sunrise to one-half hour after sunset.

e. Bag limit:

i. farm-raised white-tailed deer: same as outside;

ii. exotics: no limit.

f. Hunting licenses:

i. white-tailed deer: same as outside;

ii. exotics: no person shall hunt any exotic without possessing a valid basic and big game hunting license.

g. Tagging. White-tailed deer and exotics: each animal shall be tagged in the left ear or left antler immediately upon being killed and before being moved from the site of the kill with a tag provided by the LDAF. The tag shall remain with the carcass at all times.

10. Bobcat. No person other than the holder of a valid big game license may take or possess bobcat, except licensed trappers who may take or possess bobcat during the open trapping season. A big game licensee shall only take bobcat during the time period from one-half hour before sunrise to one-half hour after sunset with approved archery equipment, shotgun, muzzleloader or centerfire firearm. A big game licensee shall not take more than one bobcat per calendar year. This regulation applies only to property that is privately owned, state WMAs, Kisatchie National Forest, and the Bayou des Ourses, Bodcau, Bonnet Carre, and Indian Bayou tracts owned by the Corps of Engineers, but does not apply to state wildlife refuges, or other federally owned refuges and lands. On state WMAs, the take of bobcat is restricted to those open seasons on the WMAs which require the respective legal weapons noted above.

D. Hunting-General Provisions

1. A basic resident or non-resident hunting license is required of all persons to hunt, take, possess or cause to be transported by any other person any wild bird or quadruped. See information below for exceptions.

2. No person born on or after September 1, 1969, shall hunt unless that person has first been issued a certificate of satisfactory completion of a firearm and hunter education course approved by the department, except any active or veteran member of the United States armed services or any POST-certified law enforcement officer. Application for the exemption shall be filed in person at the LDWF main office building in the city of Baton Rouge. A person under sixteen years of age may hunt without such certificate if he/she is accompanied by and is under the direct supervision of a person who was born before September 1, 1969, and has a valid hunting license or who is eighteen years of age or older and has proof of successful completion of a firearm and hunter education course approved by the department.

3. A big game license is required in addition to the basic hunting license to hunt, take, possess or cause to be transported any deer. A separate wild turkey license is required in addition to the basic hunting license and the big game license to hunt, take, possess or cause to be transported any turkey.

4. Taking game quadrupeds or birds from aircraft or participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

5. Methods of Taking Resident Game Birds and Quadrupeds

a. It is illegal to intentionally feed, deposit, place, distribute, expose, scatter, or cause to be fed, deposited, placed, distributed, exposed, or scattered raw sweet potatoes to wild game quadrupeds.

b. Use of a bow and arrow or a shotgun not larger than a 10 gauge fired from the shoulder without a rest shall be legal for taking all resident game birds and quadrupeds. Also, the use of a handgun, rifle and falconry (special permit required) shall be legal for taking all game species except turkey. It shall be illegal to hunt or take squirrels or rabbits at

any time with a breech-loaded rifle or handgun larger than .22 caliber, any centerfire firearm, or a muzzleloading firearm larger than .36 caliber. It shall be legal to hunt or take squirrels, rabbits, and outlaw quadrupeds with air rifles.

c. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs is prohibited when or where a still hunting season or area is designated, and will be strictly enforced. Shotguns larger than 10 gauge or capable of holding more than three shells shall be prohibited. Plugs used in shotguns must be incapable of being removed without disassembly. Refer to game schedules contained within these regulations for specific restrictions on the use of firearms and other devices.

d. No person shall take or kill any game bird or wild quadruped with a firearm fitted with any device to deaden or silence the sound of the discharge thereof; or fitted with an infrared sight, laser sight, or except as provided in R.S. 56:116(A)(8) any sighting device which projects a beam of light to the target or otherwise electronically illuminates the target, or device specifically designed to enhance vision at night [R.S. 56:116.1.B(3)].

6. Nuisance Animals. Landowners or their designees may remove beaver and nutria causing damage to their property without a special permit. Water set traps and firearms may be used to remove beaver; nutria may be removed by any means except that nutria cannot be taken by the use of headlight and gun between the hours of sunset and sunrise. With a special permit issued by the LDWF, beavers may be taken between one-half hour after official sunset to one-half hour before official sunrise for a period of three consecutive calendar evenings from the effective date of the permit. For specific details contact a region office near you. Any nuisance beaver or nutria trapped or shot outside open trapping season cannot be pelted or sold. A trapping license is required to sell or pelt nuisance beavers or nutria taken during open trapping season. Squirrels found destroying commercial crops of pecans may be taken year-round by permit issued by the LDWF. This permit shall be valid for 30 days from the date of issuance. Contact the local region office for details.

7. Threatened and endangered species: Louisiana black bear, Louisiana pearl shell (mussel), sea turtles, gopher tortoise, ringed sawback turtle, brown pelican, bald eagle, peregrine falcon, whooping crane, Eskimo curlew, piping plover, interior least tern, ivory-billed woodpecker, red-cockaded woodpecker, Bachman's warbler, West Indian manatee, Florida panther, pallid sturgeon, Gulf sturgeon, Atwater's greater prairie chicken, whales and red wolf. Taking or harassment of any of these species is a violation of state and federal laws.

8. Outlaw Quadrupeds. Holders of a legal hunting license may take coyotes, feral hogs, and armadillos year round during legal daylight shooting hours. The running of coyotes with dogs is prohibited in all turkey hunting areas during the open turkey season. Coyote hunting is restricted to chase only when using dogs during still hunting segments of the firearm and archery only seasons for deer. Foxes are protected quadrupeds and may be taken only with traps by licensed trappers during the trapping season. Remainder of the year "chase only" allowed by licensed hunters.

9. Nighttime Take of Nuisance Animals and Outlaw Quadrupeds. On private property, the landowner, or his lessee or agent with written permission and the landowner's contact information in his possession, may take outlaw quadrupeds (coyotes, armadillos and feral hogs), nutria, or beaver during the nighttime hours from one-half hour after official sunset on the last day of February to one-half hour after official sunset the last day of August of that same year. Such taking may be with or without the aid of artificial light, infrared or laser sighting devices, or night vision devices. In addition, pursuant to R.S. 56:116(D)(3) any person who is authorized to possess a firearm suppressor may use a firearm fitted with a sound suppressor when taking outlaw quadrupeds, nutria, or beaver. Any person attempting to take outlaw quadrupeds under the provisions of the paragraph, within 24 hours prior to the attempted taking, shall notify the sheriff of the parish in which the property is located, and the LDWF Enforcement Division by calling 1-800-442-2511 of their intention to attempt to take outlaw quadrupeds under the provision of this Paragraph.

10. Hunting and/or Discharging Firearms on Public Roads. Hunting, standing, loitering or shooting game quadrupeds or game birds while on a public road or public road right-of-way is prohibited. Hunting or the discharge of firearms on roads or highways located on public levees or within 100 feet from the centerline of such levee roads or highways is prohibited. Spot lighting or shining from public roads is prohibited by state law. Hunting from all public roads and public road rights-of-way is prohibited

11. Tags. Any part of the deer or wild turkey divided shall have affixed thereto the name, date, address and big game license number of the person killing the deer or wild turkey and the sex of that animal. This information shall be legibly written in pen or pencil, on any piece of paper or cardboard or any material, which is attached or secured to or enclosing the part or parts. On lands enrolled in DMAP, deer management assistance tags must be attached and locked through the hock of antlerless deer, (including those taken with approved archery and primitive firearms, and those antlerless deer taken on either-sex days) in a manner that it cannot be removed, before the deer is moved from the site of the kill.

12. Sex Identification. Positive evidence of sex identification, including the head or sex organs, shall remain on any deer taken or killed within the state of Louisiana, or on all turkeys taken or killed during any special gobbler season when killing of turkey hens is prohibited, so long as such deer or turkey is kept in camp or field, or is in route to the domicile of its possessor, or until such deer or turkey has been stored at the domicile of its possessor or divided at a cold storage facility and has become identifiable as food rather than as wild game.

#### E. General Deer Hunting Regulations

1. Prior to hunting deer, all deer hunters, regardless of age or license status, must obtain deer tags and have in possession when hunting deer. Immediately upon harvesting a deer, the hunter must tag the deer with the appropriate carcass tag and document the kill on the deer tag license. Within seven days the hunter must validate the kill. Hunters harvesting deer on DMAP lands can validate deer per instructions by LDWF using the DMAP harvest data sheets.

Hunters on WMAS can validate deer during mandatory deer check hunts, when deer check stations are in operation. Hunters may validate deer by calling the validation toll free number or using the validation website.

2. 2014-2015 Season. One antlered and one antlerless deer per day (when legal) except on Kisatchie National Forest, Indian Bayou Area owned by the US Army Corps of Engineers, and some federal refuges (check refuge regulations) where the daily limit shall be one deer per day. Season limit is six, not to exceed three antlered deer or four antlerless deer (all segments included) by all methods of take, except antlerless harvest on property enrolled in DMAP does not count in the season or daily bag limit for hunters. Antlerless deer may be harvested during entire deer season on private lands (all seasons included) except as specified in deer hunting schedule. Consult deer hunting schedule in the regulations pamphlet for either-sex days for these parishes and areas. This does not apply to public lands (WMAs, national forest lands, and federal refuges) which will have specified either-sex days.

3. 2015-2016 Season. One antlered and one antlerless deer per day (when legal) except on Kisatchie National Forest, Indian Bayou area owned by the US Army Corps of Engineers, and some federal refuges (check refuge regulations) where the daily limit shall be one deer per day. Season limit is six, not to exceed three antlered deer or four antlerless deer (all segments included) by all methods of take, except antlerless harvest on property enrolled in DMAP does not count in the season or daily bag limit for hunters. Antlerless deer may be harvested during entire deer season on private lands (all seasons included) except as specified in deer hunting schedule. Consult deer hunting schedule in the regulations pamphlet for either-sex days for these parishes and areas. This does not apply to public lands (WMAs, national forest lands, and federal refuges) which will have specified either-sex days.

4. A legal antlered deer is a deer with at least one visible antler of hardened bony material, broken naturally through the skin, except on Alexander State Forest WMA, Bayou Macon WMA, Big Lake WMA, Bodcau WMA, Boeuf WMA, Buckhorn WMA, Dewey Wills WMA, Jackson-Bienville WMA, Loggy Bayou WMA, Ouachita WMA, Pearl River WMA, Pomme de Terre WMA, Red River WMA, Russell Sage WMA, Sicily Island Hills WMA, Spring Bayou WMA, Three Rivers WMA and Union WMA during the experimental quality deer season (See the specific WMA schedule for more information.). A legal antlered deer during the experimental quality deer season shall be defined as a deer with at least four points on one side. To be counted as a point, a projection must be at least one inch long and its length must exceed the length of its base. The beam tip is counted as a point but not measured as a point. Killing antlerless deer is prohibited except where specifically allowed.

5. Either-sex deer is defined as male or female deer. Taking or possessing spotted fawns is prohibited.

6. It is illegal to hunt or shoot deer with firearms smaller than .22 caliber centerfire or a shotgun loaded with anything other than buckshot or rifled slug. Handguns may be used for hunting.

7. Taking game quadrupeds or birds from aircraft, participating in the taking of deer with the aid of aircraft or

from automobiles or other moving land vehicles is prohibited.

8. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs or moving vehicles, including ATVs, when or where a still hunting season or area is designated, is prohibited and will be strictly enforced. The training of deer dogs is prohibited in all still hunting areas during the gun still hunting and archery only season. Deer hunting with dogs is allowed in all other areas having open deer seasons that are not specifically designated as still hunting only. A leashed dog may be used to trail and retrieve wounded or unrecovered deer during legal hunting hours. Any dog used to trail or retrieve wounded or unrecovered deer shall have on a collar with owner's name, address, and phone number. In addition, a dog may be used to trail and retrieve unrecovered deer after legal hunting hours; however, no person accompanying a dog after legal hunting hours may carry a firearm of any sort.

9. It is illegal to take deer while deer are swimming or while the hunter is in a boat with motor attached in operating position; however the restriction in this paragraph shall not apply to any person who has lost one or more limbs.

10. Areas not specifically designated as open are closed.

11. Primitive Firearms Season: still hunt only. Specific WMAs will also be open, check WMA schedule for specific details. Primitive firearms license is required for resident hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either-sex deer may be taken in all deer hunting areas except as specified on public areas. It is unlawful to carry a gun, other than a primitive firearm, including those powered by air or other means, while hunting during the special primitive firearms segment. Except, it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot only).

a. Legal Firearms for Primitive Firearms Season

i. Rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle, use black powder or approved substitute only, take ball, shot, or bullet projectile only, including sabot bullets, and may be fitted with magnified scopes.

ii. Single shot, breech loading rifles, .35 caliber or larger, having an exposed hammer, that use metallic cartridges loaded either with black powder or modern smokeless powder, and may be fitted with magnified scopes.

iii. Single shot, breech loading shotguns, 10 gauge or smaller, having an exposed hammer, loaded with buckshot or rifled slug.

iv. Youth deer season on private land (either-sex): youths 17 or younger may hunt deer with any legal weapon during the primitive firearms season in each deer hunting area.

12. Archery Season. Archery license required for resident bow hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either-sex deer may be taken in all areas open for deer hunting except when a bucks only season is in progress for gun hunting, and except in area 6 from October 1-15. Archer's must conform to the bucks only regulations. Either-sex deer may be taken on WMAs at any time during archery season

except when bucks only seasons are in progress on the respective WMA. Also, archery season restricted on Atchafalaya Delta, Salvador, Lake Boeuf, and Pointe-aux-Chenes WMAs (see schedule).

a. Bow and Arrow Regulations. Traditional bow, compound bow and crossbow or any bow drawn, held or released by mechanical means will be a legal means of take for all properly licensed hunters. Hunting arrows for deer must have well-sharpened broadhead points. Bow and arrow fishermen must have a sport fishing license and may not carry any arrows with broadhead points unless a big game season is in progress.

i. It is unlawful:

(a). to carry a gun, including those powered by air or other means, while hunting with bow and arrow during the special bow and arrow deer season except it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot) only;

(b). to have in possession or use any poisoned or drugged arrow or arrows with explosive tips;

(c). to hunt deer with a bow having a pull less than 30 pounds;

(d). to hunt with a bow or crossbow fitted with an infrared, laser sight, electrically-operated sight or device specifically designed to enhance vision at night (does not include non-projecting red dot sights) [R.S. 56:116.1.B.(4)].

13. Hunter Orange. Any person hunting any wildlife during the open gun deer hunting season and possessing buckshot, slugs, a primitive firearm, or a centerfire rifle shall display on his head, chest and/or back a total of not less than 400 square inches of "hunter orange". Persons hunting on privately owned, legally posted land may wear a hunter orange cap or hat in lieu of the 400 square inches. These provisions shall not apply to persons hunting deer from elevated stands on property that is privately owned and legally posted or to archery deer hunters hunting on legally posted lands where firearm hunting is not allowed by agreement of the landowner or lessee. However, anyone hunting deer on such lands where hunting with firearms is allowed shall be required to display the 400 square inches or a hunter orange cap or hat while walking to and from elevated stands. While a person is hunting from an elevated stand, the 400 square inches or cap or hat may be concealed. Warning: deer hunters are cautioned to watch for persons hunting other game or engaged in activities not requiring "hunter orange".

14. Physically Challenged Season on Private Lands (Either-Sex): 1st Saturday of October for 2 days. Restricted to individuals with physically challenged hunter permit.

15. Youth Season on Private Lands (Either-Sex). Areas 1, 4, 5, 6 and 9: last Saturday of October for seven days; Area 2: 2nd Saturday of October for seven days; and Areas 3, 7, 8 and 10: 4th Saturday of September for seven days. Youths 17 or younger only. Youths must be accompanied by an adult 18 years of age or older. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. 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. Youths may possess only one firearm while hunting. Legal firearms are the same as described for

deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. Except properly licensed youths 16-17 years old and youths 12 years old or older who have successfully completed a hunter safety course may hunt without a supervising adult. In addition,

#### F. Description of Areas, 2013-2015

##### 1. Area 1

a. All of the following parishes are open: Concordia, East Carroll, Franklin, Madison, Richland, Tensas.

b. Portions of the following parishes are also open:

i. Catahoula—east of Boeuf River to Ouachita River, east of Ouachita River from its confluence with Boeuf River to LA 8, south and east of LA 8 southwesterly to parish line;

ii. Grant—east of US 165 and south of LA 8;

iii. LaSalle—south of a line beginning where Little River enters Catahoula Lake following the center of the lake eastward to Old River then to US 84, east of US 84 northward to LA 8, south of LA 8 eastward to parish line;

iv. Ouachita—south of US 80 and east of Ouachita River, east of LA 139 from Sicard to junction of LA 134, south of LA 134 to Morehouse line at Wham Bake;

v. Rapides—east of US 165 and north of Red River.

c. Still hunting only in all or portions of the following parishes:

i. Catahoula—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;

ii. East Carroll—all;

iii. Franklin—all;

iv. Morehouse—east of US 165 (from Arkansas state line) to Bonita, south and east of LA 140 to junction of LA 830-4 (Cooper Lake Road), east of LA 830-4 to Bastrop, east of LA 139 at Bastrop to junction of LA 593, east and north of LA 593 to Collinston, east of LA 138 to junction of LA 134 and south of LA 134 to Ouachita line at Wham Brake;

v. Ouachita—south of US 80 and east of Ouachita River, east of LA 139 from Sicard to junction of LA 134, south of LA 134 to Morehouse line at Wham Bake.

vi. Richland—all.

##### 2. Area 2

a. All of the following parishes are open:

i. Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Jackson, Lincoln, Natchitoches, Red River, Sabine, Union, Webster, Winn;

ii. except: Kisatchie National Forest which has special regulations. Caney, Corney, Middlefork tracts of Kisatchie have the same regulations as area 2, except still hunting only for deer.

b. Portions of the following parishes are also open:

i. Allen—north of US 190 from parish line westward to Kinder, east of US 165 from Kinder northward to LA 10 at Oakdale, north of LA 10 from Oakdale westward to the parish line;

ii. Avoyelles—that portion west of I-49;

iii. Catahoula—west of Boeuf River to Ouachita River, west of Ouachita River from its confluence with

Boeuf River to LA 8, north and west of LA 8 southwesterly to parish line;

iv. Evangeline—all except the following portions: east of I-49 to junction of LA 29, east of LA 29 south of I-49 to Ville Platte, and north of US 167 east of Ville Platte;

v. Grant—all except that portion south of LA 8 and east of US 165;

vi. Jefferson Davis—north of US 190;

vii. LaSalle—north of a line beginning where Little River enters Catahoula Lake, following the center of the lake eastward to Old River then to US 84, west of US 84 northward to LA 8, north of LA 8 eastward to parish line;

viii. Morehouse—west of US 165 (from Arkansas state line) to Bonita, north and west of LA 140 to junction of LA 830-4 (Cooper Lake Road), west of LA 830-4 to Bastrop, west of LA 139 to junction of LA 593, west and south of LA 593 to Collinston, west of LA 138 to junction of LA 134 and north of LA 134 to Ouachita Parish line at Wham Brake;

ix. Ouachita—all except south of US 80 and east of Ouachita River, east of LA 139 from Sicard to junction of LA 134, south of LA 134 to Morehouse Parish line at Wham Brake;

x. Rapides—all except north of Red River and east of US 165, south of LA 465 to junction of LA 121, west of LA 121 and LA 112 to Union Hill, and north of LA 113 from Union Hill to Vernon Parish line, and that portion south of Alexandria between Red River and US 167 to junction of US 167 with I-49 at Turkey Creek exit, east of I-49 southward to parish line;

xi. Vernon—north of LA 10 from the parish line westward to LA 113, south of LA 113 eastward to parish line. Also the portion north of LA 465 west of LA 117 from Kurthwood to Leesville and north of LA 8 from Leesville to Texas state line.

c. Still hunting only in all or portions of the following parishes:

i. Claiborne and Webster—Caney, Corney and Middlefork tracts of Kisatchie National Forest (see Kisatchie National Forest regulations);

ii. Ouachita—east of Ouachita River;

iii. Rapides—west of US 167 from Alexandria southward to I-49 at Turkey Creek exit, west of I-49 southward to parish line, north of parish line westward to US 165, east of US 165 northward to US 167 at Alexandria. North of LA 465 from Vernon Parish line to LA 121, west of LA 121 to I-49, west of I-49 to LA 8, south and east of LA 8 to LA 118 (Mora Road), south and west of LA 118 to Natchitoches Parish line;

iv. Vernon—east of Mora-Hutton Road from Natchitoches Parish line to Hillman Loop Road, south and east of Hillman Loop Road to Comrade Road, south of Comrade Road to LA 465, east and north of LA 465 to Rapides Parish line.

### 3. Area 3

a. Portions of the following parishes are open:

i. Acadia—north of I-10;

ii. Allen—south of US 190 and west of LA 113;

iii. Beauregard—west of LA 113 and east of LA 27 from the parish line northward to DeRidder and north of US 190 westward from DeRidder to Texas state line;

iv. Calcasieu—east of LA 27 from Sulphur northward to the parish line, and north of I-10;

v. Jefferson Davis—north of I-10 and south of US 190;

vi. Lafayette—west of I-49 and north of I-10;

vii. Rapides—south of LA 465 to junction of LA 121, west of LA 121 and LA 112 to Union Hill and north of LA 113 from Union Hill to Vernon Parish line;

viii. St. Landry—west of US 167;

ix. Vernon—west and north of LA 113, south of LA 465, east of LA 117 from Kurthwood to Leesville, and south of LA 8 from Leesville to Texas state line.

### 4. Area 4

a. All of St. Helena and Washington Parishes are open.

b. Portions of the following parishes are also open:

i. East Baton Rouge—all except that portion north of I-110 and west of US 61;

ii. East Feliciana—east of US 61;

iii. West Feliciana—east of US 61;

iv. Livingston—north of I-12;

v. Tangipahoa—north of I-12;

vi. St. Tammany—all except that portion south of I-12, west of LA 1077 to LA 22, south of LA 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.

c. Still hunting only in all or portions of the following parishes:

i. East Feliciana and East Baton Rouge—east of Thompson Creek from the Mississippi state line to LA 10, north of LA 10 from Thompson Creek to LA 67 at Clinton, west of LA 67 from Clinton to Mississippi state line, south of Mississippi state line from LA 67 to Thompson Creek. Also that portion of East Baton Rouge Parish east of LA 67 from LA 64 north to Parish Line, south of Parish Line from LA 64 eastward to Amite River, west of Amite River southward to LA 64, north of LA 64 to LA 37 at Magnolia, east of LA 37 northward to LA 64 at Indian Mound, north of LA 64 from Indian Mound to LA 67. Also, that portion of East Feliciana Parish east of LA 67 from parish line north to LA 959, south of LA 959 east to LA 63, west of LA 63 to Amite River, west of Amite River southward to parish line, north of parish line westward to LA 67;

ii. St. Helena—north of LA 16 from Tickfaw River at Montpelier westward to LA 449, east and south of LA 449 from LA 16 at Pine Grove northward to Rohner Road, south of Rohner Road to LA 1045, south of LA 1045 to the Tickfaw River, west of the Tickfaw River from LA 1045 southward to LA 16 at Montpelier;

iii. Tangipahoa—that portion of Tangipahoa Parish north of LA 10 from the Tchefuncte River to LA 1061 at Wilmer, east of LA 1061 to LA 440 at Bolivar, south of LA 440 to the Tchefuncte River, west of the Tchefuncte River from LA 440 southward to LA 10;

iv. Washington and St. Tammany—east of LA 21 from the Mississippi state line southward to the Bogue Chitto River, north of the Bogue Chitto River from LA 21 eastward to the Pearl River Navigation Canal, east of the Pearl River Navigation Canal southward to the West Pearl River, north of the West Pearl River from the Pearl River Navigation Canal to Holmes Bayou, west of Holmes Bayou



from the West Pearl River northward to the Pearl River, west of the Pearl River from Holmes Bayou northward to the Mississippi state line, south of the Mississippi state line from the Pearl River westward to LA 21. Also, that portion of Washington Parish west of LA 25 from the Mississippi state line southward to the Bogue Chitto River, then west of the Bogue Chitto River to its junction with the St. Tammany Parish line, north of the St. Tammany Parish line to the Tangipahoa Parish line, east of the Tangipahoa Parish line to the Mississippi state line, south of the Mississippi state line to its junction with LA 25;

v. West Feliciana—west of Thompson Creek to Illinois-Central Railroad, north of Illinois-Central Railroad to Parish Road #7, east of Parish Road #7 to the junction of US 61 and LA 966, east of LA 966 from US 61 to Chaney Creek, south of Chaney Creek to Thompson Creek.

5. Area 5

a. All of West Carroll Parish is open.

6. Area 6

a. All of Point Coupee Parish is open.

b. Portions of the following parishes are also open:

i. Avoyelles—all except that portion west of I-49;

ii. Evangeline—that portion east of I-49 to junction of LA 29, east of LA 29 south of I-49 to Ville Platte and north of US 167 east of Ville Platte;

iii. Iberville—all north of I-10, and that portion south of I-10 at the Atchafalaya Basin protection levee south to Upper Grand River, then north of Upper Grand River to the Intracoastal Canal at Jack Miller, then west of the Intracoastal Canal northward to Bayou Plaquemine, then north of Bayou Plaquemine to the Mississippi River.

iv. Lafayette—north of I-10 and east of I-49;

v. Rapides—south of Alexandria between Red River and US 167 to the junction of US 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line;

vi. St. Landry—east of US 167;

vii. St. Martin—north of I-10;

viii. East Baton Rouge—north of I-110 and west of US 61;

ix. West Feliciana—west of US 61;

x. East Feliciana—west of US 61;

xi. West Baton Rouge—north I-10.

c. Still hunting only in all or portions of the following parishes:

i. Avoyelles—north of LA 1 from Simmesport westward to LA 115 at Marksville, east of LA 115 from Marksville northward to the Red River near Moncla, south and west of the Red River to LA 1 at Simmesport;

ii. Rapides—south of Alexandria between Red River and US 167 to the junction of US 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line;

iii. West Feliciana—west of Thompson Creek to Illinois-Central Railroad, north of Illinois-Central Railroad to Parish Road #7, east of Parish Road #7 to the junction of US 61 and LA 966, east of LA 966 from US 61 to Chaney Creek, south of Chaney Creek to Thompson Creek.

7. Area 7

a. Portions of the following parishes are open:

i. Iberia—south of LA 14 and west of US 90.

ii. St. Mary—all except that portion north of US 90 from Iberia Parish line eastward to Wax Lake Outlet, east of Wax Lake Outlet southward to Intracoastal Waterway, north of Intracoastal Waterway eastward to the Atchafalaya River, east of the Atchafalaya River.

8. Area 8

a. Portions of the following parishes are open:

i. Allen—that portion east of LA 113 from the parish line to US 190, north of US 190 eastward to Kinder, west of US 165 northward to LA 10 at Oakdale and south of LA 10 from Oakdale westward to parish line;

ii. Beauregard—that portion east of LA 113. Also that portion west of LA 27 from parish line northward to DeRidder, south of US 190 from DeRidder to Texas state line;

iii. Calcasieu—that portion west of LA 27 from the parish line southward to Sulphur and north of I-10 from Sulphur to the Texas state line;

iv. Vernon—that portion west of LA 113 from the parish line northward to Pitkin and south of LA 10 from Pitkin southward to the parish line.

9. Area 9

a. All of the following parishes are open: Ascension, Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John, Terrebonne.

b. Portions of the following parishes are open:

i. Iberia—east of US 90;

ii. Iberville—south of I-10, and west of the Atchafalaya Basin Protection levee, to Upper Grand River, then South of Upper Grand River to the Intracoastal Canal at Jack Miller, then east of the Intracoastal Canal to Bayou Plaquemines, then south of Bayou Plaquemines to the Mississippi River;

iii. Lafayette—south of I-10 and east of US 90;

iv. Livingston—south of I-12;

v. St. Martin—south of I-10;

vi. St. Mary—north of US 90 from Iberia Parish line eastward to Wax Lake Outlet, east of Wax Lake Outlet southward to Intracoastal Waterway, north of Intracoastal Waterway eastward to the Atchafalaya River, east of the Atchafalaya River;

vii. St. Tammany—that portion south of I-12, west of LA 1077 to LA 22, south of LA 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain;

viii. Tangipahoa—south of I-12;

ix. high water benchmark closure. Deer hunting in those portions of Iberia, Iberville, St. Martin, and St. Mary parishes south of I-10, west of the East Guide Levee, east of the West Guide Levee, and north of US 90 will be closed when the river stage of the Atchafalaya River reaches 18 feet at Butte LaRose.

c. Still hunting only in all or portions of the following parishes:

i. Iberville—east of the Mississippi River;

ii. Plaquemines—east of the Mississippi River;

iii. St. Bernard—all of the parish shall be still hunting only except that portion of St. Bernard known as the spoil area between the MRGO on the east and Access Canal on the west, south of Bayou Bienvenue and north of Bayou la Loutre;

iv. St. John—south of Pass Manchac from Lake Pontchartrain to US 51, east of US 51 from Pass Manchac to LA 638 (Frenier Beach Road). North of LA 638 from US 51 to Lake Pontchartrain, west of Lake Pontchartrain from LA 638 to Pass Manchac.

10. Area 10

a. All of Cameron and Vermillion Parishes are open.

b. Portions of the following parishes are open:

- i. Acadia—south of I-10;
- ii. Calcasieu—south of I-10;
- iii. Iberia—west of US 90 and north of LA 14;
- iv. Jefferson Davis—south of I-10;
- v. Lafayette—south of I-10 and west of Hwy 90.

G. WMA Regulations

1. General

a. The following rules and regulations concerning the 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 individual to citation and/or expulsion from the management area.

b. Citizens are cautioned that by entering a WMA managed by the LDWF they may be subjecting themselves and/or their vehicles to game and/or license checks, inspections and searches.

c. WMA seasons may be altered or closed anytime by the LDWF secretary in emergency situations (floods, fire or other critical circumstances).

d. Hunters may enter the WMA no earlier than 4 a.m. unless otherwise specified. Hunters must check out and exit the WMA no later than two hours after sunset, or as otherwise specified.

e. Lands within WMA boundaries will have the same seasons and regulations pertaining to baiting and use of dogs as the WMA within which the lands are enclosed; however, with respect to private lands enclosed within a WMA, the owner or lessee may elect to hunt according to the regular season dates and hunting regulations applicable to the geographic area in which the lands are located, provided that the lands are first enrolled in DMAP. Interested parties should contact the nearest LDWF region office for additional information.

f. Dumping garbage or trash on WMAs is prohibited. Garbage and trash may be properly disposed of in designated locations if provided.

g. Disorderly conduct or hunting under influence of alcoholic beverages, chemicals and other similar substances is prohibited.

h. Damage to or removal of trees, shrubs, hard mast (including but not limited acorn and pecans), wild plants, non-game wildlife (including reptiles and amphibians) or any species of butterflies, skippers or moths is prohibited without a permit from the LDWF. Gathering and/or removal of soft fruits, mushrooms and berries shall be limited to five gallons per person per day.

i. Burning of marshes is prohibited. Hunting actively burning marsh prohibited.

j. Nature Trails. Trails shall be limited to pedestrians only. No vehicles, ATVs, horses, mules, bicycles,

etc. allowed. Removal of vegetation (standing or down) or other natural material prohibited.

k. Deer seasons are for legal buck deer unless otherwise specified.

1. Small game, when listed under the WMA regulations may include both resident game animals and game birds as well as migratory species of birds.

m. Oysters may not be harvested from any WMA, except that oysters may be harvested from private oyster leases and state seed grounds located within a WMA, when authorized by the Wildlife and Fisheries Commission and upon approval by the Department of Health and Hospitals.

n. Free ranging livestock prohibited.

2. Permits

a. A WMA hunting permit is required for persons ages 18 through 59 to hunt on WMAs.

b. Self-Clearing Permits. A self-clearing permit is required for all activities (hunting, fishing, hiking, bird watching, sightseeing, etc.) on WMAs unless otherwise specified. The self-clearing permit will consist of two portions: check in, check out. On WMAs where self-clearing permits are required, all persons must obtain a WMA self-clearing permit from an information station. The check in portion must be completed and put in a permit box before each day's activity on the day of the activity (except if hunting from a private camp adjacent to the WMA being hunted or if camping on the WMA, users need only to check in once during any 72 hour period). Users may check-in one day in advance of use. The check-out portion must be carried by each person while on the WMA and must be completed and put in a permit box immediately upon exiting the WMA or within 72 hours after checking in if hunting from a private camp adjacent to the WMA being hunted or if camping on the WMA. No permit is required of fishers and boaters who do not travel on a WMA road and/or launch on the WMA as long as they do not get out of the boat and onto the WMA. When mandatory deer checks are specified on WMAs, hunters must check deer at a check station. (Self-clearing permits are not required for persons only traveling through the WMA provided that the most direct route is taken and no activities or stops take place.)

c. Persons using WMAs or other LDWF administered lands for any purpose must possess one of the following: a valid wild Louisiana stamp, a valid Louisiana fishing license, or a valid Louisiana hunting license. Persons younger than 16 or older than 60 years of age are exempt from this requirement. Also a self-clearing WMA permit, detailed above, may be required (available at most entrances to each WMA). Check individual WMA listings for exceptions.

3. Special Seasons

a. Youth Deer Hunt. Youths 17 or younger only. Youths must be accompanied by an adult 18 years of age or older. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. 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. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact

with the youth at all times, except properly licensed youths and youths 12 years old or older who have successfully completed a hunter safety course may hunt without a supervising adult. Contact the appropriate region office for maps of specific hunting areas. Either-sex deer may be taken on WMAs with youth hunts. Consult the regulations pamphlet for WMAs offering youth hunts.

NOTE: Some hunts may be by pre-application lottery.

b. Youth Squirrel Hunt (on selected WMAs only). Only youths 17 or younger may hunt. Squirrel, rabbit, raccoon, hogs and opossum may be taken. No dogs allowed. All other seasons will remain open to other hunters. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. Youths 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. Youths may possess only one firearm while hunting. The supervising adult shall maintain visual and voice contact with the youth at all times, except properly licensed youths and youths 12 years old or older who have successfully completed a hunter safety course may hunt without a supervising adult. Self-clearing permits are required. Consult the regulations pamphlet for WMAs offering youth squirrel hunts.

c. Youth Mourning Dove Hunt. A youth mourning dove hunt will be conducted on specific WMAs and will follow the same regulations provided for youth deer hunts on the first or second weekend of the mourning dove season (Saturday and/or Sunday only). Consult the regulations pamphlet for WMAs offering youth mourning dove hunts.

d. Physically Challenged Season. An either-sex deer season will be held for hunters possessing a physically challenged hunter permit on WMAs during the dates specified under the individual WMA. Participants must possess a physically challenged hunter permit. Contact region office for permit application and map of specific hunting area. Consult the regulations pamphlet for WMAs offering physically challenged seasons.

e. Turkey Lottery Hunts. Hunts restricted to those persons selected by lottery. Consult the regulations pamphlet for deadlines. All turkeys must be reported at self-clearing station. Contact region offices for more details. Consult separate turkey hunting regulations pamphlet for more details.

f. Waterfowl Lottery Hunts. Hunts restricted to those persons selected by lottery. Consult the regulations pamphlet for deadline. Consult regulations pamphlet for individual WMA schedules or contact any Wildlife Division Office for more details.

g. Mourning Dove Lottery Hunts. Consult regulations pamphlet for individual WMA schedules or contact any Wildlife Division office for more details.

h. Trapping. Consult annual trapping regulations for specific dates. All traps must be run daily. Traps with teeth are illegal. Hunter orange required when a deer gun season is in progress.

i. Raccoon Hunting. A licensed hunter may take raccoon or opossum, one per person per day, during daylight hours only, during the open rabbit season on WMAs.

*Nighttime Experimental*—all nighttime raccoon hunting where allowed is with dogs only. There is no bag limit. Self-clearing permit required.

j. Sport Fishing. Sport fishing, crawfishing and frogging are allowed on WMAs when in compliance with current laws and regulations except as otherwise specified under individual WMA listings.

k. Small Game Emphasis Areas. Specially designated areas on certain WMAs will allow small game hunting with dogs, confined to that specific area when the remainder of the WMA is restricted to still hunt only. Additionally, off season training of rabbit dogs may be allowed on some the small game emphasis areas. Small game emphasis areas are offered on Big Colewa Bayou, Bayou Macon, Bayou Pierre, Boeuf, Dewey W. Wills, Marsh Bayou, Ouachita, Richard K. Yancey, Sandy Hollow, Sherburne, and Walnut Hill WMAs.

#### 4. Firearms

a. Firearms having live ammunition in the chamber, magazine, cylinder or clip when attached to firearms and crossbows cocked in the ready position are not allowed in or on vehicles, boats under power, motorcycles, ATVs, UTVs, ATCs or in camping areas on WMAs. Firearms may not be carried on any area before or after permitted hours except in authorized camping areas and except as may be permitted for authorized trappers.

b. Firearms and bows and arrows are not allowed on WMAs during closed seasons except on designated shooting ranges or as permitted for trapping and except as allowed pursuant to R.S. 56:109(C) and R.S. 56:1691. Bows and broadhead arrows are not allowed on WMAs except during deer archery season, turkey season or as permitted for bowfishing. Active and retired law enforcement officers in compliance with POST requirements, federal law enforcement officers and holders of Louisiana concealed handgun permits or permit holders from a reciprocal state who are in compliance with all other state and federal firearms regulations may possess firearms on WMAs provided these firearms are not used for any hunting purpose.

c. Encased or broken down firearms and any game harvested may be transported through the areas by the most direct route provided that no other route exists except as specified under WMA listing.

d. Loaded firearms are not allowed near WMA check stations.

e. Centerfire rifles and handguns larger than .22 caliber rimfire, shotgun slugs or shot larger than BB lead or F steel shot cannot be carried onto any WMA except during modern and primitive firearm deer seasons and during special shotgun season for feral hogs on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador WMAs (consult regulations pamphlet for specific WMA regulations).

f. Target shooting and other forms of practice shooting are prohibited on WMAs except as otherwise specified.

g. Discharging of firearms on or across, or hunting from designated roads, ATV/UTV trails, nature trails, hiking trails, and their rights-of-way is prohibited during the modern firearms and primitive firearms deer seasons.

## 5. Methods of Taking Game

a. Moving deer or hogs on a WMA with organized drives and standers, drivers or making use of noises or noise-making devices is prohibited.

b. On WMAs the daily limit shall be one antlered deer and one antlerless deer (when legal) per day, not to exceed three antlered deer or four antlerless deer per season (all segments included) by all methods of take.

c. Baiting, or hunting over bait is prohibited on all WMAs. Bait is defined as any substance used to attract game via ingestion.

d. During mandatory deer check hunts, deer may not be skinned nor have any external body parts removed including but not limited to feet, legs, tail, head or ears before being checked out.

e. Deer hunting on WMAs is restricted to still hunting only.

f. Construction of and/or hunting from permanent tree stands or permanent blinds on WMAs is prohibited. Any permanent stand or permanent blind will be removed and destroyed. A permanent blind is any blind using non-natural materials or having a frame which is not dismantled within two hours after the end of legal shooting time each day. Blinds with frames of wood, plastic, metal poles, wire, mesh, webbing or other materials may be used but must be removed from the WMA within two hours after the end of legal shooting time each day. Blinds made solely of natural vegetation and not held together by nails or other metallic fasteners may be left in place but cannot be used to reserve hunting locations. Natural vegetation (including any material used as corner posts) is defined as natural branches that are 2 inches or less in diameter. All decoys must be removed from the WMA daily. Permanent tree stands are any stands that use nails, screws, spikes, etc., to attach to trees and are strictly prohibited. Deer stands may not be left on WMAs unless the stands are removed from trees, placed flat on the ground, and left in a non-hunting position (a non-hunting position is one in which a hunter could not hunt from the stand in its present position). Also, all stands left must be legibly tagged with the user's name, address, phone number and LDWF i.d. number. No stand may be left on any WMA prior to the day before deer season opens on that WMA and all stands must be removed from the WMA within one day after the close of deer hunting on that WMA. Free standing blinds must be disassembled when not in use. Stands left will not reserve hunting sites for the owner or user. All portable stands, blinds, tripods, etc., found unattended in a hunting position, not placed flat on the ground, or untagged will be confiscated and disposed of by the LDWF. LDWF is not responsible for unattended stands left on an area.

g. Physically Challenged Wheelchair Confined Deer and Waterfowl Hunting Areas: special deer and waterfowl hunting areas, blinds and stands identified with LDWF logos, have been established for physically challenged hunter permit (PCHP) wheelchair confined hunters on WMAs. Hunters must obtain a PCHP permit and are required to make reservations to use blinds and stands. PCHP wheelchair hunting areas are available on Alexander State Forest, Big Colewa Bayou, Buckhorn, Clear Creek, Elbow Slough, Floy McElroy, Jackson-Bienville, Ouachita, Sandy Hollow, and Sherburne WMAs. Check WMA hunting

schedules or call the LDWF field offices in Pineville, Lake Charles, Opelousas, Minden, Monroe or Hammond for information.

h. Hunting from utility poles and structures, and oil and gas exploration facilities or platforms is prohibited.

i. It is illegal to save or reserve hunting locations using permanent stands or blinds. Stands or blinds attached to trees with screws, nails, spikes, etc. are illegal.

j. Tree climbing spurs, spikes or screw-in steps are prohibited.

k. Unattended decoys will be confiscated and forfeited to the LDWF and disposed of by the LDWF. This action is necessary to prevent preemption of hunting space.

l. Spot lighting (shining) from vehicles is prohibited on all WMAs.

m. Horses and mules may be ridden on WMAs except where prohibited and except during gun seasons for deer and turkey. Riding is restricted to designated roads and trails depicted on WMA map, self-clearing permit is required. Organized trail rides prohibited except allowed by permit only on Camp Beauregard. Hunting and trapping from horses and mules is prohibited except for quail hunting or as otherwise specified. Horse-drawn conveyances are prohibited.

n. All hunters (including archers and small game hunters) except waterfowl hunters and mourning dove hunters on WMAs must display 400 square inches of "hunter orange" and wear a "hunter orange" cap during open gun season for deer. Quail and woodcock hunters and hunters participating in special dog seasons for rabbit, squirrel and feral hogs are required to wear a minimum of a "hunter orange" cap. All other hunters and archers (while on the ground) except waterfowl hunters also must wear a minimum of a "hunter orange" cap during special dog seasons for rabbit and squirrel and feral hogs. Also all persons afield during hunting seasons are encouraged to display "hunter orange". Hunters participating in special shotgun season for feral hogs on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador WMAs must display 400 square inches of hunter orange and wear a "hunter orange" cap.

o. Deer hunters hunting from concealed ground blinds must display a minimum of 400 square inches of "hunter orange" above or around their blinds which is visible from 360 degrees.

p. Archery Season for Deer. The archery season on WMAs is the same as outside and is open for either-sex deer except as otherwise specified on individual WMAs. Archery season restricted on Atchafalaya Delta and closed on certain WMAs when special seasons for youth or physically challenged hunts are in progress. Consult regulations pamphlet for specific seasons.

q. Either-sex deer may be taken on WMAs at any time during archery season except when bucks only seasons are in progress on the respective WMAs. Archers must abide by bucks only regulations and other restrictions when such seasons are in progress.

r. Primitive Firearms Season for Deer. Either-sex unless otherwise specified. See WMA deer schedule. Except youths 17 or younger may use any legal weapon during the primitive firearm season.

## 6. Camping

a. Camping on WMAs, including trailers, houseboats, recreational vehicles and tents, is allowed only in designated areas and for a period not to exceed 16 consecutive days, regardless if the camp is attended or unattended. At the end of the 16 day period, camps must be removed from the area for at least 48 hours. Camping area use limited exclusively to outdoor recreational activities.

b. Houseboats are prohibited from overnight mooring within WMAs except on stream banks adjacent to LDWF-owned designated camping areas. Overnight mooring of vessels that provide lodging for hire are prohibited on WMAs. Houseboats shall not impede navigation. On Atchafalaya Delta WMA houseboats may be moored by permit only in designated areas during hunting season. Permits are available by lottery annually or by three year lease through a bid program.

c. Discharge of human waste onto lands or waters of any WMA is strictly prohibited by state and federal law. In the event public restroom facilities are not available at a WMA, the following is required. Anyone camping on a WMA in a camper, trailer, or other unit (other than a houseboat or tent) shall have and shall utilize an operational disposal system attached to the unit. Tent campers shall have and shall utilize portable waste disposal units and shall remove all human waste from the WMA upon leaving. Houseboats moored on a WMA shall have a permit or letter of certification from the Health Unit (Department of Health and Hospitals) of the parish within which the WMA occurs verifying that it has an approved sewerage disposal system on board. Further, that system shall be utilized by occupants of the houseboats when on the WMA.

d. No refuse or garbage may be dumped from these boats.

e. Firearms may not be kept loaded or discharged in a camping area unless otherwise specified.

f. Campsites must be cleaned by occupants prior to leaving and all refuse placed in designated locations when provided or carried off by campers.

g. Trash must be contained at all times while camping.

h. No burning trash.

i. Glass containers prohibited on campgrounds.

j. Non-compliance with camping regulations will subject occupant to immediate expulsion and/or citation, including restitution for damages.

k. Swimming is prohibited within 100 yards of boat launching ramps.

## 7. Restricted Areas

a. For your safety, all oil and gas production facilities (wells, pumping stations and storage facilities) are off limits.

b. No unauthorized entry or unauthorized hunting in restricted areas, refuges, or limited use areas unless otherwise specified.

8. Dogs. All use of dogs on WMAs, except for bird hunting and duck hunting, is experimental as required by law. Having or using dogs on any WMA is prohibited except for nighttime experimental raccoon hunting, squirrel hunting, rabbit hunting, bird hunting, duck hunting, hog hunting and bird dog training when allowed; see individual WMA season listings for WMAs that allow dogs. Dogs

running at large are prohibited on WMAs. The owner or handler of said dogs shall be liable. Only recognizable breeds of bird dogs and retrievers are allowed for quail and migratory bird hunting. Only beagle hounds which do not exceed 15 inches at the front shoulders and which have recognizable characteristics of the breed may be used on WMAs having experimental rabbit seasons. A leashed dog may be used to trail and retrieve wounded or unrecovered deer during legal hunting hours. Any dog used to trail or retrieve wounded or unrecovered deer shall have on a collar with owner's name, address and phone number. In addition, a dog may be used to trail and retrieve unrecovered deer after legal hunting hours; however, no person accompanying a dog after legal hunting hours may carry a firearm of any sort.

## 9. Vehicles

a. An all-terrain vehicle is an off-road vehicle (not legal for highway use) with factory specifications not to exceed the following: weight-750 pounds, length-85", and width-48". ATV tires are restricted to those no larger than 26 x 12 with a maximum 1" lug height and a maximum allowable tire pressure of 12 psi. as indicated on the tire by the manufacturer. Use of all other ATVs or ATV tires are prohibited on a WMA.

b. *Utility type vehicle* (UTV, also *utility terrain vehicle*) is defined as any recreational motor vehicle other than an ATV, not legal for highway use, designed for and capable of travel over designated unpaved roads, traveling on four or more low-pressure tires, with factory specifications not to exceed the following: weight-1900 pounds, length-128" and width-68". UTV tires are restricted to those no larger than 26 x 12 with a maximum 1" lug height and a maximum allowable tire pressure of 12 psi. UTV's are commonly referred to as side by sides and may include golf carts.

c. Vehicles having wheels with a wheel-tire combination radius of 17 inches or more measured from the center of the hub and horizontal to ground are prohibited.

d. The testing, racing, speeding or unusual maneuvering of any type of vehicle is prohibited within WMAs due to property damages resulting in high maintenance costs, disturbance of wildlife and destruction of forest reproduction.

e. Tractor or implement tires with farm tread designs R1, R2 and R4 known commonly as spade or lug grip types are prohibited on all vehicles.

f. Airboats, aircraft, personal water craft, "mud crawling vessels" (commonly referred to as crawfish combines which use paddle wheels for locomotion) and hover craft are prohibited on all WMAs and refuges. Personal water craft are defined as a vessel which uses an inboard motor powering a water jet pump as its primary source of propulsion and is designed to be operated by a person sitting, standing or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel. Personal water craft allowed on designated areas of Alexander State Forest WMA. Except, type A personal water craft, model year 2003 and beyond, which are eight feet in length and greater, may be operated in the areas of Catahoula Lake, Manchac WMA, Maurepas Swamp WMA, Pearl River WMA and Pointe-aux-Chenes WMA from April 1 until the Monday of Labor Day weekend, from sunrise to sunset only.

No person shall operate such water craft at a speed greater than slow/no wake within 100 feet of an anchored or moored vessel, shoreline, dock, pier, persons engaged in angling or any other manually powered vessel.

g. Driving or parking vehicles on food or cover plots and strips is prohibited.

h. Blocking the entrance to roads and trails is prohibited.

i. Licensed motorized vehicles (LMVs) legal for highway use, including motorcycles, are restricted entirely to designated roads as indicated on WMA maps. UTVs are restricted to marked UTV trails only. ATVs are restricted to marked ATV trails only, except when WMA roads are closed to LMVs, ATVs may then use those roads when allowed. WMA maps are available at all LDWF Field offices. This restriction does not apply to bicycles.

NOTE: Only ATV and UTV trails marked with signs and/or paint, and depicted on WMA maps are open for use.

j. Use of special ATV trails for physically challenged persons is restricted to ATV physically challenged permittees. Physically challenged ATV permittees are restricted to physically challenged ATV trails or other ATV trails only as indicated on WMA maps or as marked by sign and/or paint. Persons 60 years of age and older, with proof of age, are also allowed to use special physically challenged trails and need not obtain a permit. However, these persons must abide by all rules in place for these trails. Physically challenged persons under the age of 60 must apply for and obtain a physically challenged hunter program permit from the LDWF.

k. Entrances to ATV trails will be marked with peach colored paint. Entrances to physically challenged-only ATV trails will be marked with blue colored paint. Entrances to ATV trails that are open all year long will be marked with purple paint. The end of all ATV trails will be marked by red paint. WMA maps serve only as a general guide to the route of most ATV trails, therefore all signage and paint marking as previously described will be used to determine compliance. Deviation from this will constitute a violation of WMA rules and regulations.

l. Roads and trails may be closed due to poor condition, construction or wet weather.

m. ATVs, and motorcycles cannot be left overnight on WMAs except on designated camping areas. ATVs are prohibited from two hours after sunset to 4 a.m., except raccoon hunters may use ATVs during nighttime raccoon take seasons only. ATVs are prohibited from March 1 through August 31 except squirrel hunters are allowed to use ATV trails during the spring squirrel season on the WMA and except certain trails may be open during this time period to provide access for fishing or other purposes and some ATV trails will be open all year long on certain WMAs.

n. Caution. Many LDWF-maintained roadways on WMAs are unimproved and substandard. A maximum 20 mph speed limit is recommended for all land vehicles using these roads, unless specific signage otherwise allows or restricts.

o. Hunters are allowed to retrieve their own downed deer and hogs with the aid of an ATV except on Thistlethwaite, Sherburne, Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes, Salvador, Timken, Lake Bouef, and Biloxi WMAs under the following conditions:

i. no firearms or archery equipment is in possession of the retrieval party or on the ATV;

ii. the retrieval party may consist of no more than one ATV and one helper;

iii. ATVs may not be used to locate or search for wounded game or for any other purpose than retrieval of deer and hogs once they have been legally harvested and located;

iv. UTV's may not be used to retrieve downed deer or hogs.

#### 10. Commercial Activities

a. Hunting Guides/Outfitters. No person or group may act as a hunting guide, outfitter or in any other capacity for which they are paid or promised to be paid directly or indirectly by any other individual or individuals for services rendered to any other person or persons hunting on any WMA, regardless of whether such payment is for guiding, outfitting, lodging or club memberships.

b. Except for licensed activities otherwise allowed by law, commercial activities are prohibited without a permit issued by the secretary of the LDWF.

c. Commercial Fishing. Permits are required of all commercial fishermen using Grassy Lake, Pomme de Terre and Spring Bayou WMAs. Gill nets or trammel nets and the take or possession of grass carp are prohibited on Spring Bayou WMA. Drag seines (except minnow and bait seines) are prohibited except experimental bait seines allowed on Dewey Wills WMA north of LA 28 in Diversion Canal. Commercial fishing is prohibited during regular waterfowl seasons on Grand Bay, Silver Lake and Lower Sunk Lake on Richard K. Yancey WMA. Commercial fishing is prohibited on Salvador/Timken, Ouachita and Pointe-aux-Chenes WMAs except commercial fishing on Pointe-aux-Chenes is allowed in Cut Off Canal and Wonder Lake. No commercial fishing activity shall impede navigation and no unattended vessels or barges will be allowed. Non-compliance with permit regulations will result in revocation of commercial fishing privileges for the period the license is issued and one year thereafter. Commercial fishing is allowed on Pass-a-Loutre and Atchafalaya Delta WMAs. See Pass-a-Loutre for additional commercial fishing regulations on mullet.

11. WMAs Basic Season Structure. For season dates, bag limits, shooting hours, special seasons and other information consult the annual regulations pamphlet for specific details.

12. Resident Small Game (squirrel, rabbit, quail, mourning dove, woodcock, snipe, rail and gallinule). Same as outside except closed during modern firearm either-sex deer seasons on certain WMAs (see WMA schedule) and except non-toxic shot must be used for rail, snipe, and gallinule. Consult regulations pamphlet. Unless otherwise specified under a specific WMA hunting schedule, the use of dogs for rabbit and squirrel hunting is prohibited. Spring squirrel season with or without dogs: 1st Saturday of May for 9 days. Consult regulations pamphlet for specific WMAs.

13. Waterfowl (ducks, geese and coots). Consult regulations pamphlet. Hunting after 2 p.m. prohibited on all WMAs except for Atchafalaya Delta, Attakapas, Biloxi, Lake Bouef, Pass-a-Loutre, Pointe-aux-Chenes, and Salvador/Timken WMAs. Consult specific WMA regulations for shooting hours on these WMAs.

14. Archery. Consult regulations pamphlet.

15. Hogs. Feral hogs may be taken during any open hunting season on WMAs by properly licensed and/or permitted hunters using only guns or bow and arrow legal for specified seasons in progress, except take of hogs is prohibited during nighttime raccoon seasons. Hogs may not be taken with the aid of dogs, except feral hogs may be taken with the aid of dogs during the month of February on Attakapas, Bodcau, Boeuf, Clear Creek, Dewey Wills, Jackson-Bienville, Little River, Pass a Loutre, Pearl River, Richard K. Yancey, Sabine, Sabine Island, and West Bay WMAs by self-clearing permit. All hogs must be killed immediately and may not be transported live under any conditions, except as allowed by permit from either the Minden, Lake Charles, Monroe, Pineville, Hammond or Opelousas offices, and hunters may use centerfire pistols in addition to using guns allowed for season in progress. Additionally, feral hogs may be taken on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador WMAs from February 16 through March 31 with shotguns loaded with buckshot or slugs or rimfire rifles no larger than .22 caliber. Additional requirements may be specified under individual WMAs, see regulation pamphlet.

a. Experimental trapping of feral hogs may be allowed by permit only on Boeuf, Clear Creek, Jackson-Bienville, Manchac, Pearl River, Richard K. Yancey, Sherburne, Thistlethwaite, and West Bay WMAs. No live take will be allowed. Permit available through pre-application lottery.

16. Outlaw Quadrupeds and Birds. Consult regulations pamphlet. During hunting seasons specified on WMAs, except the turkey and spring squirrel seasons, take of outlaw quadrupeds and birds, with or without the use of electronic calls, is allowed by properly licensed hunters and only with guns or bows and arrows legal for season in progress on WMA. However, crows, blackbirds, grackles and cowbirds may not be taken before September 1 or after January 1. As described in 50 CFR Part 21, non-toxic shot must be used for the take of crows, blackbirds, cowbirds and grackles under the special depredation order. In addition an annual report has to be submitted to the U.S. Fish and Wildlife Service for those that participate in the take of these species.

17. WMAs Hunting Schedule and Regulations

a. Alexander State Forest. From December through February all hunters must check daily with the Office of Forestry for scheduled burning activity. No hunting or other activity will be permitted in burn units the day of the burning. Call (318) 487-5172 or (318) 487-5058 for information on burning schedules. Vehicles restricted to paved and graveled roads. No parking on or fishing or swimming from bridges. No open fires except in recreation areas.

b. Atchafalaya Delta. Water control structures are not to be tampered with or altered by anyone other than employees of LDWF. All-terrain vehicles, motorcycles, horses, and mules prohibited except as permitted for authorized WMA trappers. Mudboats or air-cooled propulsion engines powered by more than 36 total horsepower are prohibited on the WMA. Limited access area, no internal combustion engines allowed from September through January. See WMA map for specific locations.

c. Bayou Macon. All night activities prohibited except as otherwise provided.

d. Big Colewa Bayou. All nighttime activities prohibited.

e. Biloxi. ATVs, UTVs, motorcycles, horses, and mules are prohibited. Mud Boats or air-cooled propulsion vessels powered by more than 36 total horsepower are prohibited on the WMA. All ATVs, UTVs, and motorcycles are prohibited.

f. Bodcau-towable watersports not allowed in Ivan Lake.

g. Camp Beauregard. Daily military clearance required for all recreational users. All game harvested must be reported on self-clearing checkout permit. Retriever training allowed on selected portions of the WMA. Contact the LDWF field office for specific details. No hunting in restricted areas.

h. Dewey W. Wills. Crawfish: 100 pounds per person per day.

i. Elbow Slough. Non-toxic shot (minimum size #6) only for all hunting. All motorized vehicles prohibited.

j. Elm Hall. No ATVs or UTVs allowed.

k. Fort Polk. Daily military clearance required to hunt or trap. New special regulations apply to ATV users.

l. Grassy Lake. Commercial Fishing: Permitted except on Smith Bay, Red River Bay and Grassy Lake proper on Saturday and Sunday and during waterfowl season. Permits available from area supervisor at Spring Bayou headquarters or Opelousas Field Office. No hunting in restricted area.

m. Joyce. Swamp walk: no loaded firearms or hunting allowed within 100 yards of walkways.

n. Lake Boeuf. Hunting allowed until 12 noon on all game, except deer may be hunted until one-half hour after sunset. All nighttime activities prohibited. All-terrain vehicles, motorcycles, horses, and mules are prohibited.

o. Lake Ramsay. Foot traffic only—all vehicles restricted to parish roads.

p. Manchac. Crabs: no crab traps allowed. Attended lift nets are allowed.

q. Maurepas Swamp. No loaded firearms or hunting allowed within 100 yards of nature trail.

r. Ouachita. Waterfowl refuge: north of LA 15 closed to all hunting, fishing and trapping and ATV/UTV use during duck season including early teal season, except hunting allowed during waterfowl falconry season. Crawfish: 100 pounds per person per day limit. Night crawfishing prohibited. No traps or nets left overnight. All nighttime activities prohibited except as otherwise provided.

s. Pass-a-Loutre. Commercial fishing: same as outside. Commercial mullet fishing open only in: South Pass, Pass-a-Loutre, North Pass, Southeast Pass, Northeast Pass, Dennis Pass, Johnson Pass, Loomis Pass, Cadro Pass, Wright Pass, Viveats Pass, Cognevich Pass, Blind Bay, Redfish Bay, Garden Island Bay, Northshore Bay, East Bay (west of barrier islands) and oil and gas canals as described on the LDWF Pass-a-Loutre WMA map. All ATVs, UTVs, motorcycles, horses, and mules prohibited on this area. Oyster harvesting is prohibited. Mudboats or air-cooled propulsion engines powered by more than 36 total horsepower are prohibited on the WMA. Limited access area, no internal combustion engines allowed from

September through January. See WMA map for specific locations.

t. Pearl River. All roads closed 8 p.m. to 4 a.m. to all vehicles. Old Hwy. 11 will be closed when river gauge at Pearl River, Louisiana, reaches 16.5 feet. All hunting except waterfowl will be closed when the river stage at Pearl River reaches 16.5 feet. No hunting in the vicinity of nature trail. Observe "No Hunting" signs. Rifle range open Friday, Saturday and Sunday with a fee. Type A personal water craft, model year 2003 and beyond, which are eight feet in length and greater, may be operated in the areas of Pearl River wildlife management area, south of U.S. 90 from April 1 until the Monday of Labor Day weekend, from sunrise to sunset only. No person shall operate such water craft at a speed greater than slow/no wake within 100 feet of an anchored or moored vessel, shoreline, dock, pier, persons engaged in angling or any other manually powered vessel. Crawfish: 100 pounds per person per day.

u. Peason Ridge. Daily military clearance required to hunt or trap. Special federal regulations apply to ATV users.

v. Pointe-aux-Chenes. Hunting until 12 noon on all game, except for mourning dove hunting and youth lottery deer hunt as specified in regulation pamphlet. Point Farm: gate will be open all weekends during month of February. No motorized vessels allowed in the drainage ditches. Recreational fishing: shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) maximum shall be allowed. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) may be taken for bait. All castnet contents shall be contained and bycatch returned to the water immediately. Oyster harvesting is prohibited. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the WMA and shall be limited to 100 pounds per person per day. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. All boats powered by engines having total horsepower above 25 h.p. are not allowed in the Grand Bayou, Montegut and Pointe-aux-Chenes water management units. Public is permitted to travel anytime through the WMA for access purposes only, in the waterways known as Grand Bayou, Humble Canal, Little Bayou Blue, Grand Bayou Blue, St. Louis Canal and Bayou Pointe-aux-Chenes unless authorized by the LDWF. All other motorized vehicles, horses and mules are prohibited unless authorized by the LDWF. Limited access area, no internal combustion engines allowed from September through January. See WMA map for specific locations. All ATVs, UTVs, motorcycles, horses, and mules prohibited.

w. Pomme de Terre. Commercial fishing: permitted Monday through Friday, except closed during duck season. Commercial fishing permits available from area supervisor, Opelousas field office or Spring Bayou headquarters. Sport fishing: same as outside except allowed only after 2 p.m.

only during waterfowl season. Crawfish: March 15 - July 31, recreational only, 100 lbs. per person per day.

x. Richard K. Yancey. Recreational Crawfishing: west of the Mississippi River Levee March 15-July 31. 100 pounds per person per day. No traps or nets left overnight. No motorized watercraft allowed.

y. Russell Sage. Transporting trash or garbage on WMA roads is prohibited. All nighttime activities prohibited except as otherwise provided. Internal combustion engines and craft limited to 10 h.p. rating or less in the Greentree Reservoirs.

NOTE: All season dates on Chauvin Tract (U.S. 165 North) same as outside, except still hunt only and except deer hunting restricted to archery only. All vehicles including ATVs prohibited.

z. Sabine Island. Sabine Island boundaries are Sabine River on the west, Cut-Off Bayou on the north, and Old River and Big Bayou on the south and east.

aa. Salvador/Timken. Hunting until 12 noon only for waterfowl. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) maximum shall be permitted. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) maximum may be taken for bait. All castnet contents shall be contained and bycatch returned to the water immediately. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none of the lines are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the WMA and shall be limited to 100 pounds per person per day. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. Use of mudboats powered by internal combustion engines with more than four cylinders is prohibited. Pulling boats over levees, dams or water control structures or any other activities which cause detriment to the integrity of levees, dams and water control structures is prohibited. Limited access area, no internal combustion engines allowed from September through January. See WMA map for specific locations.

bb. Sandy Hollow. Bird Dog Training: Consult regulation pamphlet. Wild birds only (use of pen-raised birds prohibited). Bird dog field trials: permit required from Hammond field office. Horseback riding: self-clearing permit required. Organized trail rides prohibited. Riding allowed only on designated roads and trails depicted on WMA map. Horses and mules are specifically prohibited during turkey and gun season for deer except as allowed for bird dog field trials. No horses and mules on green planted areas. Horse-drawn conveyances are prohibited.

cc. Sherburne. Crawfishing: recreational crawfishing only on the South Farm complexes. Crawfish harvest limited to 100 pounds per person per day. No traps or nets left overnight. No motorized watercraft allowed on farm complexes. Retriever training allowed on selected portions of the WMA. Contact the Opelousas field office for specific details. Vehicular traffic prohibited on Atchafalaya River levee within Sherburne WMA boundaries. Rifle and pistol



ranges open daily. Skeet ranges open by appointment only, contact Hunter Education Office. No trespassing in restricted area behind ranges.

Note: Atchafalaya National Wildlife Refuge, and U.S. Army Corps of Engineers land holdings adjacent to the Sherburne WMA will have the same rules and regulations as Sherburne WMA. No hunting or trapping in restricted area.

dd. Soda Lake. No motorized vehicles allowed. Bicycles allowed. All trapping and hunting prohibited except archery hunting for deer and falconry. Closed to fishing west of Twelve Mile Bayou from Oct. 1-March 31.

ee. Spring Bayou. Commercial fishing: permitted Monday through Friday except slat traps and hoop nets permitted any day and except gill or trammel nets or the take or possession of grass carp are prohibited. Permits available from area supervisor or Opelousas field office. Closed until after 2 p.m. during waterfowl season. Sport fishing: same as outside except allowed only after 2 p.m. during waterfowl season. Crawfish: recreational only, limit 100 pounds per person per day. No hunting allowed in headquarters area. Only overnight campers allowed in the improved Boggy Bayou camping area. Rules and regulations posted at camp site. A fee is assessed for use of this campsite. Water skiing allowed only in Old River and Grand Lac.

ff. Tangipahoa Parish School Board. No horseback riding during gun season for deer or turkey. ATVs/UTVs are not allowed except as otherwise specified.

gg. Thistlethwaite. All motorized vehicles restricted to improved roads only. All users must enter and leave through main gate only.

hh. Tunica Hills. Camping limited to tents only in designated area.

ii. Union. All nighttime activities prohibited except as otherwise provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115 and R.S. 56:116.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:1279 (July 1999), amended LR 26:1494 (July 2000), LR 27:1049 (July 2001), LR 28:1603 (July 2002), LR 29:1124 (July 2003), repromulgated LR 29:1522 (August 2003), amended LR 30:1495 (July 2004), LR 31:1611 (July 2005), LR 32:1251 (July 2006), LR 33:1382 (July 2007), LR 34:1429 (July 2008), LR 35:1264 (July 2009), LR 36:1566 (July 2010), LR 37:2190 (July 2011), LR 38:1732 (July 2012), LR 40:1540 (August 2014).

### **§113. General and WMA Turkey Hunting Regulations**

A. General Regulations. Only gobblers (male turkeys) may be taken. Taking of hen (female) turkeys, including bearded hens, is prohibited; still hunting only. Use of dogs, 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 approved archery equipment but by no other means. Shooting turkeys from a moving or stationary vehicle is prohibited. Shotguns capable of holding more than three shells prohibited. The running of coyote with dogs is prohibited in all turkey hunting areas during the open turkey season. 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. 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. Wildlife agents are authorized to close such baited areas and to place signs in the immediate vicinity designating closed zones and dates of closures. No person hunting turkeys more than 200 yards from a baited area will be in violation of the turkey baiting regulation.

#### **B. Tags**

1. Prior to hunting turkeys, all turkey hunters, regardless of age or license status, must obtain turkey tags and have them in their possession while turkey hunting. Immediately upon killing a turkey, hunters must attach a carcass tag to the turkey before it is moved from the site of the kill and must document the kill on the turkey harvest report card. The date of kill and parish of kill must be recorded on the carcass tag. The tag must remain attached to the turkey while kept at camp or while it is transported to the domicile of the hunter or to a cold storage facility. Hunters who keep the carcass or meat at a camp must also comply with game possession tag regulations. Within seven days of the kill, the hunter must report the kill. Hunters may report turkeys by calling the validation phone number or using the validation website.

2. Turkey hunters purchasing licenses by phone or internet will be given an authorization number and a LDWF identification number that will serve as their license and tags until the physical license and tags arrive by mail. Turkey hunters who have purchased a license with tags, but have not yet received their physical license and tags, must immediately tag their kill with a possession tag before moving it from the site of the kill. The authorization number and LDWF identification number must be recorded on the possession tag. Hunters must retain documentation of any turkeys killed and upon receiving their physical tags and harvest report card, validate their kill as required in these regulations. The tags for turkeys killed prior to receiving the physical tags must be removed from the turkey harvest report card and discarded.

3. Tags removed from the turkey harvest report card prior to killing a turkey are no longer valid and if lost will not be replaced. Duplicate tags and turkey harvest report cards are available to replace lost report cards and attached tags. Hunters will be charged a fee for duplicate turkey harvest report cards and tags. Hunters that have killed a turkey prior to losing their remaining tag and harvest report card must remove and discard the duplicate tag to account for the original tag that was used and validated. Hunters must record any previously validated turkey on the duplicate turkey harvest report card.

C. Possession of Live Wild Turkeys. No person shall take live wild turkeys or their eggs from the wild. No person shall possess captive live wild turkeys, (*Meleagris gallopavo silvestris*, *M.g. osceola*, *M.g. intermedia*, *M.g. merriami*, *M.g. mexicana*) or their eggs, regardless of origin, without a valid game breeder license. No penraised turkeys from within or without the state shall be liberated (released) within the state.

D. Statewide Youth and Physically Challenged Season Regulations. Only youths 17 years of age or younger or

hunters possessing a physically challenged hunter permit with wheelchair classification may hunt. Youth must possess a hunter safety certification or proof of successful completion of a hunter safety course. Youths 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 youth younger than 16 years of age. Adults accompanying youth may not possess a firearm or bow. Youths may possess only one firearm or bow while hunting. The supervising adult shall maintain visual and voice contact with the youth at all times, except properly licensed youths 16-17 years old and youths 12 years old or older who have successfully completed a hunter safety course may hunt without a supervising adult. Only one gobbler per day may be taken and any gobbler taken by the hunter during this special season counts towards their season bag limit of two.

E. Shooting hours—one-half hour before sunrise to one-half hour after sunset.

F. Turkey Hunting Area Descriptions

1. Area A

a. All of the following parishes are open:

- i. Beauregard;
- ii. Bienville;
- iii. Claiborne;

Exception: see federal lands hunting schedule for Kisatchie National Forest dates.

- iv. East Baton Rouge;
- v. East Feliciana;
- vi. Grant;

Exception: see federal lands hunting schedule for Kisatchie National Forest dates;

- vii. Jackson;
- viii. LaSalle;
- ix. Lincoln;
- x. Livingston;
- xi. Natchitoches;

Exception: see federal lands hunting schedule for Kisatchie National Forest dates.

- xii. Pointe Coupee;

Exception: see Sherburne WMA for special season dates on all state, federal, and private lands within Sherburne boundaries.

- xiii. Rapides;

Exception: see federal lands hunting schedule for Kisatchie National Forest dates.

- xiv. Sabine;
- xv. St. Helena;
- xvi. Tangipahoa;
- xvii. Union;
- xviii. Vernon;

Exception: see federal lands hunting schedule for Kisatchie National Forest dates.

- xvix. West Baton Rouge;
- xx. West Feliciana (including Raccourci Island);
- xxi. Winn.

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;

v. Catahoula—south and west of the Ouachita River from the Caldwell Parish line southward to LA 8 at Harrisonburg, north and west of LA 8 from Harrisonburg to the LaSalle Parish line, also that portion lying east of LA 15;

vi. Evangeline—north and west of LA 115, north of LA 106 west of LA 115 to US 167, west of US 167 south to LA 10, north of LA 10 west of US 167 to LA 13, west of LA 13 south of LA 10 to Mamou and north of LA 104 west of Mamou;

vii. Franklin—that portion lying east of LA 17 and east of LA 15 from its juncture with LA 17 at Winnsboro;

viii. Iberville—west of the Mississippi River;

Exception: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries.

ix. 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;

x. Madison—that portion lying east of US 65 from East Carroll Parish line to US 80 and south of US 80. Also, all lands east of the main channel of the Mississippi River;

xi. Morehouse—west of US 165 from the Arkansas line to the junction of LA 140 at Bonita, north and west of LA 140 to junction of LA 830-4 (Cooper Lake Road), west of LA 830-4 to US 165 at Bastrop, south of US 165 to junction of LA 3051 (Grabault Road) south of LA 3051 to junction of LA 138, west of LA 138 to junction of LA 134, north of LA 134 to the Ouachita Parish line;

xii. Ouachita—all west of the Ouachita River. That portion east of the Ouachita River lying north of US 80;

xiii. Richland—that portion south of US 80 and east of LA 17;

xiv. 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.

xv. 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.

xvi. 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

a. All of the following parishes are open:

- i. Ascension;
- ii. DeSoto;
- iii. Red River;
- iv. St. Tammany;
- v. Washington.

b. Portions of the following parishes are open:

- i. Bossier—all open except that portion bounded on the north by I-20, on the west by LA 164, on the south by LA 164, and on the east by the Webster Parish line;
- ii. Caddo—all except that portion north of I-20 from the Texas state line to I-220, west of I-220 to LA 1, west of LA 1 to Caddo Lake, south of Caddo Lake to the Texas state line;
- iii. East Carroll—east of US 65 from Arkansas state line to Madison Parish line;
- iv. Iberville—all east of the Mississippi River;
- v. Webster—all open except that portion bounded on the north by I-20, on the east by U.S. 371, on the south by LA 164, and on the west by the Bossier Parish line.

Exception: see federal lands hunting schedule for Kisatchie National Forest dates.

### 3. Area C

- a. All of the following parishes are open:
  - i. Concordia.
- b. Portions of the following parishes are open:
  - i. Caldwell—all east of the Ouachita River;
  - ii. Catahoula—all of the parish except for that portion located in area A;
  - iii. Franklin—west of LA 17 from the Richland Parish line southward to Winnsboro, west of LA 15 southward to the Catahoula Parish line;
  - iv. Iberia—east of the west Atchafalaya Basin protection levee;
  - v. Richland—west of LA 17 from Franklin Parish line to Ringle Road, south of Ringle Road to Ferguson Road, south of Ferguson Road to Little Road, south of Little Road to Big Creek, east of Big Creek to Franklin Parish line;
  - vi. 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.

4. Turkey season dates on wildlife management areas, national wildlife refuges, Kisatchie National Forest and U.S. Army Corps of Engineers land located within areas A, B, and C may vary from the season set for the parish in which they are located. Seasons for these lands are specified in LAC 76:XIX.115.

#### G. WMA Turkey Hunting Regulations

1. WMAs with youth turkey hunts are closed to all activities except turkey hunting by authorized youth hunt participants, shooting range use, and fishing on the day(s) of the youth hunt.

2. 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.

3. Lottery Hunts—all or portions of some WMA seasons are designated as lottery hunts and are restricted to hunters selected by pre-application lottery. To apply for these lottery hunts, a hunter must submit a completed official application form to the Baton Rouge office by the deadline printed on the application. A non-refundable fee of \$5 must

be sent with each application. Applicants for WMA youth hunts must be 17 years of age or younger and at least 8 years old on the day of the hunt. Applicants may submit only one application and may be selected for only one spring WMA turkey lottery hunt annually, except, youths may also apply for the regular WMA turkey lottery. Submitting more than one application per lottery type will result in disqualification. Hunters must abide by self-clearing permit requirements. Hunters chosen for WMA lottery hunts may be accompanied by one person. The person accompanying a lottery hunter shall not possess a firearm/bow or take a turkey, and must remain within a distance that allows normal voice contact with the lottery hunter at all times. Youths chosen for special youth only hunts may be assigned a guide on the day of the hunt provided that guides are available. One person may accompany the youth and guide, but may not hunt.

4. WMA Physically Challenged Hunt (wheelchair confined)—open only to hunters with a physically challenged hunter permit with wheelchair classification. During this hunt, ATVs may be used by hunters on all designated ATV trails in accordance with the physically challenged hunter permit. Hunters must abide by self-clearing permit requirements.

#### 5. Rules Specific to Certain WMAs

a. Sandy Hollow. No turkey hunting within 100 yards of food plots identified by two yellow paint rings around the nearest tree.

b. Sherburne. All turkeys taken must be checked at the WMA headquarters.

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), LR 30:2874 (December 2004), LR 31:3167 (December 2005), LR 32:2272 (December 2006), LR 33:2469 (November 2007), LR 35:91 (January 2009), LR 35:2478 (November 2009), LR 36:2581 (November 2010), LR 37:3535 (December 2011), LR 38:2941 (November 2012), LR 40:1554 (August 2014).

#### §115. Turkey Hunting Areas, Seasons, and Bag Limits

A. Daily limit is one gobbler. Season limit is two gobblers. Turkeys taken on WMAs are part of the season bag limit. Only one turkey may be taken during spring WMA lottery hunts.

B. Turkey season will open 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 16 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. Deviation from this framework may occur in those years when the fourth Saturday in March falls the day before Easter.

C. Statewide youth turkey and physically challenged season on private lands shall be the weekend prior to the start of the regular turkey season.

D. Only those wildlife management areas listed herein are open to turkey hunting. All other wildlife management areas are closed.

E. 2015 Turkey Hunting Schedule

Area	Season Dates
A	March 28 - April 26
B	March 28- April 19
C	March 28- April 12
Private Lands Youth and Physically Challenged Hunter (Wheelchair Confined) Hunt	March 21-22

F. Wildlife Management Area Turkey Hunting Schedule

WMA	Non-Lottery Hunt Dates	Lottery Hunt Dates
Attakapas	March 28 - April 5	None
Bayou Macon	None	April 18-19
Big Lake	March 28 - April 12	None
Bodcau	March 28 - April 12	None
Boeuf	March 28 - April 5	None
Clear Creek	April 6-26	March 28-29 April 4-5
Camp Beauregard	March 28 - April 5	None
Dewey Wills	None	March 28-29 April 4-5
Fort Polk-Vernon	March 28 - April 26	None
Grassy Lake	March 28 - April 5	None
Hutchinson Creek	March 28 - April 26	None
Jackson-Bienville	March 28 - April 12	None
Lake Ramsey	March 28 - April 12	None
Little River	March 28 - April 12	None
Loggy Bayou	None	April 17-19
Pearl River	None	March 28-29
Peason Ridge	March 28 - April 26	None
Pomme de Terre	April 22 - April 26	None
Richard K. Yancey	March 28 - April 12	None
Sabine	None	April 3-5 April 17-19
Sandy Hollow	March 28 - April 12	None
Sherburne	March 30 - April 1	March 28-29
Sicily Island	None	March 28-30 March 31-April 2 April 3-5 April 6-8 April 9-12
Tangipahoa Parish School Board	March 28 - April 26	None
Tunica Hills South Tract	April 13-19	March 28-29 April 4-5 April 11-12
Tunica Hills North Tract	April 13-19	March 28-29 April 4-5 April 11-12
Union	April 6-12	April 4-5
Walnut Hills	March 28 - April 26	None
West Bay	None	March 28-29 April 4-5 April 11-12

G. Wildlife Management Area Lottery Youth Hunts

WMA/Ranger District	Lottery Youth Hunt Date
Big Lake	March 21
Bodcau	March 21-22
Clear Creek	March 21
Fort Polk-Vernon/Peason Ridge	March 21
Grassy Lake	March 21
Jackson-Bienville	March 21-22
Loggy Bayou	April 11-12

WMA/Ranger District	Lottery Youth Hunt Date
Pearl River	March 21
Pomme de Terre	April 11
Richard K. Yancey	March 21-22
Sherburne	March 21
Sicily Island	March 21
Spring Bayou	April 11
Tunica Hills	March 21
Union	March 21-22
West Bay	March 21

H. Non-Lottery WMA Youth Hunts

1. Bodcau WMA will be open April 18-19 (only youths may hunt).

2. Jackson-Bienville WMA will be open April 18-19 (only youths may hunt).

I. Wildlife Management Area Physically Challenged (Wheelchair Confined) Hunt

1. Jackson-Bienville WMA will be open April 20-26 to holders of valid physically challenged hunter (wheelchair classification) permits.

J. Federal Lands Turkey Hunting Schedule

1. Kisatchie National Forest (KNF) turkey hunting schedule: (youth only) March 21-22 on Caney, Calcasieu (except Vernon Unit lands within Ft. Polk-Vernon WMA) and Kisatchie Ranger Districts, (youth only) March 21 on Catahoula and Winn Ranger Districts. Caney Ranger District, March 28-April 12; all remaining KNF lands, March 28-April 19 (including Catahoula and Red Dirt National Wildlife Management Preserves, except self-clearing permit required to hunt turkey on Catahoula and Red Dirt National Wildlife Management Preserves).

2. U.S. Army Corps of Engineers turkey hunting schedule: Indian Bayou area, March 21-22 youth and physically challenged lottery only hunt, and lottery hunt only on March 28-29 and April 4-5. Old River Control and Lock Areas, March 28-April 12.

3. National wildlife refuges: Bogue Chitto NWR, March 28-April 19, March 21-22 (youth only); Lake Ophelia NWR, March 21 (youth lottery only), March 28-April 12 hunt ends at 12 p.m. each day; Tensas NWR, March 21-22 (youth only), March 28-April 12; Upper Ouachita NWR, March 21 (youth lottery only).

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), LR 30:2875 (December 2004), LR 31:3167 (December 2005), LR 32:2272 (December 2006), LR 33:2470 (November 2007), LR 35:90 (January 2009), LR 35:2481 (November 2009), LR 36:2583 (November 2010), LR 37:3541 (December 2011), LR 38:2944 (November 2012), LR 40:1556 (August 2014).

Billy Broussard  
Chairman

1408#009

**RULE**

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

Black Bass Regulations (LAC 76:VII.149)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission do hereby advertise their intent to increase the possession limit up to three times the daily take for black bass (*Micropterus spp.*) below U.S. Highway 90.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 1. Freshwater Sports and Commercial Fishing**

**§149. Black Bass Regulations—Daily Take, Size Limits, and Possession Limits**

A. ...

B. In addition, the commission establishes special size, daily take, and possession regulations for black bass on the following water bodies:

1. - 6.a. ...

\* \* \*

7. below U.S. Highway 90 in Louisiana.

a. The possession limit shall be equal to the daily take limit for the number of consecutive days up to three days that a fisherman has been actively on the water or at a remote camp that can only be accessed by water provided the fisherman is in compliance with the following requirements.

i. The fisherman holds and is in possession of a current basic recreational fishing license.

ii. The fisherman is in possession of a landing receipt from a public boat landing located south of U.S. Highway 90 that demonstrates, to the satisfaction of the

department, the number of consecutive days the fisherman has been on the water or at a remote camp that can only be accessed by water.

iii. The fish are kept whole or whole gutted in separate bags for each daily take limit. The bags are marked with the date fish were taken, the species and number of fish contained in the bag, and the name and recreational fishing license number of the person taking the fish.

iv. The fisherman is only in possession of his or her fish and shall not transport fish taken by another person back to the boat landing.

v. The fisherman is not in possession of more than the daily take limit on the water while engaged in or actively fishing.

AUTHORITY NOTE: Promulgated in accordance R.S. 56:6(25)(a), R.S. 56:325(C), R.S. 56:326.3, and R.S. 56:673.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:364 (June 1988), amended LR 17:277 (March 1991), repromulgated LR 17:488 (May 1991), amended LR 17:1122 (November 1991), LR 20:796 (July 1994), LR 23:1168 (September 1997), LR 24:505 (March 1998), LR 26:97 (January 2000), LR 28:104 (January 2002), LR 29:373 (March 2003), LR 30:2339 (October 2004), repromulgated LR 30:2495 (November 2004), amended LR 37:2440 (August 2011), LR 39:1833 (July 2013), LR 40:1558 (August 2014).

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this final Rule, including but not limited to, the filing of the final Rule and the preparation of reports and correspondence to other agencies of government.

Billy Broussard  
Chairman

1408#043

# Notices of Intent

## NOTICE OF INTENT

### Department of Agriculture and Forestry Beef Industry Council

Beef Promotion and Research Program  
(LAC 7:V.Chapter 27)

Under the enabling authority of R.S. 3:2054(E), and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Beef Industry Council (LBIC) intends to promulgate these rules and regulations (“the proposed action”) in order to establish rules and regulations for its own government and for administration of the affairs of the council.

This proposed action is required because the October, 2013 Louisiana Supreme Court ruling in *Krielow v. Louisiana Department of Agriculture and Forestry*, which declared R.S. 3:3534 and R.S. 3:3544, statutes that allow a voting majority of rice producers to levy an assessment on all producers, to be unconstitutional, calls into question the constitutionality of sections 3:2055 through 2062 of the *Louisiana Revised Statutes*. The *Revised Statutes* established, by referendum vote, the Louisiana Beef Promotion and Research Program (LBPRP) and the LBIC. Among other things, these statutes included procedures for the governance and administration of the LBIC.

Louisiana’s cattle industry is essential to the health, safety and welfare of the citizens of this state. In 2004, Louisiana’s cattle industry was the second-largest agricultural sector with about \$365 million in sales. The LBPRP and the LBIC promote the growth and development of the cattle industry in Louisiana by research, advertisement, promotions, education, and market development, thereby promoting the general welfare of the people of this state.

The LBPRP and the LBIC are the mechanisms through which the state’s cattle production and feeding industry develop, maintain, and expand the state, national, and foreign markets for cattle and beef products produced, processed, or manufactured in this state and through which the cattle production and feeding industry of this state contributes otherwise to the development and sustenance of a Louisiana coordinated promotion program and nationally coordinated programs of product improvement through research in consumer marketing via the accepted industry organization of the Cattleman’s Beef Promotion and Research Board and its Beef Industry Council, thus benefiting the entire United States cattle industry and the American public.

This proposed action is required in order to provide a means for the LBIC to continue to govern and administer the affairs of the council, and to allow the council to continue, to the maximum extent possible within the constraints announced in *Krielow*, the LBIC’s support of the program and protection of the huge investment that has been made, thus insuring the marketability of Louisiana beef, until such time as there is a permanent legislative solution. Failure to promulgate these rules would jeopardize the significant

investment to promote the growth and development of Louisiana’s cattle industry since the program’s inception, and would pose an imminent peril to the health and welfare of the Louisiana’s citizens and the state’s cattle industry.

This Rule shall have the force and effect of law five days after its promulgation in the official journal of the state of Louisiana.

## Title 7

### AGRICULTURE AND ANIMALS

#### Part V. Advertising, Marketing and Processing

#### Chapter 27. Beef Promotion and Research Program

##### §2701. Purpose

A. The purpose of this Chapter is to provide for the government and for the administration of the affairs of the Louisiana Beef Industry Council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2051, 2052, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Beef Industry Council, LR 40:

##### §2703. Powers and Duties of the Council; Quorum

A. The council shall:

1. receive and disburse funds, as prescribed elsewhere in this Chapter, to be used in administering and implementing the provisions and intent of this Chapter;

2. meet regularly, not less often than once in each calendar quarter or at such other times as called by the chairman, or when requested by six or more members of the council;

3. maintain a record of its business proceedings in accordance with R.S. 44:36 and the Louisiana Beef Industry Council retention schedule;

4. maintain a detailed record of its financial accounts in accordance with R.S. 44:36 and the Louisiana Beef Industry Council retention schedule;

5. prepare periodic reports and an annual report of its activities for the fiscal year;

6. prepare periodic reports and an annual accounting for the fiscal year of all receipts and expenditures of the council and shall retain a certified public accountant for this purpose;

7. appoint a licensed banking institution as the depository for program funds and disbursements;

8. maintain frequent communications with officers and industry representatives of the Cattlemen’s Beef Promotion and Research Board.

B. Six members of the council shall constitute a quorum for the purpose of conducting business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2051, 2052, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Beef Industry Council, LR 40:

##### §2705. Use of Funds

A. The council may expend the funds available to it to:

1. contract for scientific research with any accredited university, college, or similar institution and enter into other contracts or agreements which will aid in carrying out the purposes of the program, including cattle and beef promotion, consumer market development, research

advertising and, including contracts for the purpose of acquisition of facilities or equipment necessary to carry out purposes of the program;

2. disseminate reliable information benefiting the consumer and the cattle and beef industry on such subjects as, but not limited to, purchase, identification, care, storage, handling, cookery, preparation, serving, and the nutritive value of beef and beef products;

3. provide information to such government bodies as requested on subjects of concern to the cattle and beef industry and act jointly or in cooperation with the state or federal government and agencies thereof in the development or administration of programs deemed by the council to be consistent with the objectives of the program;

4. cooperate with any local, state, regional, or nationwide organization or agency engaged in work or activities consistent with the objectives of the program;

5. pay funds to other organizations for work or services performed which are consistent with the objectives of the program.

B. All funds available to the council shall be expended only to effectuate the purposes of this Chapter and shall not be used for political purposes in any manner. A fiscal year-end audited report shall be made available annually to the state conventions of the Louisiana Cattlemen's Association and the Louisiana Farm Bureau Federation, and shall be posted on the Division of Administration website in accordance with R.S. 49:1301 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2051, 2052, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Beef Industry Council, LR 40:

#### **§2707. Additional Powers of Council**

A. The council may:

1. sue and be sued as a council, without individual liability of the members for acts of the council when acting within the scope of the powers of this Chapter, and in the manner prescribed by the laws of this state;

2. appoint advisory groups composed of representatives from organizations, institutions, governments, or business related to or interested in the welfare of the cattle and beef industry and consumers;

3. employ subordinate officers and employees of the council and prescribe their duties and fix their compensation and terms of employment;

4. accept grants, donations, contributions, or gifts from any source, but only if the use of such resources is not restricted in any manner which is deemed inconsistent with the objectives of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2051, 2052, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Beef Industry Council, LR 40:

#### **Family Impact Statement**

It is anticipated that the proposed action will have no significant effect on the: (1) stability of the family; (2) authority and rights of parents regarding the education and supervision of their children; (3) functioning of the family; (4) family earnings and family budget; (5) behavior and personal responsibility of children; or (6) ability of the family or a local government to perform the function as contained in the proposed action.

#### **Poverty Impact Statement**

It is anticipated that the proposed action will have no significant effect on: (1) household income, assets, and financial security; (2) early childhood or educational development; (3) employment and workforce development; (4) taxes and tax credits; or (5) child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Small Business Statement**

It is anticipated that the proposed action will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed action to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on: (1) the staffing level requirements or qualifications required to provide the same level of service; (2) the total direct and indirect effect on the cost to the providers to provide the same level of service; or (3) the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments, data, opinions, and arguments regarding the proposed action. Written submissions are to be directed to Robert Joyner, Executive Director of the Louisiana Beef Industry Council; telephone (225) 343-3491; fax # (225) 336-0002; mailing address, 4921 I-10 Frontage Road, Port Allen, LA 70767. The written submissions must be received no later than 4 p.m. on September 24, 2014. No preamble regarding these proposed regulations is available.

Dale Cambre  
Chairman

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

#### **RULE TITLE: Beef Promotion and Research Program**

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

The proposed action is not anticipated to have a direct material effect on state or local governmental unit expenditures.

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

The proposed action is not anticipated to have a direct material effect on state or local governmental revenues. The proposed action will adopt Chapter 27 of LAC 7:V. in order for the Louisiana Beef Industry Council (LBIC) to establish rules and regulations for its own governance and for administration of the affairs of the Council.

The proposed action is being taken because the October, 2013 Louisiana Supreme Court ruling in *Krielow v. Louisiana Department of Agriculture and Forestry*, which declared R.S. 3:3534 and R.S. 3:3544 to be unconstitutional, allow a voting majority of rice producers to levy an assessment on all producers. This ruling calls into question the constitutionality of sections 3:2055 through 2062 of the Louisiana Revised

Statutes. The Revised Statutes established, by referendum vote, the Louisiana Beef Promotion and Research Program and the LBIC. These statutes included procedures for the governance and administration of the LBIC.

The proposed action is required to provide for the LBIC to continue to govern and administer the affairs of the Council, and to allow the Council to continue, to the maximum extent possible within the constraints announced in Krielow, the LBIC's support of the program and protection of the huge investment that has been made, thus insuring the marketability of Louisiana beef.

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

The non-governmental group directly affected by the proposed action is the cattle industry in the State of Louisiana. The benefit to the cattle industry is that the proposed action provides for the LBIC to continue to govern and administer the affairs of the Council, and to allow the Council to continue, to the maximum extent possible within the constraints announced in Krielow, the LBIC's support of the program and protection of the huge investment that has been made, thus insuring the marketability of Louisiana beef.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action is not anticipated to have a direct material effect on competition or employment.

Dane Morgan  
Assistant Commissioner  
1408#033

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 111—The Louisiana School, District and State Accountability System (LAC 28:LXXXIII.3503 and 3505)

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 revisions to *Bulletin 111—The Louisiana School, District and State Accountability System*: §3503, Alternative Schools Including Alternative Charter Schools and §3505, Alternative Programs. These revisions will enable the delay of the initial release of the alternative program and alternative school performance report for one year. This will also allow the LDE to collaborate with districts in developing metrics for the performance report and evaluate student progress relative to performance indicators from the 2014-2015 academic year.

**Title 28**

**EDUCATION**

**Part LXXXIII. Bulletin 111—The Louisiana School, District and State Accountability System**

**Chapter 35. Inclusion of Alternative Education Schools and Students in Accountability**

**§3503. Alternative Schools Including Alternative Charter Schools**

**[Formerly §3501]**

A. - C.3. ...

D. Starting with evidence of student progress from the 2014-2015 academic year, all alternative schools shall receive a performance report that shall include, but not be

limited to, data pertaining to academic progress, credit accumulation, completion, and behavior modification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended 31:423 (February 2005), LR 34:868 (May 2008), LR 35:1472 (August 2009), LR 37:2119 (July 2011), LR 37:3202 (November 2011), LR 38:1213 (May 2012), LR 39:472 (March 2013), LR 40:

**§3505. Alternative Programs**

A. - B.1. ...

C. Starting with evidence of student progress from the 2014-2015 academic year, all alternative programs shall receive a performance report that shall include, but not be limited to, data pertaining to academic progress, credit accumulation, completion, and behavior modification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 39:472 (March 2013), amended LR 40:

**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 of 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? Yes.

**Poverty Impact Statement**

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.



5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

#### Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., September 8, 2014, to Heather Cope, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: **Bulletin 111—The Louisiana School, District and State Accountability System**

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

The proposed policies will have no effect on state or local governmental units. The proposed policy revisions will enable the delay of the initial release of the alternative program and alternative school performance report for one year. The delay will also allow the Louisiana Department of Education (LDE) to collaborate with districts in developing metrics for the performance report and evaluate student progress relative to performance indicators from the 2014-2015 academic year.

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

This policy 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)

There will be no estimated cost and/or economic benefit 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.

Beth Scioneaux  
Deputy Superintendent  
1408#015

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for  
School Administrators (LAC 28: CXV.523)

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 revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §523, Foreign Associate Program. The proposed policy provides the process by which the Louisiana Department of Education can enter into an agreement with school systems and schools employing foreign associate teachers to secure the cost of the visa through a one-time reduction of their Minimum Foundation Program (MFP) funding annually and remit the funds to the Louisiana Department of Culture, Recreation, and Tourism for processing.

#### Title 28

#### EDUCATION

#### Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

#### Chapter 5. Personnel

#### §523. Foreign Associate Program

A. The Foreign Associate Program supported through the Minimum Foundation Program requires visas be obtained for all teachers.

1. Foreign associate teachers shall not be employed unless a visa is obtained.
2. The Minimum Foundation Program formula may provide funding to pay for the expense of the visa.

B. In order to ensure the proper processing of the visa on behalf of each foreign associate teacher, the Louisiana Department of Education may enter into an agreement with school systems and schools employing the teacher to secure the cost of the visa through a one-time reduction of their Minimum Foundation Program annually and remit the funds to the Louisiana Department of Culture, Recreation, and Tourism for processing.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 40:

#### 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 of 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? Yes.

#### Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

#### Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., September 8, 2014, to Heather Cope, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: **Bulletin 741—Louisiana Handbook for School Administrators**

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

The proposed policy will have no effect on state or local governmental units. The proposed policy will allow the Louisiana Department of Education to enter into an agreement with school systems and schools employing foreign associate teachers to secure the cost of the visa through a one-time reduction of their Minimum Foundation Program (MFP) funding annually and remit the funds to the Louisiana Department of Culture, Recreation, and Tourism to offset administrative costs for CODOFIL associated with visa processing.

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

This policy 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)

There will be no estimated cost and/or economic benefit 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.

Beth Scioneaux  
Deputy Superintendent  
1408#048

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for  
School Administrators (LAC 28:CXV.2905)

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 revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §2905, Evaluation of Alternative Schools/Programs. This revision will enable the delay of the initial release of the alternative program and alternative school performance report for one year. This will also allow the LDE to collaborate with districts in developing metrics for the performance report and evaluate student progress relative to performance indicators from the 2014-2015 academic year.

#### Title 28

#### EDUCATION

### Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

#### Chapter 29. Alternative Schools and Programs §2905. Evaluation of Alternative Schools/Programs

A. Each LEA annually shall evaluate each alternative school/program. The evaluation shall be based upon the

standards for approval of alternative schools/programs and shall include testing of basic skills for student participants. The process of evaluation shall also include teacher, parent, and student input from the alternative school. The annual report shall be made to the LDE on or before the date prescribed by the LDE.

B. Starting with evidence of student progress from the 2014-2015 academic year, all alternative schools and programs will receive a performance report that shall include, but not be limited to, data pertaining to academic progress, credit accumulation, completion, and behavior modification.

NOTE: Refer to the alternative education handbook for program operation guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1308 (June 2005), amended LR 35:2319 (November 2009), LR 39:2226 (August 2013), LR 40:

#### **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 of 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? Yes.

#### **Poverty Impact Statement**

In accordance with Section 973 of Title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### **Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., September 8, 2014, to Heather Cope, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope  
Executive Director

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

#### **RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators**

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

The proposed policy will have no effect on state or local governmental units. The proposed policy revision will enable the delay of the initial release of the alternative program and alternative school performance report for one year. The delay will also allow the Louisiana Department of Education (LDE) to collaborate with districts in developing metrics for the performance report and evaluate student progress relative to performance indicators from the 2014-2015 academic year.

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

This policy 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)**

There will be no estimated cost and/or economic benefit 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.

Beth Scioneaux  
Deputy Superintendent  
1408#014

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel (LAC 28:CXXXI.601)

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 revisions to Bulletin 746—Louisiana Standards for State Certification of School Personnel: §601. Introduction. The proposed policy will allow non-university providers of educator preparation programs, including local education agencies that are approved by the Board of Elementary and Secondary Education (BESE), to offer courses (equivalent contact hours) that lead to certification endorsements.

#### Title 28 EDUCATION

#### Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

#### Chapter 6. Endorsements to Existing Certificates

#### §601. Introduction

A. Endorsement areas are permanent authorizations added to a teaching certificate. Upon completion of requirements for an additional area of certification, as outlined in this bulletin, the holder of a valid Louisiana teaching certificate may have the endorsement added. For endorsement purposes, the following notes apply.

A.1. – 4. ...

5. Semester hours earned from a regionally accredited institution or equivalent contact hours from a non-university private provider of teacher and/or educational leader preparation program are acceptable for endorsement purposes. One semester hour is equivalent to 15 contact hours.

6. Non-university private providers of teacher and/or educational leader preparation programs must submit proposals for approval by LDE and BESE, as outlined in Chapter 5 of Bulletin 996: Standards for Approval of Teacher and/or Educational Leader Preparation Programs.

B. A formal request for an additional authorization on a certificate shall be directed to the LDE. An official transcript from a regionally accredited institution verifying successful completion of endorsement requirements (semester hours) or documentation from the non-university private provider verifying successful completion of endorsement requirements (contact hours) shall accompany the request. The final authority for approval of an additional authorization is the LDE.

C. 1. – 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1814 (October 2006), amended LR 37:1381 (May 2011), LR 40:

#### 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 of 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? Yes.

#### Poverty Impact Statement

In accordance with section 973 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, amendment, or repeal. All poverty impact statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

## Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., September 8, 2014, to Heather Cope, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: **Bulletin 746—Louisiana Standards for State Certification of School Personnel**

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

The proposed policy could have an indeterminable effect on universities to the extent that students choose non-university providers. The proposed policy will allow state-approved non-university providers of teacher and/or educational leader preparation programs to offer courses (equivalent contact hours) that lead to certification endorsements. Current policy requires teachers to complete and earn university/college credit semester hours from a regionally accredited institution in order to add endorsements to an existing teaching certificate.

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

This policy 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)

There will be no estimated cost and/or economic benefit 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.

Beth Scioneaux  
Deputy Superintendent  
1408#047

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

#### Bulletin 1566—Pupil Progression Policies and Procedures (LAC 28:XXXIX.707)

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 revisions to *Bulletin 1566—Pupil Progression Policies and Procedures*: §707. Exceptions to High Stakes Policy. The proposed policy eliminates the requirement that students eighth grade students who do not meet the passing requirement for the LEAP test in English or math must pass a remediation course prior to earning Carnegie credit in that subject. This revision aligns this policy with other policies passed by BESE in December.

## Title 28

### EDUCATION

#### Part XXXIX. Bulletin 1566—Pupil Progression Policies and Procedures

##### Chapter 7. High Stakes Testing Policy

##### §707. Exceptions to High Stakes Policy

A. – A.3. ...

B. U/B Waiver—Eighth Grade. The LEA may waive the state policy for eighth grade students scoring at the *Unsatisfactory* level in English language arts or mathematics, if the student scores at the *Basic* level in the other, provided that the following criteria are met:

1. the student scored *Approaching Basic* or above on the science and social studies components of LEAP;

2. the student had an overall 2.5 grade point average on a 4.0 scale;

3. the student had a minimum 92 percent attendance during the school year;

4. the decision is made in accordance with the local pupil progression plan, which may include a referral to the School Building Level Committee (SBLC);

5. the student has participated in both the spring and summer administrations of LEAP 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* level during the spring test administration); and

6. parental consent is granted.

7. repealed.

C. - H.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2006 (September 2010), LR 40:

#### 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 of 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? Yes.

#### Poverty Impact Statement

In accordance with section 973 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact

statement on the Rule proposed for adoption, amendment, or repeal. All poverty impact statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### **Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., September 8, 2014, to Heather Cope, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope  
Executive Director

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

#### **RULE TITLE: Bulletin 1566—Pupil Progression Policies and Procedures**

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

The proposed policy will have no effect on state or local governmental units.

The proposed policy eliminates the requirement that eighth grade students who do not meet the passing requirement for the LEAP test in English or math must pass a remediation course prior to earning Carnegie credit in that subject. This revision

aligns this policy with other policies passed by BESE in December 2013 which eases the transition to more rigorous standards and assessments and revises the eighth grade retention standard to permit students who do not pass the assessment to be placed on a high school campus in a transitional ninth grade.

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

This policy 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)**

There will be no estimated cost and/or economic benefit 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.

Beth Scioneaux  
Deputy Superintendent  
1408#046

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Board of Elementary and Secondary Education**

#### **Operations—Board and Committee Meeting Protocol (LAC 28:I.709)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved for advertisement revisions to the *Louisiana Administrative Code*, Title 28, Part I, §709, Board and Committee Protocol. These changes establish a policy related to the handling of non-technical amendments to written documents raised during the course of a BESE meeting and prior to a BESE or BESE committee vote.

#### **Title 28**

#### **EDUCATION**

#### **Part I. Board of Elementary and Secondary Education**

#### **Chapter 7. Operations**

#### **§709. Board and Committee Meeting Protocol**

A. - C.4. ...

5. Prior to voting on written documents, including, but not limited to, regulatory bulletins and legislative reports, members must be provided copies of any proposed non-technical revisions in writing. Non-technical revisions are those that alter the sense, meaning, or effect of the item.

D. - D.14 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 42:13, R.S. 17:3(C), R.S. 42:14, and R.S. 42:16.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:421 (March 2008), amended LR 37:2141 (July 2011), LR 38:3153 (December 2012), LR 39:3264 (December 2013), LR 40:

#### **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.

## Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., September 8, 2014, to Heather Cope, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Operations—Board and Committee Meeting Protocol

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

The changes to *Louisiana Administrative Code*, Title 28, Part I, §709 establish a policy related to the handling of non-technical amendments to written documents raised during the course of a BESE meeting and prior to a BESE or BESE committee vote.

Specifically, the revisions require BESE members to be provided with written copies of the proposed non-technical revisions to documents, including, but not limited to, regulatory bulletins and legislative reports.

This policy change will have no fiscal effect other than an estimated cost of \$825 to advertise in the *Louisiana Register*.

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

This action will have no effect on revenue collections of state or local government units.

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

This action will have no effect on cost and/or economic benefits to directly affected persons or non-governmental groups.

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

This action will have no effect on competition or employment.

Heather Cope  
Executive Director  
1408#016

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Office of the Governor Crime Victims Reparations Board

Compensation to Victims (LAC 22:XIII.103)

In accordance with the provisions of R.S. 49:950 et seq., which is the Administrative Procedure Act, and R.S. 46:1801 et seq., which is the Crime Victims Reparations Act, the Crime Victims Reparations Board hereby gives notice of its intent to promulgate rules and regulations regarding the awarding of compensation to applicants. There will be no impact on family earnings or the family budget as set forth in R.S. 49:972.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of 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? Yes.

### Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

### Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

### Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

**Title 22**  
**CORRECTIONS, CRIMINAL JUSTICE AND LAW**  
**ENFORCEMENT**

**Part XIII. Crime Victims Reparations Board**  
**Chapter 1. Authority and Definitions**

**§103. Definitions**

A. ...

\* \* \*

*Victim*—any person who suffers personal injury, death, or catastrophic property loss as a result of a crime committed in this state and covered by this Chapter. This includes any person who is a *victim* of human trafficking as defined by R.S. 14:46.2, a *victim* of trafficking of children for sexual purposes as defined by R.S. 14:46.3, or a *victim* of any offense involving commercial sexual exploitation including but not limited to R.S. 14:81.1, 81.3, 82, 82.1, 82.2, 83, 83.1, 83.2, 83.3, 83.4, 84, 85, 86, 89.2, 194.1, 95, and 282.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996), LR 24:328 (February 1998), LR 25:26 (January 1999), LR 26:1019 (May 2000), LR 29:577 (April 2003), LR 31:1330 (June 2005), LR 32:242 (February 2006), LR 35:65 (January 2009), LR:37:1605 (June 2011), LR 40:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule has been considered. This proposed Rule will have no impact on family functioning, stability, or autonomy as described in R.S. 49:972 since it only expands the definition of a crime victim who becomes eligible for reparations.

**Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on: (1) the effect on household income, assets, and financial security; (2) the effect on early childhood development and preschool through post secondary education development; (3) the effect on employment and workforce development; (4) the effect on taxes and tax credits; (5) the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

**Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on: (1) the effect on the staffing level requirement or qualifications required to provide the same level of service; (2) the total direct and indirect effect on the cost to the providers to provide the same level of service; or (3) the overall effect on the ability of the provider to provide the same level of service.

**Public Comments**

Interested persons may submit written comments on this proposed Rule no later than September 20, 2014 at 5 p.m. to the attention of Bob Wertz, Criminal Justice Policy Planner, Louisiana Commission on Law Enforcement and Administration of Criminal Justice, P.O. Box 3133, Baton

Rouge, LA 70821. He is responsible for responding to inquiries regarding this proposed Rule.

Lamarr Davis  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT**  
**FOR ADMINISTRATIVE RULES**  
**RULE TITLE: Compensation to Victims**

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

The proposed administrative rule change may result in indeterminable net increases in expenditures from the statutorily dedicated Crime Victims Reparation Fund, which is funded by fees associated with criminal court cases. Pursuant to Act 564 of the 2014 Regular Legislative Session, claim benefits have been expanded for assistance to victims of human trafficking. Sufficient data on victims of human trafficking in Louisiana do not exist; therefore, it would not be possible to project the number of potential cases and their related expenditures.

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

It is estimated that implementation of the proposed rule may increase federal grant awards beginning in FY 15. The dollar amount of federal grant funding allotted annually to the Louisiana Commission on Law Enforcement (LCLE) through the Office for Victims of Crime (OVC) via the Victims of Crime Act (VOCA) is contingent upon the dollar amount of state funds which the agency expends for crime victims in the preceding year. For every dollar spent in a particular fiscal year on reparations for crime victims OVC will appropriate sixty cents of VOCA funding in the next fiscal year. Therefore, increased state expenditures will generate additional federal funding for the agency in the next fiscal year.

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

Implementation of the proposed rule will allow victims of human trafficking to access benefits related to treatment for personal injury, costs incurred as a consequence of death, and expenses of the victim associated with the collection and securing of crime scene evidence or with cleanup of the crime scene.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of the proposed rule change.

Joseph Watson  
Executive Director  
1408#036

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor**  
**Real Estate Commission**

Disclosures and Representations (LAC 46:LXVII.2501)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Real Estate Commission has initiated procedures to amend



LAC 46:LXVII.Subpart 1, §2501. The purpose of the proposed Rule change is to advise licensees that there are two chapters relative to real estate teams/groups. Chapter 19 contains general guidelines for establishing and maintaining teams/groups, while Chapter 25 is specific to advertising requirements for teams/groups.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LXVII. Real Estate**

##### **Subpart 1. Real Estate**

#### **Chapter 25. Advertising; Disclosures; Representations**

##### **§2501. Disclosures and Representations**

A. - G.2. ...

3. a group or team name, as long as the advertising complies with all other applicable provisions of this Chapter and LAC 46:LXVII.Chapter 19 of these rules and regulations; and

4. a slogan that may not be construed as that of a company name.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:829 (April 2002), LR 29:127 (February 2003), LR 32:1450 (August 2006), LR 37:3003 (October 2011), LR 40:

#### **Family Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the August 20, 2014 *Louisiana Register*. The proposed Rule has no known impact on family, formation, stability, or autonomy.

#### **Poverty Impact Statement**

The proposed Rule has no known impact on poverty as described in R.S. 49:973.

#### **Provider Impact Statement**

The proposed Rule has no known impact on providers of services for individuals with developmental disabilities.

#### **Public Comments**

Interested parties may submit written comments on the proposed regulations to Stephanie Boudreaux, Louisiana Real Estate Commission, P.O. Box 14785, Baton Rouge, LA 70898-4785 or 9071 Interline Avenue, Baton Rouge, LA 70809 or sboudreaux@lrec.state.la.us, through September 9, 2014, at 4:30 p.m.

#### **Public Hearing**

If it becomes necessary to convene a public hearing to receive comments, in accordance with the Administrative Procedure Act, a hearing will be held on Thursday, September 25, 2014, at 9 a.m. at the office of the Louisiana Real Estate Commission, 9071 Interline Avenue, Baton Rouge, LA 70809.

Bruce Unangst  
Executive Director

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

#### **RULE TITLE: Disclosures and Representations**

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

There are no estimated implementation costs (savings) to state or local governmental units as the result of the proposed Rule change. The purpose of the proposed Rule change is to advise licensees that there are two chapters containing team/group requirements. Chapter 19 contains general guidelines for establishing and maintaining teams/groups, while Chapter 25 is specific to advertising requirements for teams/groups.

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

The proposed Rule change 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)**

The proposed Rule change will have no costs or economic benefits to directly affected persons or non-governmental groups.

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

The proposed Rule change will have no effect on competition and employment.

Bruce Unangst  
Executive Director  
1408#029

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Health and Hospitals Board of Examiners of Nursing Facility Administrators**

Refusal, Suspension, and Revocation of License  
(LAC 46:XLIX.1105)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:2501 et seq., that the Louisiana Board of Examiners of Nursing Facility Administrators proposes to amend LAC 46:XLIX.1105 relative to the administration of nursing facility administrators and their licensure to amend the refusal, suspension and revocation of license policy to include administrators-in-training, to add an additional violation complaint category, and to expand the disciplinary action options available to the board.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part XLIX. Nursing Facility Administrators**

##### **Chapter 11. Licenses**

##### **§1105. Refusal, Suspension and Revocation of License**

A. Board Review; Notice of Hearing

1. Upon the determination that a licensee or administrator-in-training applicant has violated one or more provisions of this Part the board may suspend, revoke, or

refuse to issue a license or certificate of registration for nursing home administrator found in violation of this Part. In addition, the board may place a licensed administrator on probation, and/or in remedial training, and/or officially reprimand or otherwise discipline a licensee or administrator-in-training applicant, including but not limited to the imposition of a fine as set forth in this Part.

2. Once a complaint under the categories that follow has been received by the board, the board shall provide licensee or administrator-in-training applicant with adequate notice and an opportunity to respond as provided in Chapter 13 of this Part.

a. Category One

i. - x. ...

xi. has used alcohol, narcotics, or other drugs in a manner that interferes with the actual ability to practice as a nursing facility administrator or train as a administrator-in-training applicant.

b. - e. ...

3. Disciplinary Action

a. Category One. A fine of not less than \$500 nor more than \$2,000, and/or probation not to exceed three years, and/or suspension of license for not less than 30 days nor more than three years, denial of licensure and/or remedial training, counseling or revocation of license.

A.3.a.i. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504, R.S. 37:2509 and R.S. 37:2510.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 9:461 (July 1983), LR 12:366 (June 1986), amended by Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 15:195 (March 1989), repealed and repromulgated LR 18:181 (February 1992), amended LR 37:595 (February 2011), LR 39:1046 (April 2013), LR 40:

**Family Impact Statement**

The proposed amendments to LAC 46:XLIX.1105 should not have any impact on family as defined by R.S. 49:972. There should not be any effect on: the stability of the family, the authority and rights of parents regarding the education and supervision of their children, the functioning of the family, family earnings and family budget, the behavior and personal responsibility of children, and/or the ability of the family or local government to perform the function as contained in the proposed Rule.

**Poverty Impact Statement**

The proposed amendments to LAC 46:XLIX.1105 should not have any known or foreseeable impact on poverty as described in R.S. 49:973.

**Provider Impact Statement**

The proposed amendments to LAC 46:XLIX.1105 should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session.

**Public Comments**

Interested persons may submit written comments until 4 p.m. on September 9, 2014 to Mark A. Hebert, Board of Examiners of Nursing Facility Administrators, 5647 Superior Drive, Baton Rouge, LA 70816.

Mark A. Hebert  
Executive Director

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

**RULE TITLE: Refusal, Suspension, and  
Revocation of License**

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

Other than the rule publication costs, the total of which are estimated to be \$300 during the current fiscal year, it is not anticipated that the proposed Rule amendments will result in any costs or savings to the Board of Examiners or local government units. The proposed Rule change seeks to amend the refusal, suspension and revocation of license policy to include administrators-in-training, to add an additional violation complaint category and to expand the disciplinary action options available to the board.

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

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

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

There will be no cost and/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.

Mark A. Hebert  
Executive Director  
1408#039

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Medical Examiners**

Physician Practice; Physician Collaboration with  
Advanced Practice Registered Nurses  
(LAC 46:XLV.Chapter 77)

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority of the Louisiana Medical Practice Act, R.S. 37:1270, the Louisiana State Board of Medical Examiners (board) intends to adopt rules governing physician collaboration with advanced practice registered nurses, LAC 46:XLV.7701 et seq. The proposed rules provide for: the scope of the Subchapter (§7701); applicable terms and definitions (§7703); a prohibition against collaboration other than in compliance with the rules (§7705); exceptions to the rules (§7707); due diligence (§7709); eligibility and required components of a collaborative practice agreement (§7711); required information (§7713); collaborating physician authority and responsibilities (§7715); limitations on collaborative practice (§7717); continuous quality improvement and board access to documents (§7719); and the effect of violations (§7721). The proposed rules are set forth below.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part XLV. Medical Professions**

**Subpart 3. Practice**

**Chapter 77. Physician Collaboration with Advanced Practice Registered Nurses**

**Subchapter A. General Provisions**

**§7701. Scope**

A. The rules of this Chapter govern the practice of physicians in this state who engage in collaborative practice with an advance practice registered nurse who provides acts of medical diagnosis or prescriptions.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

**§7703. Definitions**

A. As used in this Chapter, the following terms shall have the meanings specified.

*Act*—the Louisiana Medical Practice Act or *Act*, R.S. 37:1261 et seq.

*Advanced Practice Registered Nurse* or *APRN*—a licensed registered nurse who is licensed as an *advanced practice registered nurse* by the Louisiana State Board of Nursing.

*Board*—the Louisiana State Board of Medical Examiners, as constituted in the Louisiana Medical Practice Act.

*Clinical Practice Guidelines*—written or electronic documents, jointly agreed upon by the collaborating physician and APRN that describe a specific plan, arrangement, or sequence of orders, steps, or procedures to be followed or carried out in providing patient care in various clinical situations. These may include textbooks, reference manuals, electronic communications and Internet sources.

*Collaborating Physician*—a physician actively engaged in clinical practice and the provision of patient care with whom an APRN has developed and signed a collaborative practice agreement for prescriptive and distributing authority and who holds a current, unencumbered, unrestricted and valid medical license issued or recognized by the board and is in good standing with no pending disciplinary proceedings, and practices in accordance with rules of the board.

*Collaboration* or *Collaborate*—a cooperative working relationship between a physician and APRN to jointly contribute to providing patient care and may include but not be limited to discussion of a patient's diagnosis and cooperation in the management and delivery of health care with each provider performing those activities that he or she is legally authorized to perform.

*Collaborative Practice*—the joint management of the health care of a patient by an APRN performing advanced practice registered nursing and one or more consulting physicians. Except as provided in R.S. 37:930, acts of medical diagnosis and prescriptions by an APRN shall be in accordance with a *collaborative practice* agreement.

*Collaborative Practice Agreement*—a formal written statement addressing the parameters of the collaborative practice which are mutually agreed upon by an APRN and

one or more physicians which shall include but not be limited to the following provisions:

a. availability of the collaborating physician for consultation or referral, or both;

b. methods of management of the collaborative practice which shall include clinical practice guidelines; and

c. coverage of the health care needs of a patient during any absence of the APRN or physician.

*Controlled Substance*—any substance defined, enumerated, or included in federal or state statute or regulations 21 CFR 1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a *controlled substance* by amendment of supplementation of such regulations or statute.

*Physician*—an individual lawfully entitled to engage in the practice of medicine in this state as evidenced by a license duly issued by the board.

*Practice Site*—a location at which a collaborating physician or APRN engages in the performance of his or her profession.

*Prescription* or *Prescription Drug Order*—an order from a practitioner authorized by law to prescribe for a drug or device that is patient specific and is communicated by any means to a pharmacist in a permitted pharmacy, and is preserved on file as required by law or regulation R.S. 37:1164.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

**§7705. Prohibitions**

A. No physician shall collaborate with an APRN except in compliance with the rules of this Chapter.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

**§7707. Exceptions**

A. This Chapter shall not apply to physician collaboration:

1. with an APRN who does not engage in acts of medical diagnosis or prescriptions, as described in R.S. 37:913(8) and (9); or those otherwise exempt from collaborative practice pursuant to R.S. 37:930;

2. for patients of any facility or clinic maintained or operated by the United States or any of its departments, offices or agencies; and

3. in cases of a declared emergency or disaster, as defined by the Louisiana Health Emergency Powers Act, R.S. 29:760 et seq., or as otherwise provided in title 29 of the *Louisiana Revised Statutes* of 1950, or the board's rules.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

**Subchapter B. Due Diligence; Eligibility; Requirements of Collaborative Practice Agreement and Required Information**

**§7709. Due Diligence**

A. Before entering into a collaborative practice agreement with an APRN a physician shall insure that he or she possesses the qualifications specified by this Chapter.

B. A physician who collaborates with an APRN shall:

1. have an understanding of the rules of this Chapter and the laws and rules administered by the Louisiana State Board of Nursing concerning APRNs, R.S. 37:913 and LAC 46:4501 et seq., respectively; and

2. before commencing collaboration, verify that his or her collaborative practice agreement with the APRN has been approved by Louisiana State Board of Nursing.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

#### **§7711. Eligibility; Required Components of Clinical Practice Agreement**

A. To be eligible to engage in collaborative practice with an APRN a physician shall:

1. have a current, unencumbered, unrestricted and valid license to practice medicine duly issued by the board;

2. be actively engaged in the clinical practice of medicine and the provision of patient care, in the same field or area of patient care in which the collaborative practice is to take place;

3. have signed a collaborative practice agreement as described in R.S. 37:913(8) and (9) with an APRN that complies with the standards of practice prescribed by Sections 7715-7719 of this Chapter and, in addition, shall at a minimum include:

a. a plan of accountability among the parties that addresses:

i. prescriptive authority of the APRN and the responsibilities of the collaborating physician;

ii. a plan for hospital and other healthcare institution admissions and privileges which provides that a collaborating physician must have hospital privileges at an institution before an APRN receives privileges at the same institution;

iii. arrangements for diagnostic and laboratory testing; and

iv. a plan for documentation of medical records;

b. clinical practice guidelines as required by R.S. 37:913(9)(b), documenting the types or categories or schedules of drugs available and generic substitution for prescription by the APRN and be:

i. mutually agreed upon by the APRN and collaborating physician;

ii. specific to the practice setting;

iii. maintained on site;

iv. reviewed and signed at least annually by the APRN and physician to reflect current practice;

c. availability of the collaborating physician when he or she is not physically present in the practice setting:

i. for consultation, assistance with medical emergencies, or patient referral; and

ii. identifies a secondary (back-up) physician or physicians, who meets the eligibility requirements prescribed by this Chapter and signs the collaborative practice agreement;

iii. confirming that in the event the collaborating physician and any secondary (back-up) collaborating physician(s) are unavailable, the APRN will not prescribe;

d. documentation that patients are informed about how to access care when both the APRN and/or the

collaborating physician are absent from the practice setting; and

e. an acknowledgment of the mutual obligation and responsibility of the APRN and collaborating physician to insure that all acts of prescriptive authority are properly documented;

4. if the APRN has been granted prescriptive authority by the Louisiana State Board of Nursing that includes controlled substances:

a. possess a current, unrestricted Louisiana controlled dangerous substance permit and a current, unrestricted registration to prescribe controlled substances issued by the United States Drug Enforcement Administration; and

b. include any specific instructions for medications which the collaborating physician may believe requires more stringent oversight.

B. A physician who does not satisfy the requirements prescribed by this Section shall not engage in collaborative practice with an APRN.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

#### **§7713. Required Information**

A. Each physician shall report to the board annually, as a condition of the issuance or renewal of medical licensure, whether or not he or she is engaged in collaborative practice with an APRN, along with such other information as the board may request.

B. The information shall be reported in a format prepared by the board, which shall be made part of or accompany each physician's renewal application for medical licensure.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

#### **Subchapter C. Standards of Practice**

##### **§7715. Authority and Responsibilities**

A. A collaborating physician shall:

1. insure that patients of the collaborative practice are informed that the APRN is not a physician and is properly representing his/her credentials;

2. insure that the identity, contact information and availability of the collaborating physician, back-up physician(s) and APRN is available to patients of the collaborative practice;

3. if patients of the collaborative practice require hospital admission, have admitting privileges at a hospital or an arrangement in place to provide hospital coverage for such patients. In no event shall the plan for hospital admission of such patients consist solely of referral to a hospital emergency room; and

4. insure that any arrangement or financial relationship with an APRN is structured so as to prohibit interference or intrusion into the physician's relationship with patients or the exercise of independent medical judgment.

B. Non-Shared Practice Sites; Quality Assurance. In addition to the authorities and responsibilities required by Subsection A of this Section, where the collaborating

physician does not share any practice site with the APRN, the collaborating physician shall:

1. visit the APRN's practice site at least monthly during regular office hours and review at least 10 percent or 20 charts, whichever is less, of patients of the collaborative practice for purposes of quality assurance and to assure that the APRN is practicing in accordance with the collaborative practice agreement. If the APRN has been granted prescriptive authority for controlled substances, such review shall also include controlled substances prescribed by the APRN to patients of the collaborative practice and may include the Board of Pharmacy Prescription Monitoring Program information; and

2. maintain a practice site that is geographically located so as to accommodate patient referrals by the APRN.

C. Exceptions. The provisions of Subsection B of this Section shall not apply to physician collaboration for patients of a hospital, nursing home or hospice licensed by the Louisiana Department of Health and Hospitals.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

#### **§7717. Limitations**

A. A physician shall not collaborate with an APRN:

1. except in compliance with all applicable state and federal laws and regulations;

2. when the APRN and collaborating physician, or in the physician's absence a designated back-up physician meeting the qualifications of this Chapter, do not have the capability to be in contact with each other by telephone or other means of direct telecommunication;

3. who treats and/or utilizes controlled substances in the treatment of:

- a. non-cancer related chronic or intractable pain, as set forth in §§6915-6923 of the board's rules;

- b. obesity, as set forth in §§6901-6913 of the board's rules;

- c. one's self, spouse, child or any immediate family member;

4. who dispenses medication, other than free or gratuitous non-controlled substances;

5. with an APRN who provides services that are not directly related to the services provided and scope of practice of the collaborating physician; and

6. who utilizes or prescribes any medication or classes of medications which the physician does not use in his or her current practice.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

#### **§7719. Continuous Quality Improvement; Board Access to Documents**

A. A collaborating physician shall insure that copies of the collaborative practice agreement and clinical practice guidelines are:

1. maintained at the physician's and APRN's practice site(s);

2. annually reviewed, updated as appropriate, signed and dated by the collaborating physician and APRN; and

3. available for examination, inspection and copying upon request by the board or its designated employees or agents.

B. A collaborating physician shall comply with and respond to requests by the board for personal appearances and information relative to his or her collaborative practice.

C. Employees or agents of the board may perform an on-site review of a collaborating physician's practice at any reasonable time, without the necessity of prior notice, to determine compliance with the requirements of these rules.

D. A collaborating physician shall, within 15 days of the occurrence or discovery, notify the board in writing of evidence of an APRN's non-compliance with the collaborative practice agreement or incidents of unauthorized practice.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

#### **Subchapter D. Sanctions**

##### **§7721. Effect of Violation**

A. Any violation or failure to comply with the provisions of this Chapter shall be deemed unprofessional conduct and conduct in contravention of the board's rules, in violation of R.S. 37:1285(A)(13) and (30), respectively, as well as violation of any other applicable provision of R.S. 37:1285(A), providing cause for the board to refuse to issue, revoke, suspend, or impose probationary or other terms, conditions or restrictions on any license to practice medicine in the state of Louisiana held or applied for by a physician.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

##### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed rules on the family has been considered. It is not anticipated that the proposed rules will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

##### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed rules on those that may be living at or below 100 percent of the federal poverty line has been considered. It is not anticipated that the proposed rules will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

##### **Provider Impact Statement**

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed rules on organizations that provide services for individuals with development disabilities has been considered. It is not anticipated that the proposed rules will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

##### **Public Comments**

Interested persons may submit written data, views, arguments, information or comments on the proposed rules

to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA, 70130, (504) 568-6820, ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., September 19, 2014.

### Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on September 24, 2014, at 10 a.m. at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Cecilia Mouton, M.D.  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: **Physician Practice; Physician Collaboration with Advanced Practice Registered Nurses**

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

Other than one-time costs for notice and rule publication estimated at a total of \$820 in FY 15, it is not anticipated that the proposed rules will result in any additional costs or savings to the board or other state or local governmental units. The board anticipates devoting some administrative resources to processing that portion of its annual renewal applications for physicians who serve as a Collaborating Physician (CP) for an Advance Practice Registered Nurse (APRN). While the number of CPs is unknown the information will be included in, and processed with, existing systems for annual renewals of medical licensure. The board anticipates it can absorb the projected modest increase in administrative workload with existing personnel and resources.

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

There is no anticipated effect on the revenue collections of the Board of Medical Examiners or any state or local governmental unit.

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

Any physician who serves as a CP: whose patients of a collaborative practice require hospitalization but he or she does not have hospital admitting privileges at any hospital *or* an arrangement to provide hospital coverage for such patients at any hospital; who does not share any practice location with the APRN *and* does not already visit the APRN's practice site at least monthly for purposes of quality assurance *e.g.*, chart review and insuring practice in accord with the collaborative practice agreement (CPA) *or* is not geographically located so as to accommodate patient referrals by the APRN (collaboration for patients of licensed hospitals, nursing homes and hospices excepted), would be directly affected by the proposed amendments and may experience an increase in costs or decrease in revenue to an extent that is not quantifiable.

While it is believed that few physicians who serve as CPs, or patients or other providers, would be impacted by the proposed requirements it is not possible to estimate the

proposed Rules' impact in these respects as no information or data is available either as to the number of physicians who collaborate with APRNs or the extent to which those that do may/may not already comply with the proposed requirements. However, based on the board's experience in carrying out its investigative responsibilities, reviewing practices and responding to inquiries, and because many of the provisions contained in the proposed rules are already contained in regulations governing APRNs who collaborate with CPs, it is believed that any impact on collaborative practices would be minimal. Among other items, the proposed rules also require physicians to: insure eligibility to serve as a CP, have an understanding of the applicable law/rules and verify approval of an APRN's CPA before commencing collaboration; insure that the credentials, identity, contact information and availability of the CP and APRN are made available to patients; report whether they serve as a CP for an APRN on their annual renewal application for medical licensure; make available to the board upon request copies of their CPA and clinical practice guidelines and report evidence of non-compliance or unauthorized practice to the board. The board does not anticipate that these requirements will have a material effect on paperwork or workload of affected physicians.

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

It is not anticipated that the proposed rules will have any significant impact on competition or employment in either the public or private sector.

Cecilia Mouton, M.D.  
Executive Director  
1408#052

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Nursing

#### Disaster Permits for APRNs (LAC 46:XLVII.3328 and 4513)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:918, that the Louisiana State Board of Nursing (LSBN) proposes to amend Chapter 33 and 45 of its rules particular, by amending Sections 3328 and 4513. The proposed changes to the rules provide for the issuance of temporary prescriptive authority to those who request to apply for and provide services as advanced practice registered nurses/APRNs in Louisiana during the event of a formal, declared disaster. Current rules require that an applicant for prescriptive authority hold a valid APRN license which excludes and prevents APRNs from other states working under a disaster permit from providing a full range of services to Louisianans since a permit is not full APRN licensure. There is no request to expand the scope of practice of APRNs in the state nor is there a request for exceptions to current requirements for prescriptive authority. The addition of language to Section 3328 and an exception to Section 4513 of current rules would allow APRNs with a disaster permit issued in Louisiana to work to their maximum scope of practice permitted by current laws and regulations in Louisiana during this temporary period.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part XLVII. Nurses: Practical Nurses and Registered Nurses**

**Subpart 2. Registered Nurses**

**Chapter 33. General**

**§3328. Temporary Permits**

A. - G. ...

H. Prescriptive and Distributing Authority of Advanced Practice Registered Nurses (APRNs) Issued a Disaster Permit. As public health emergencies and disasters can be sudden and unpredictable, the Department of Health and Hospitals, Office of Public Health and the Louisiana State Board of Nursing shall jointly develop guidelines for the collaborative practice agreement and collaborating physicians or dentists, and the processes required for granting disaster permits and temporary prescriptive authority for APRNs in the event of such emergencies when gratuitous services are provided. Any APRN issued a disaster permit who engages in medical diagnosis and management shall have prescriptive authority issued by the Louisiana State Board of Nursing. In accord with LAC 46:XLVII.4513.D, with the exception of controlled substances, an APRN may be granted temporary prescriptive authority to prescribe assessment studies, including pharmaceutical diagnostic testing, legend drugs, therapeutic regimens, medical devices and appliances, receiving and distributing a therapeutic regimen of prepackaged drugs prepared and labeled by a licensed pharmacist, and free samples supplied by a drug manufacturer, and distributing drugs for administration to and use by other individuals within the scope of practice as defined by the board in R.S. 37:913(3)(b).

1. The applicant shall:

a. hold a current, unencumbered, unrestricted and valid APRN license or APRN disaster relief permit issued in Louisiana with no pending disciplinary proceedings as stated in R.S. 37:921;

b. submit an application for temporary prescriptive authority on a form provided by the board;

c. submit evidence of current, unrestricted certification issued by a nationally recognized certifying body approved by the board;

d. submit evidence of current and active prescriptive authority granted in another state;

e. submit a collaborative practice agreement as defined in §4513.B.1, 2 and 3 and the guidelines established and approved by the Department of Health and Hospitals, Office of Public Health and the Louisiana State Board of Nursing.

i. The collaborating physician shall include the state health officer of the Department of Health and Hospital, Office of Public Health and/or his designee;

ii. The designee shall meet all requirements set forth by the board and as delineated in the guidelines.

2. Any deviation from any provisions in this Part shall be submitted to the board for review and approval;

3. APRNs currently licensed and holding active prescriptive authority in Louisiana are eligible to apply for additional temporary prescriptive authority privileges under the provisions of this Section;

4. Nothing herein provides for the authorization to prescribe controlled substances

5. If allegations of acts or omissions which constitute grounds for disciplinary action as defined in R.S. 37:911 et seq., or any Rule promulgated by the board is received during the permit interval or during the time prescriptive authority has been granted, the permit and prescriptive authority issued pursuant to this Section shall be recalled.

6. The Louisiana State Board of Nursing shall review the application and collaborative practice agreement for temporary prescriptive authority and all related materials, and shall approve, modify, or deny the application for prescriptive authority. An APRN with temporary prescriptive authority approved by the board shall only prescribe drugs and therapeutic devices as recommended within the parameters of the collaborative practice agreement.

7. If temporary prescriptive authority is granted through the provisions of this part relative to the issuance of an APRN disaster permit, prescriptive authority shall become inactive immediately upon expiration or inactivation of the APRN disaster permit, and the APRN must immediately cease exercising prescriptive authority at that time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, 919 and 920.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 33:460 (March 2007), amended LR 39:2280 (August 2013), LR 40:

**§4513. Authorized Practice**

A. - C.8. ...

D. Prescriptive and Distributing Authority. An advanced practice registered nurse (APRN) shall practice in a manner consistent with the definition of advanced practice set forth in R.S. 37:913(3). An APRN may be granted prescriptive authority to prescribe assessment studies, including pharmaceutical diagnostic testing (e.g., dobutamine stress testing) legend and certain controlled drugs, therapeutic regimens, medical devices and appliances, receiving and distributing a therapeutic regimen of prepackaged drugs prepared and labeled by a licensed pharmacist, and free samples supplied by a drug manufacturer, and distributing drugs for administration to and use by other individuals within the scope of practice as defined by the board in R.S. 37:913(3)(b).

1. The applicant shall:

a. hold a current, unencumbered, unrestricted and valid registered nurse license in Louisiana with no pending disciplinary proceedings as stated in R.S. 37:921, except as provided in LAC 46:XLVII.3328.A-H;

1.b. - 14.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K) and R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:598 (August 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 22:283 (April 1996), amended by the Department of Health and Hospitals, Board of Nursing and Board of Medical Examiners, LR 22:981 (October 1996), LR 25:1245 (July 1999), LR, amended by the Department of Health and Hospitals, Board of Nursing, 27:727 (May 2001), amended by the Department of Health and Hospitals, Board of Nursing and Board of Medical Examiners, LR 28:487 (March 2002), repromulgated LR 28:1205 (June 2002), amended by the Department of Health and Hospitals, Board of Nursing, LR

31:2023 (August 2005), LR 33:1870 (September 2007), amended by the Department of Health and Hospitals, Board of Nursing, LR 40:63 (January 2014), LR 40:

#### **Family Impact Statement**

1. What effect will this Rule have on the stability of the family? The proposed Rule should have no effect on the stability of the family.

2. What effect will this Rule have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule should have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this Rule have on the functioning of the family? The proposed Rule should have no effect on the functioning of the family.

4. What effect will this Rule have on family earnings and family budget? The proposed Rule should have no effect on family earnings and family budget.

5. What effect will this Rule have on the behavior and personal responsibility of children? The proposed Rule should have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, family or local government may not perform any of the functions outlined in the proposed Rule.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, it is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known foreseeable effect on:

1. Is there an effect on the staffing level requirements or qualifications required to provide the same level of service? There will be no effect on the staffing level requirements or qualifications required to provide the same level of service.

2. Is there a total direct and indirect effect on the cost to the providers to provide the same level of service? There may be an indirect effect on the cost to the providers to provide the same level of service in that they will be volunteers providing nursing services during a disaster and will not be paid for what would, in other circumstances, be paid services.

3. What is the overall effect on the ability of the provider to provide the same level of service? There is no effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments on the proposed Rule to Karen C. Lyon, Louisiana State Board of Nursing, 17373 Perkins Road, Baton Rouge, LA 70810, or by facsimile to (225) 755-7585. All comments must be submitted by 5 p.m. on or before September 10, 2014.

Karen C. Lyon, PhD, APRN, ACNS, NEA  
Executive Director

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

### **RULE TITLE: Disaster Permits for APRNs**

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

There is no anticipated savings to state or local governmental units. The Board estimates it will incur one-time costs of approximately \$250 in state FY15 associated with publication costs of the proposed and final rules. The proposed rule changes will allow both in-state and out-of-state advanced practice registered nurses (APRNs) with disaster permit issued in Louisiana to work to their maximum scope of practice permitted by current laws and regulations in Louisiana. This would occur for a temporary period in which a formal, declared disaster has transpired in Louisiana.

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

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

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

The proposed rule changes may create specific economic benefits to citizens in the event of a formal declared state of emergency or disaster, allowing APRNs to fill a necessary role in dispensing prescriptions during potential disruptions in normal healthcare services delivery. The proposed rule changes will allow both in-state and out-of-state APRNs to obtain a disaster permit and practice under the auspices of the Louisiana Department of Health and Hospitals. The APRNs in Louisiana will forgo the right to practice under their current collaborative practice agreement unless the subsidiaries in the collaborative practice agreement obtain a disaster permit and practice under the auspices of the Louisiana Department of Health and Hospitals. In order to pool resources, maintain control and verify credentials during a declared state of disaster/emergency, APRNs will be required to adhere to the rules for APRNs with prescriptive authority. The ability to obtain a disaster permit would only occur for a temporary period in which a formal, declared disaster/emergency has transpired in our State. As of FY13, Louisiana has 4,350 APRNs that could possibly apply for the right to attain temporary prescriptive authority.

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

The proposed rule change will have no estimated effect on competition and employment because disaster permits are obtained by APRN volunteers.

Karen C. Lyon  
Executive Director  
1408#032

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Health and Hospitals Board of Optometry Examiners**

Authorized Ophthalmic Surgery Procedures  
(LAC 46:LI.107, 503 and 801)

Notice is hereby given, in accordance with the Administrative Procedures Act, R.S. 49:950 et seq., that the Louisiana State Board of Optometry Examiners, pursuant to authority vested in the Louisiana State Board of Optometry Examiners by the Optometry Practice Act, R.S. 37:1041-



1068, intends to amend LAC 46:LI.107, 503 and 801 by adopting the following proposed amendments to the rules set forth below.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**  
**Part LI. Optometrists**

**Chapter 1. General Provisions**

**§107. Organization of the Board**

A. ...

B. Definitions

1. As used in this Part, the following terms have the meaning ascribed to them in this Section, unless the context clearly indicates otherwise.

2. Masculine terms shall include the feminine and, when the context requires, shall include partnership and/or professional corporations.

3. Where the context requires, singular shall include the plural or plural shall include the singular.

*Act*—the Optometry Practice Act, R.S. 37:1041 et seq.

*Board*—the Louisiana State Board of Optometry Examiners.

*Diagnostic and Therapeutic Pharmaceutical Agent*—any chemical in solution, suspension, emulsion, ointment base, or other form when used topically or orally that has the property of assisting in prescription or nonprescription drug delivered by any route of administration, used or prescribed for the diagnosis, prevention, treatment, or mitigation of abnormal conditions and pathology of the human eye and its adnexa, or those which may be used for such purposes, and certain approved narcotics, only when used in treatment of disorders or diseases of the eye and its adnexa. Licensed pharmacists of this state shall fill prescriptions for such pharmaceutical agents of licensed optometrists certified by the board to use such pharmaceutical agents.

i. Any diagnostic and therapeutic pharmaceutical agent as defined above listed in schedules III, IV and V of the uniform controlled dangerous substances law shall be limited to use or to be prescribed by a licensed optometrist for a maximum of 48 hours when used in treatment or disorders or diseases of the eye and its adnexa.

ii. Diagnostic and therapeutic pharmaceutical agent shall not include any drug or other substances listed in schedules I and II of the uniform controlled dangerous substances law provided in R.S. 40:963 and 964 which shall be prohibited from use by a licensed optometrist.

iii. A licensed optometrist may prescribe one additional 48-hour prescription only if warranted by a follow-up exam.

*Licensed Optometrist*—a person licensed and holding a certificate issued under the provisions of the Act.

*Optometry*—that practice in which a person employs primary eye care procedures or applies any means other than including ophthalmic surgery such as YAG laser capsulotomy, laser peripheral iridotomy, and laser trabeculoplasty, for the measurement of except for those surgery procedures specifically excluded in subsection D of section 1041 of the Optometry Practice Act; measures the power and testing the range of vision of the human eye, and determines using subjective or objective means, including the use of lenses and prisms before the eye and

autorefractors or other automated testing devices to determine its accommodative and, refractive state, and general scope of function; and the adaptation of frames and lenses, in all their phases, including plano and zero power contact lenses, to overcome errors of refraction and restore as near as possible normal human vision, or for orthotic, or prosthetic, therapeutic or cosmetic purposes, or cosmetic purposes with respect to the adaption of contact lenses. Optometry also includes the examination and diagnosis, and treatment, other than by ophthalmic surgery, of abnormal conditions and pathology of the human eye and its adnexa, including the use and prescription or prescription of vision therapy, ocular exercises, rehabilitation therapy, subnormal vision therapy, ordering of appropriate diagnostic lab or imaging tests; the dispensing of samples to initiate treatment; and the use or prescription of diagnostic and therapeutic pharmaceutical agents. Optometrists shall issue prescriptions, directions and orders regarding medications and treatments which may be carried out by other health care personnel including optometrists, physicians, dentists, osteopaths, pharmacists, nurses, and others.

i. *Ophthalmic Surgery*—a procedure upon the human eye or its adnexa in which in vivo human tissue is injected, cut, burned, frozen, sutured, vaporized, coagulated, or photodisrupted by the use of surgical instrumentation such as, but not limited to, a scalpel, cryoprobe, laser, electric cautery, or ionizing radiation. Nothing in this Optometry Practice Act shall limit an optometrist's ability to use diagnostic or therapeutic instruments utilizing laser or ultrasound technology in the performance of primary eye care or limit an optometrist's ability to perform *ophthalmic surgery* procedures other than those specifically excluded in subsection D of section 1041 of the Optometry Practice Act. Only persons licensed to practice medicine by the Louisiana State Board of Medical Examiners under the laws of this state may perform the *ophthalmic surgery* procedures specified in subsection D of the Optometry Practice Act.

ii. *Authorized Ophthalmic Surgery Procedures*—any procedure upon the human eye or its adnexa in which in vivo human tissue is injected, cut, burned, frozen, vaporized, coagulated, photodisrupted, or otherwise altered by the use of surgical instrumentation such as, but not limited to, a scalpel, needle, cryoprobe, laser, cautery, ultrasound, or ionizing radiation, other than procedures listed in subsection D of section 1041 of the Optometry Practice Act.

iii. Nothing in the Optometry Practice Act shall prohibit the dilation and irrigation of lacrimal ducts, insertion and removal of lacrimal plugs, foreign body removal from superficial ocular tissue, suture removal, removal of eyelashes, drainage of superficial lesions of the eye and its adnexa, or corneal shaping with external ophthalmic devices such as contact lenses by optometrists, provided, however, no optometrist shall carry out any such procedures referenced in this Paragraph unless certified by the board to treat those abnormal conditions and pathology of the human eye and its adnexa.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:629 (April 2006), amended LR 34:872 (May 2008), LR 40:

**Chapter 5. Practicing Optometry**  
**§503. License to Practice Optometry**

A. - F.5. ...

G. Certification to Use Diagnostic Drugs to Treat Ocular Pathology. An optometrist may be certified to use diagnostic and therapeutic pharmaceutical agents and to diagnose and treat ocular pathology. In order to obtain such certification, an optometrist shall comply with the following requirements.

1. - 1.c. ...

2. Certification to Treat Pathology and to Use and Prescribe Diagnostic and Therapeutic Pharmaceutical Agents

a. Definitions. For purposes of this Paragraph 2 the following definitions shall apply.

\* \* \*

*Therapeutic Pharmaceutical Agents*—any chemical in solution, suspension, emulsion, ointment base, or other form that when used topically or orally has the property of assisting in the diagnosis, prevention, treatment, or mitigation of abnormal conditions and pathology of the human eye and its adnexa, or those which may be used for such purposes, and certain approved narcotics when used in the treatment of disorders or diseases of the eye and its adnexa.

\* \* \*

b. Requirements for Certification. In order to be approved as an optometrist authorized to treat pathology and use and prescribe diagnostic and therapeutic pharmaceutical agents, an optometrist shall present to the secretary of the Louisiana State Board of Optometry Examiners for approval by the board, the following:

i. a certified transcript from an approved educational institution evidencing satisfaction of the educational prerequisites for certification to use diagnostic and therapeutic pharmaceutical agents as set forth in LAC 46:LI.503.G.1.a.ii or evidence of current certification by the board for the use of diagnostic and therapeutic pharmaceutical agents under LAC 46:LI.503.G.1; and

ii. certification from a source acceptable to the board evidencing current qualification to perform cardiopulmonary resuscitation (CPR) or basic life support, which certification shall be current as of the time of application to the board for certification to treat pathology and use and prescribe diagnostic and therapeutic pharmaceutical agents;

iii. a signed statement from the applicant stating that he or she possesses child and adult automatic epinephrine injector kits in every office location in which the applicant practices, which injector kits shall be operable and unexpired as of the date of application to the board for certification to treat pathology and use and prescribe diagnostic and therapeutic pharmaceutical agents;

2.b.iv. - 3. ...

H. Qualifications for a Louisiana licensed optometrist to be credentialed to utilize and perform authorized ophthalmic surgery procedures.

1. Louisiana licensed optometrists shall be credentialed to perform authorized ophthalmic surgery procedures if:

a. the applicant provides proof of holding a Louisiana license to practice therapeutic optometry and is in good standing;

b. the applicant provides proof of satisfactory completion of a course of instruction approved by the board that may include:

i. the following didactic classroom instructions:

(a). laser physics, hazards, and safety;

(b). biophysics of lasers;

(c). laser application on clinical optometry;

(d). laser tissue interactions;

(e). laser indications, contraindications, and potential complications;

(f). gonioscopy;

(g). laser therapy for open angle glaucoma;

(h). laser therapy for angle closure glaucoma;

(i). posterior capsulotomy;

(j). common complications: lids, lashes, lacrimal system;

(k). medicolegal aspects of anterior segment procedures;

(l). peripheral iridotomy;

(m). laser trabeculoplasty;

(n). minor surgical procedures;

(o). overview of surgical instruments, asepsis, and O.S.H.A.;

(p). surgical anatomy of the eyelids;

(q). emergency surgical procedures;

(r). chalazion management;

(s). epiluminescence microscopy;

(t). local anesthesia: techniques and complications;

(u). anaphalaxis and other office emergencies;

(v). radiofrequency surgery;

(w). post-operative wound care;

c. the applicant satisfactorily completes a written test approved by the board on aspects of the Louisiana Optometry Practice Act pertaining to authorized ophthalmic surgery procedures.

2. A board-approved course of instruction shall be:

a. provided by an accredited optometry, osteopathy or medical school;

b. a minimum of 32 clock hours in length; and

c. sponsored by an organization approved by the board.

3. Prohibitions and Referrals

a. Performing authorized ophthalmic surgery procedures without credentialing based upon the education requirements outlined in this administrative regulation shall be grounds for suspension or revocation of an optometry license and/or credentialing to perform authorized ophthalmic surgery procedures as per section 1061 of the Optometry Practice Act.

4. Outcomes Reporting

a. Every optometrist who has met the requirements for certification to perform authorized ophthalmic surgery procedures shall report to the board the outcome of authorized ophthalmic surgery procedures performed in such form as required or directed by the board.

5. Beginning with the graduating class of 2015 any optometrist who provides proof that he/she graduated from an optometry school whose program includes all of the training and testing requirements established by the board may be deemed to have met the requirements for

certification to perform authorized ophthalmic surgery procedures.

6. Performance of authorized ophthalmic surgery procedures by any person without a valid and current certificate issued by the board to perform such procedures shall be considered a violation of section 1061(A)(1) of the Optometry Practice Act.

I. Prescriptions for Eyeglasses or Contact Lenses

1. Every written prescription shall contain an expiration date and the signature of the optometrist issuing the prescription. The expiration date may not exceed 18 months, unless the optometrist documents a valid medical reason in the chart for doing so.

2. Contact lenses may not be sold or dispensed without a written, signed, unexpired prescription. Every contact lens prescription shall contain information specifying the curvature, diameters, refractive power, pertinent measurement, and the number of lenses to be dispensed. An optometrist, when filling a prescription for contact lenses, shall issue to the patient a notice that states the number of refills allowed and the expiration date of the prescription.

3. An optometrist, when filling a prescription for eyeglasses or contact lenses, shall be required to keep the original prescription. An optometrist may not refuse to release to a patient a copy of the patient's prescription if requested by the patient; provided, however, an optometrist shall not be required to release a prescription that has expired.

4. A spectacle prescription shall not be construed to be or substituted for a contact lens prescription nor shall a contact lens prescription be construed to be or substituted for a spectacle prescription.

J. Participation in Student Extern Program. An optometrist may participate in student extern programs in accordance with rules and regulations promulgated from time to time by the board.

1. The level of responsibility assigned to a student extern shall be at the discretion of the supervising optometrist who shall be ultimately responsible for the duties, actions or work performed by such student extern.

2. The duties, actions and work performed by a student extern in accordance with the provisions of this §503 and §603 shall not be considered the practice of optometry without a license as set forth in R.S. 37:1061(14).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:632 (April 2006), amended LR 34:873 (May 2008), LR 38:1590 (July 2012), LR 40:

**Chapter 8. Fees and Expenses**

**§801. Fees**

A. - A.11. ...

12. Original Authorized Ophthalmic Surgery Procedures Certificate—\$50

13. Authorized Ophthalmic Surgery Procedures Certificate renewal fee—\$50

14. Authorized Ophthalmic Surgery Procedures Certificate delinquency fee—\$50

15. Authorized Ophthalmic Surgery Procedures Certificate reinstatement fee—\$50

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:636 (April 2006), amended LR 40:

**Family Impact Statement**

It is anticipated that the proposed Rule amendments will have no significant effect on the: stability of the family, authority and rights of parents regarding the education and supervision of their children, functioning of the family, family earnings and family budget, behavior and personal responsibility of children, ability of the family or a local government to perform the function as contained in the proposed Rule.

**Poverty Impact Statement**

It is anticipated that the proposed Rule amendments will have no significant impact on poverty as described in R.S. 49:973.

**Small Business Statement**

It is anticipated that the proposed Rule amendments have no significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed Rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

**Provider Impact Statement**

It is anticipated that the proposed Rule amendments have no significant provider impact as described in HCR 170 of 2014.

**Public Comments**

Interested persons may submit written data, views, arguments, information or comments on the proposed rules until 5 p.m., September 20, 2014, to Dr. James D. Sandefur, O.D., Louisiana State Board of Optometry Examiners, 419 Hwy. 165 North, P.O. Box 155, Oakdale, LA 71463. He is responsible for responding to inquiries regarding the proposed rules.

James D. Sandefur, O.D.  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Authorized Ophthalmic  
Surgery Procedures**

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

Other than the rule publication costs, which are estimated to be \$500 in FY 15, it is not anticipated that the proposed rule amendments will result in any material costs or savings to the Board of Optometry Examiners, any state unit or local governmental units. The Board will be able to absorb any workload changes associated with new certifications. Notification of these rule changes will be included in a mass mailing to all licensees, which has already been budgeted for notification of such rule changes. The proposed rule amendments codify Act 398 of the 2014 Regular Session of the Louisiana Legislature with regard to an expanded scope of allowable ophthalmic surgery procedures performed by optometrists, limitations on procedures performed by optometrists, credentials to perform certain procedures, the use

of certain pharmaceutical agents and disciplinary actions for individuals practicing outside of credentialed procedures.

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

The proposed rule amendments create a certification process to allow optometrists meeting minimum credentialing requirements to perform authorized ophthalmic surgery procedures. The proposed rule amendments create an original certification (\$50), a renewal (\$50), a delinquency fee (\$50) and a reinstatement fee (\$50). These fees will be collected as self-generated revenues to the Board of Optometry Examiners. The establishment of this fee schedule will result in an indeterminable increase in self-generated revenues for the board and will be dependent upon the number of optometrists practicing in the state who choose to become credentialed to perform allowable ophthalmic surgery procedures.

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

Optometrists certified to perform approved ophthalmic surgery procedures will be required to pass a course of instruction approved by the Louisiana State Board of Optometry Examiners. Such a course is currently offered by the State of Oklahoma with an estimated cost of \$1,500.00, plus travel expenses. The fee for an original certificate to perform Authorized Ophthalmic Surgery Procedures to be issued by the Louisiana State Board of Optometry Examiners is \$50. The annual renewal fee is also \$50.00. Optometrists that become certified in performing approved ophthalmic surgery procedures are projected to realize positive economic benefits from an expanded scope of practice. Patients visiting an optometrist and receiving certain diagnoses may now realize economic benefits if the optometrist can potentially perform an approved procedure rather than referring the patient for an appointment with a separate practitioner.

The proposed rule amendment will have no impact on non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule amendment codifies Act 398 of 2014. The result of that legislation is anticipated to increase competition to provide certain ophthalmic surgery procedures between optometrists and ophthalmologists. An optometrist discovering or diagnosing a relevant condition may now complete allowable procedures that were formerly referred to an ophthalmologist.

J. Graves Theus, Jr.  
Attorney  
1408#028

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Practical Nurse Examiners**

Regular Admissions; Advanced Standing; Licensure; Fees  
(LAC 46:XLVII.937, 939 and 1715)

The Board of Practical Nurse Examiners proposes to amend LAC 46:XLVII.901, 939, and 1715, in accordance with the provisions of the Administrative Procedure Act, R.S. 950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979.

The purpose of the proposed Rule change to Section 937 is to raise the minimum standards of placement tests taken prior to entering the practical nursing program to ensure that

the applicant is qualified to enter into the practical nursing program.

The purpose of the proposed Rule change to Section 939 is to ensure that the practical nursing student has retained the material as well as the knowledge of the most current revisions of the subject matter.

The proposed Rule change to Section 1715.A.2 and 4 will increase certain fees that will be utilized for operating funds which will further the mission of the LPN Board in protecting the public. Funding expenditures will address key operation issues and process improvements including: disaster preparedness, paperless systems, personnel costs and related benefits, caseload complexity in investigative, legal services and monitoring services due to an increase in drug and criminally related complaints received. It is projected that the LSBPNE's annual operational expenses will exceed the revenues currently generated. The fundamental purpose of the LSBPNE is to protect the public. The increased revenue generated from the modest fee increase will impact the LSBPNE's ability to better serve the public.

The proposed Rule change to Section 1715.A.5 is to remove the word revoked, due to revocation in the state of Louisiana being permanent. This Section does not apply to a licensee whose license is revoked.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLVII. Nurses: Practical Nurses and Registered  
Nurses**

**Subpart 1. Practical Nurses**

**Chapter 9. Program Projection**

**Subchapter F. Admissions**

**§937. Regular Admissions**

A. ...

1. receive a grade placement of at least 12.0 in mathematics, reading and language on an achievement test approved by the board;

2. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:197 (April 1977), amended LR 5:65 (March 1979), LR 6:339 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1128 (October 1992), repromulgated LR 18:1261 (November 1992), amended LR 21:684 (July 1995), LR 40:

**§939. Advanced Standing**

A. - C. ...

D. At the discretion of the nursing faculty and based upon individual evaluation, a student who has withdrawn and/or dropped from an approved or accredited practical nursing program within the previous three years may be granted advanced credit for units previously completed.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:197 (April 1977), amended LR 5:65 (March 1979), LR 10:339 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1128

(October 1992), repromulgated LR 18:1261 (November 1992), amended LR 26:2617 (November 2000), LR 40:

## Chapter 17. Licensure

### §1715. Approved Fees

A. - A.1. ...

2. license by endorsement—\$60;

3. ...

4. renewal of license—\$60;

5. reinstatement of license which has been suspended, or which has lapsed by nonrenewal—\$150;

A.6. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:977 as amended Act 272, 1982 and Act 54, 1991.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:200 (April 1977), amended LR 10:342 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners LR 18:1130 (October 1992), repromulgated LR 18:1263 (November 1992), amended LR 26:2618 (November 2000), LR 34:874 (May 2008), LR 40:

#### Family Impact Statement

The proposed amendments to LAC 46:XLVII.Subpart 1 should not have any impact on family as defined by R.S. 49:972. There should not be any effect on: the stability of the family; the authority and rights of parents regarding the education and supervision of their children; the functioning of the family; family earnings and family budget; the behavior and personal responsibility of children; and/or the ability of the family or local government to perform the function as contained in the proposed Rule.

#### Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, it is anticipated that the proposed amendments will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### Provider Impact Statement

The proposed amendments should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known foreseeable effect on:

1. Is there an effect on the staffing level requirements or qualifications required to provide the same level of service? There will be no effect on the staffing level requirements or qualifications required to provide the same level of service.

2. Is there a total direct and indirect effect on the cost to the providers to provide the same level of service? There is not a direct or indirect effect on the cost to the providers to provide the same level of service.

3. What is the overall effect on the ability of the provider to provide the same level of service? There is no effect on the ability of the provider to provide the same level of service.

#### Public Comments

Interested persons may submit written comments until 4 p.m., September 9, 2014, to M. Lynn Ansardi, RN, Board of Practical Nurse Examiners, 131 Airline Dr., Suite 301 Metairie, LA 70001.

M. Lynn Ansardi, RN  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Regular Admissions; Advanced Standing; Licensure; Fees

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

The estimated implementation cost for this rule change totals approximately \$164 in FY 15. This cost is related to the publication of the notice of intent and the final rule in the Louisiana Register. The proposed rule change increases certain licensure and renewal fees for licensed practical nurses, makes changes to regular admissions criteria and provides advanced standing for certain students entering the practical nursing program.

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

The proposed rule amendments to Sections 937 and 939 will have no effect on revenue collections of state or local governmental units.

The proposed rule change to Section 1715 will increase board revenue by approximately \$222,500 in FY 15 and each year thereafter. It will allow the board to eliminate deficits in its operating budget and address key operation issues and process improvements including: disaster preparedness, paperless systems, personnel costs and related benefits, caseload complexity in investigative and legal services, monitoring services due to an increase in drug and criminally related complaints received.

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

The proposed rule amendment to Section 937 increases the grade placement minimums for acceptance into the practical nursing program, which may eliminate an unknown number of applicants from admission. The proposed rule amendments to Section 939 allows discretion among nursing faculty to issue advanced credit for units previously completed by students that may have withdrawn or dropped from an authorized nursing program. This discretion may create positive economic benefits to students that may no longer be required to repeat coursework.

The proposed rule change to Section 1715 will increase certain licensure fees for practical nurses as follows: license by endorsement fee by \$10 and will affect approximately 250 applicants per year; renewal fee by \$10 and affects approximately 22,000 renewal applicants per year.

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

There is no anticipated effect on competition and employment.

M. Lynn Ansardi  
Executive Director  
1408#007

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

#### NOTICE OF INTENT

### Department of Health and Hospitals Board of Veterinary Medicine

Fees (LAC 46:LXXXV.501 and 505)

The Louisiana Board of Veterinary Medicine proposes to amend and adopt LAC 46:LXXXV.501 and 505 accordance with the provisions of the Administrative Procedure Act,

R.S. 49:953 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1518(A)(9). The board is vested with the authority to regulate the practice of veterinary medicine to insure the health, welfare, and protection of the animals and the public. The board is financially autonomous from state funds and due to the increase in the costs of discharging its lawful obligations, the board must at this time minimally increase certain annual renewal licensing fees, including application, state board examination, and original license which are one-time costs associated with initial licensure, all within the caps established by the legislature in the Veterinary Practice Act. It has been approximately 10 years since a fee increase has occurred in this profession. The rules regarding annual license renewal fees shall become effective with the license renewal period of the 2015-2016 (October 1, 2015-September 30, 2016) and annually thereafter; and the rules regarding application, state board examination, original license, and late renewal fees shall become effective upon promulgation.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXXXV. Veterinarian**

**Chapter 5. Fees**

**§501. Fees**

A. The board hereby adopts and establishes the following fees.

Licenses	
Annual renewal-active license	\$250
Annual renewal-inactive license	\$125
Annual renewal-faculty license	\$100
Duplicate license	\$ 25
Original license fee	\$250
Temporary license	\$100
Exams	
Clinical Competency Test (CCT)	\$190
National Board Exam (NAVLE)	\$215
State board exam	\$200
Exam and/or License Application	
Application fee	\$100

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 8:65 (February 1982), amended by Department of Health and Hospitals, Board of Veterinary Medicine, LR 18:380 (April 1992), LR 19:1326 (October 1993), LR 23:963 (August 1997), LR 25:2408 (December 1999), LR 30:796 (April 2004), LR 40:

**§505. License Renewal Late Fee**

A. Any license renewed after the published expiration date stated in R.S. 37:1424 shall be subject to an additional late charge of \$150 as a late fee for each applicable expired year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 10:208 (March 1984), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1429 (November 1993), LR 20:1114 (October 1994), LR 25:2408 (December 1999), LR 40:

**Family Impact Statement**

In accordance with section 953 of title 49 of the *Louisiana Revised Statutes*, the following Family Impact Statement will be published in the *Louisiana Register* with the proposed rules.

1. The Effect on the Stability of the Family. We anticipate no effect on the stability of the family.
2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. We anticipate no effect on the authority and rights of parents regarding the education and supervision of their children.
3. The Effect on the Functioning of the Family. We anticipate no effect on the functioning of the family.
4. The Effect on Family Earnings and Family Budget. The proposed Rules regarding the minimal fees increase should have no significant adverse effect on family earnings and family budget.
5. The Effect on the Behavior and Personal Responsibility of Children. We anticipate no effect on the behavior and personal responsibility of children.
6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rules. We anticipate no effect on the ability of the family or a local government to perform the function as contained in the proposed Rules.

**Poverty Impact Statement**

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, the following Poverty Impact Statement will be published in the *Louisiana Register* with the proposed rules.

1. The Effect on Household Income, Assets, and Financial Security. The proposed Rules regarding the minimal fees increase should have no significant adverse effect on household income, assets, and financial security.
2. The Effect on Early Childhood Development and Pre-school through Post-secondary Education Development. We anticipate no effect on early childhood development and pre-school through post-secondary education development regarding the proposed rules.
3. The Effect on Employment and Workforce Development. The proposed rules regarding the minimal fees increase should have no significant effect on employment and workforce development.
4. The Effect on Taxes and Tax Credits. We anticipate no effect on taxes and tax credits regarding the proposed rules.
5. The Effect on Child and Dependant Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. We anticipate no effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance regarding the proposed rules.

**Small Business Statement**

In accordance with section 965 of title 49 of the *Louisiana Revised Statutes*, the following regulatory flexibility analysis will be published in the *Louisiana Register* with the proposed rules. The board, being financially autonomous from state funds and consistent with its obligations to insure the health, welfare, and protection of the public and animals receiving veterinary care, must at this time minimally

increase certain annual renewal licensing fees, including application, state board examination, and original license which are one-time costs associated with initial licensure, all within the caps established in the Veterinary Practice Act in order to meet the growing costs of discharging its mandated duties.

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. There are no changes in record keeping or reporting requirements for small businesses.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. There are no changes in the deadlines for compliance or reporting requirements for small businesses.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. The proposed Rules regarding the minimal fees increase should have no significant adverse effect on compliance or reporting requirements for small businesses. The Board is being fiscally responsible pursuant to its authority.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards in the Proposed Rules. There are no design or operational standards in the proposed rules.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rules. There are no exemptions for small businesses in the proposed rules.

#### **Provider Impact Statement**

In accordance with HCR 170 of the 2014 Regular Legislative Session, the following Provider Impact Statement will be published in the *Louisiana Register* with the proposed rules.

1. Staffing Level Requirements or Qualifications. It is not anticipated that the proposed rules will have any significant impact on the effect on the staffing level requirements or qualifications required to provide the same level of service.

2. Direct and Indirect Effect of Costs. It is not anticipated that the proposed rules will have any significant impact on the total direct and indirect effect on the cost to providers to provide the same level of service.

3. Ability to Provide Same Level of Service. It is not anticipated that the proposed rules will have any significant impact on the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested parties may submit written comments to Wendy D. Parrish, Executive Director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801, or by facsimile to (225) 342-2142. Comments will be accepted through the close of business on Friday, September 19, 2014.

#### **Public Hearing**

If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedure Act, the hearing will be held on Thursday, September 25, 2014, at 10 a.m. at the office of the Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA.

Wendy D. Parrish  
Executive Director

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

### **RULE TITLE: Fees**

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

There will be no estimated costs (savings) to state or local governmental units with regards to the proposed rules outside of one-time costs associated with this proposed rule, anticipated at \$600 Fees and Self-Generated Revenues in state FY 15. This cost is routinely included in the board's annual operating budget. The proposed rules amend Louisiana Administrative Code (LAC) Title 46, Part LXXXV, Sections 501 and 505, and increase certain annual renewal licensing fees as well as the application, state board examination and original license fee.

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

The Board of Veterinary Medicine anticipates an increase of approximately \$8,000 in self-generated revenues above current levels beginning in FY 15, and increasing to approximately \$47,000 above current levels beginning in FY 16 and beyond. The proposed increase in annual license renewal fees shall become effective for the 2015-2016 license renewal period (October 1, 2015-September 30, 2016) and annually thereafter; and the rules regarding application, state board examination, original license, and late renewal fees shall become effective upon promulgation.

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

The proposed fee increases regarding application, state board examination, and original license are one-time costs to the applicant associated with initial licensure. The increase in license renewal fees will be incurred annually. The proposed rules regarding the fee increases should have no significant effect regarding costs and/or economic benefits to directly affected persons. Licensees and applicants for licensure will realize an increase of \$25 per impacted fee.

There will be no costs and/or economic benefits to non-governmental groups with regards to the proposed rules.

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

The proposed rules regarding the fee increases are not anticipated to create a significant effect on competition and employment.

Wendy D. Parrish  
Executive Director  
1408#013

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Health and Hospitals Bureau of Health Services Financing**

Coordinated Care Network  
LACHIP Affordable Plan Benefits Administration  
(LAC 50:I.3103)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:I.3103 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, Bureau of Health Services Financing adopted provisions which implemented a coordinated system of care in the Medicaid Program designed to improve performance and health care outcomes through a healthcare delivery system called coordinated care networks, also known as the BAYOU HEALTH Program (*Louisiana Register*, Volume 37, Number 6).

The department promulgated an Emergency Rule which amended the provisions governing the coordinated care networks in order to include health care services provided to LaCHIP Affordable Plan recipients in the BAYOU HEALTH Program (*Louisiana Register*, Volume 38, Number 12). These services were administered by the Office of Group Benefits. The administration of these services were transferred to the health plans participating in the BAYOU HEALTH Program.

The department promulgated a Rule which amended the provisions governing coordinated care networks in order to revise the recipient participation requirements (*Louisiana Register*, Volume 40, Number 6). The department subsequently promulgated an Emergency Rule which amended the provisions of the January 1, 2013 Emergency Rule in order to revise the formatting of these provisions as a result of the promulgation of the June 20, 2014 final Rule (*Louisiana Register*, Volume 40, Number 8). This will ensure that these provisions are appropriately incorporated into the *Louisiana Administrative Code*. This proposed Rule is being promulgated to continue the provisions of the August 20, 2014 Emergency Rule.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part I. Administration**

#### **Subpart 3. Medicaid Coordinated Care**

#### **Chapter 31. Coordinated Care Network**

#### **§3103. Recipient Participation**

A. The following Medicaid recipients shall be mandatory participants in coordinated care networks:

1. - 1.d....

e. uninsured women who are eligible through the Louisiana Children's Health Insurance Program (LaCHIP) prenatal option;

f. children under the age of 19 enrolled in the LaCHIP Affordable Care Plan (phase 5); and

A.2. - C. ...

#### **D. Participation Exclusion**

1. The following Medicaid and/or CHIP recipients are excluded from participation in a CCN and cannot voluntarily enroll in a CCN. Individuals who:

a. - g. ...

h. - h.i. Reserved.

E. ...

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, Bureau of Health Services Financing, LR 37:1573 (June 2011), amended LR 40:310 (February 2014), LR 40:1096 (June 2014), LR 40:

#### **Family Impact Statement**

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 no impact on family

functioning, stability or autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### **Public Comments**

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Wednesday, September 24, 2014 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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.

Kathy H. Kliebert  
Secretary

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

#### **RULE TITLE: Coordinated Care Network LACHIP Affordable Plan Benefits Administration**

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

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$175,046 for FY 14-15, \$187,000 for FY 15-16 and \$197,090 for FY 16-17. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in in FY 13-14 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.06 percent in FY 14-15 and 62.30 in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

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

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$286,435 for FY 14-15, \$309,022 for FY 15-16 and \$326,947 for FY 16-17. It is anticipated that \$164 will be expended in



FY 13-14 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.06 percent in FY 14-15 and 62.30 in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

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

This proposed Rule continues the provisions of the August 20, 2014 Emergency Rule which amended the provisions governing the coordinated care networks in order to include health care services provided to LaCHIP Affordable Plan recipients in the BAYOU HEALTH Program. It is anticipated that implementation of this proposed rule will reduce programmatic expenditures in the Medicaid Program by approximately \$461,809 for FY 14-15, \$496,022 for FY 15-16 and \$524,037 for FY 16-17.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

J. Ruth Kennedy  
Medicaid Director  
1408#068

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

Disproportionate Share Hospital Payments  
Public-Private Partnerships  
(LAC 50:V.Chapter 29)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:V.Chapter 29 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, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions governing disproportionate share hospital (DSH) payments for non-state owned hospitals in order to encourage them to take over the operation and management of state-owned and operated hospitals that have terminated or reduced services (*Louisiana Register*, Volume 38, Number 11). Participating non-state owned hospitals shall enter into a cooperative endeavor agreement with the department to support this public-private partnership initiative.

The department promulgated an Emergency Rule which amended the November 1, 2012 Emergency Rule to revise the provisions governing DSH payments to hospitals participating in public-private partnerships to incorporate language approved in the corresponding State Plan Amendment in order to ensure compliance with federal regulations (*Louisiana Register*, Volume 40, Number 7). This proposed Rule is being promulgated to continue the provisions of the July 20, 2014 Emergency Rule.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part V. Hospital Services**

**Subpart 3. Disproportionate Share Hospital Payments**

**Chapter 29. Public-Private Partnerships**

**§2901. Qualifying Criteria**

A. Free-Standing Psychiatric Hospitals. Effective for dates of service on or after January 1, 2013, a free-standing psychiatric hospital may qualify for this category by being:

1. a Medicaid enrolled non-state privately owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of inpatient Medicaid and uninsured hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or

b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility; or

2. a Medicaid enrolled non-state publicly owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of inpatient Medicaid and uninsured hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or

b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

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, Bureau of Health Services Financing, LR 40:

**§2903. Reimbursement Methodology**

A. Qualifying hospitals shall be paid a per diem rate of \$581.11 per day for each uninsured patient. Qualifying hospitals must submit costs and patient specific data in a format specified by the Department.

B. Cost and lengths of stay will be reviewed for reasonableness before payments are made. Payments shall be made on a monthly basis.

C. Aggregate DSH payments for hospitals that receive payment from this category, and any other DSH category, shall not exceed the hospital's specific DSH limit. If payments calculated under this methodology would cause a hospital's aggregate DSH payment to exceed the limit, the payment from this category shall be capped at the hospital's specific DSH limit.

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, Bureau of Health Services Financing, LR 40:

**Family Impact Statement**

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 ensuring that families have continued access to much needed hospital services.

### Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by reducing the financial burden to families for hospital-related health care services.

### Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have an impact on the staffing level requirements or qualifications required to provide the same level of service and may increase direct or indirect cost to the provider to provide the same level of service. It may also enhance the provider's ability to provide the same level of service as described in HCR 170.

### Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

### Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, September 24, 2014 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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.

Kathy H. Kliebert  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Disproportionate Share Hospital Payments—Public-Private Partnerships

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

It is anticipated that the implementation of this proposed rule will result in estimated state general fund savings of \$9,524,054 for FY 14-15, \$9,747,931 for FY 15-16 and \$10,016,400 for FY 16-17. It is anticipated that \$410 (\$205 SGF and \$205 FED) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.06 percent in FY 14-15 and 62.30 in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

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

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$15,579,012 for FY 14-15, \$16,108,650 for FY 15-16 and \$16,615,878 for FY 16-17. It is anticipated that \$205 will be expended in FY 14-15 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.06 percent in FY 14-15 and 62.30 in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

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

This proposed rule, which continues the provisions of the July 20, 2014 Emergency Rule, amends the provisions governing disproportionate share hospital (DSH) payments to establish payments for free-standing psychiatric hospitals participating in public-private partnerships per the approved Medicaid State Plan (3 qualifying hospitals). It is anticipated that implementation of this proposed rule will reduce programmatic expenditures in the Medicaid Program by approximately \$25,103,476 for FY 14-15, \$25,856,581 for FY 15-16 and \$26,632,278 for FY 16-17.

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

This rule has no known effect on competition and employment.

J. Ruth Kennedy  
Medicaid Director  
1408#069

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis and Treatment  
Personal Care Services  
Removal of Parental Availability  
(LAC 50:XV.7305)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XV.7305 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 amended the provisions governing personal care services covered in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program in order to revise the reimbursement methodology to be consistent with current payment methodologies (*Louisiana Register*, Volume 36, Number 11).

The department subsequently promulgated an Emergency Rule which amended the provisions governing EPSDT

personal care services in order to revise the recipient qualifications to remove the criteria regarding parental/caregiver availability in the home (*Louisiana Register*, Volume 40, Number 6). This proposed Rule is being promulgated to continue the provisions of the June 1, 2014 Emergency Rule.

#### **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. 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 six 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.

5. Repealed.

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 30:253 (February 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

#### **Family Impact Statement**

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 may have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by increasing access to EPSDT personal care services.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by increasing access to ESPDT personal care services which is expected to improve medical conditions and reduce health care costs to families.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### **Public Comments**

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to [MedicaidPolicy@la.gov](mailto:MedicaidPolicy@la.gov). Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Wednesday, September 24, 2014 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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.

Kathy H. Kliebert  
Secretary

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

#### **RULE TITLE: Early and Periodic Screening, Diagnosis and Treatment—Personal Care Services Removal of Parental Availability**

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

It is anticipated that the implementation of this proposed rule will result in estimated net state general fund programmatic savings of \$665,727 for FY 14-15, \$681,530 for FY 15-16 and \$700,300 for FY 16-17. Costs associated with Early and Periodic Screening, Diagnosis and Treatment (EPSDT) personal care services will be directly offset by a larger savings realized from a reduction in expenditures in the Home Health Program for extended home health services. Extended home health services are more costly and the shift in program services is expected to generate the savings. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.06 percent in FY 14-15 and 62.30 in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

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

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$1,089,062 for FY 14-15, \$1,126,241 for FY 15-16 and \$1,161,704 for FY 16-17. It is anticipated that \$164 will be expended in FY 14-15 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.06 percent in FY 14-15 and 62.30 in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

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

This proposed Rule continues the provisions of the June 1, 2014 Emergency Rule which amended the provisions

governing EPSDT personal care services in order to revise the recipient qualifications to remove the criteria regarding parental/caregiver availability in the home. It is anticipated that implementation of this proposed rule will reduce expenditures in the EPSDT program by approximately \$1,755,117 for FY 14-15, \$1,807,771 for FY 15-16 and \$1,862,004 for FY 16-17.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

J. Ruth Kennedy  
Medicaid Director  
1408#070

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

Medicaid Eligibility  
Former Foster Care Adolescents  
(LAC 50:III.2308)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:III.2308 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.

Act 352 of the 2008 Regular Session of the Louisiana Legislature authorized the Department of Health and Hospitals to adopt provisions pursuant to the Chafee Option which provide regular Medicaid coverage or an alternative benefits package to independent youth aging out of foster care. In compliance with Act 352, the department adopted provisions pursuant to the Chafee Option to establish a new Medicaid eligibility group to provide Medicaid coverage to youth between the ages of 18 and 21 who are transitioning out of foster care (*Louisiana Register*, Volume 35, Number 11).

The Patient Protection and Affordable Care Act of 2010 and Education Reconciliation Act of 2010 (collectively referred to as the Affordable Care Act) require Medicaid to expand coverage to foster care adolescents ages 18 to 26 who are transitioning out of foster care. In compliance with the Affordable Care Act, the department promulgated an Emergency Rule which adopted provisions to establish a new Medicaid eligibility group to provide Medicaid coverage to former foster care adolescents from age 18 to 26 who are transitioning out of foster care (*Louisiana Register*, Volume 40, Number 1).

The department promulgated an Emergency Rule which amended the provisions of the December 31, 2013 Emergency Rule to clarify the provisions and to correct the Section number in order to ensure that these provisions are promulgated appropriately in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 40, Number 1). This proposed Rule is being promulgated to continue the provisions of the January 20, 2014 Emergency Rule.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part III. Eligibility**

**Subpart 3. Eligibility Groups and Factors**

**Chapter 23. Eligibility Groups and Medicaid Programs**

**§2308. Former Foster Care Adolescents**

A. Pursuant to the Patient Protection and Affordable Care Act of 2010 (collectively referred to as the Affordable Care Act), the Department of Health and Hospitals hereby implements a Medicaid eligibility group, effective December 31, 2013, to provide health care coverage to youth who are transitioning out of foster care to self-sufficiency upon reaching age 18 or at a higher age selected by the department. This eligibility group will be called former foster care adolescents.

B. Eligibility Requirements. Youth who age out of foster care and meet all of the following requirements may receive Medicaid health care coverage under this new eligibility group.

1. The youth must be from age 18 up to age 26.
2. The youth must have been in foster care and in state custody, either in Louisiana or another state, and receiving Medicaid upon turning age 18 or upon aging out of foster care at a higher age selected by the department.
3. The youth must live in Louisiana.

C. Income, resources and insurance status are not considered when determining eligibility.

D. Individuals determined eligible in this group shall receive coverage of medically necessary health care services provided under the Medicaid state plan.

1. The assistance unit shall consist of the youth only.

E. Eligibility for the program will continue until the youth reaches age 26 unless the youth:

1. moves out of state;
2. requests closure of the case;
3. is incarcerated; or
4. dies.

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, Bureau of Health Services Financing, LR 40:

**Family Impact Statement**

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 may have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by ensuring continued Medicaid coverage for youth transitioning out of foster care.

**Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by ensuring continued Medicaid coverage for youth transitioning out of foster care which is expected to improve medical conditions and reduce health care costs to families.

### Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

### Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

### Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, September 24, 2014 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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.

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Kathy H. Kliebert  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Medicaid Eligibility Former Foster Care Adolescents

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

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic costs of \$163,448 for FY 14-15, \$167,076 for FY 15-16 and \$171,678 for FY 16-17. It is anticipated that \$410 (\$205 SGF and \$205 FED) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.06 percent in FY 14-15 and 62.30 in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

#### 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 \$267,227 for FY 14-15, \$276,097 for FY 15-16 and \$284,790 for FY 16-17. It is anticipated that \$205 will be expended in FY 14-15 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.06 percent in FY 14-15 and 62.30 in FY 15-16. The enhanced rate of 62.11 percent for the

first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

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

This proposed Rule continues the provisions of the January 20, 2014 Emergency Rule which adopted provisions to establish a new Medicaid eligibility group to provide Medicaid coverage to former foster care adolescents from age 18 to 26 who are transitioning out of foster care, and amended the provisions for clarifications, and to correct the Section number to ensure that these provisions are promulgated appropriately in the *Louisiana Administrative Code*. It is anticipated that implementation of this proposed rule will increase program expenditures in the Medicaid program by approximately \$430,265 for FY 14-15, \$443,173 for FY 15-16 and \$456,468 for FY 16-17.

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

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

J. Ruth Kennedy  
Medicaid Director  
1408#071

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Health and Hospitals Bureau of Health Services Financing

Medicaid Eligibility  
Income Disregards for Children  
(LAC 50:III.10305)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:III.10305 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 adopted a Rule promulgating the Medicaid Eligibility Manual in its entirety by reference, including Section Z-200 which addresses income disregards for children under age 19 (*Louisiana Register*, Volume 22, Number 5). The May 20, 1996 Rule was repromulgated on July 20, 1996 to make corrections to the price of the manual (*Louisiana Register*, Volume 22, Number 7). The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing eligibility income disregards to establish an income disregard that shall allow for eligibility for home and community-based services as though the individual was a resident of a nursing facility or an intermediate care facility for persons with intellectual disabilities (*Louisiana Register*, Volume 38, Number 9).

The Patient Protection and Affordable Care Act of 2010 and Education Reconciliation Act of 2010 (collectively referred to as the Affordable Care Act) require all poverty level children between the ages of 0-18 to have the same minimum income limit to be eligible. The May 20, 1996 and July 20, 1996 Rules include different limits disregards for children ages 0 to 5 and 6 to 18. In compliance with the

Affordable Care Act, the department promulgated an Emergency Rule which amended the provisions governing income disregards to establish equal income limits for children under age 19 (*Louisiana Register*, Volume 40, Number 1). This proposed Rule is being promulgated to continue the provisions of the December 31, 2013 Emergency Rule.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part III. Eligibility**

#### **Subpart 5. Financial Eligibility**

#### **Chapter 103. Income**

#### **§10305. Income Disregards**

A. - B.5. ...

C. Effective December 31, 2013, the income of children ages 6 to 19 from 100 percent up to 142 percent of the federal poverty level shall be disregarded.

D. ...

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 34:1629 (August 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1898 (September 2009), LR 40:

#### **Family Impact Statement**

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 may have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by ensuring that all poverty level children under age 19 are allowed the same income limits for determining Medicaid eligibility.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by reducing the financial burden for health care costs for certain families who will now meet the new income standards.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### **Public Comments**

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Wednesday, September 24, 2014 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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.

Kathy H. Kliebert  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Medicaid Eligibility Income Disregards for Children**

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

It is anticipated that implementation of this proposed rule may result in an increase in programmatic expenditures in the Medicaid Program by an indeterminable amount for FY 14-15, FY 15-16, and FY 16-17. It is anticipated that \$328(\$164 SGF and \$164 FED) will be expended in FY 14-15 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 have an indeterminable increase in federal revenue collections for FY 14-15, FY 15-16, and FY 16-17. It is anticipated that \$164 will be collected in FY 14-15 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 proposed Rule continues the provisions of the December 31, 2013 Emergency Rule which amended the provisions governing eligibility income disregards to establish equal income limits for children under age 19. It is anticipated that implementation of this proposed rule may increase Medicaid costs by an indeterminable amount for FY 14-15, FY 15-16, and FY 16-17 as the potential change in enrollment is unknown but is expected to be nominal (less than 10 children per month).

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

This rule has no known effect on competition and employment.

J. Ruth Kennedy  
Medicaid Director  
1408#072

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Bureau of Health Services Financing

Medicaid Eligibility  
Income Disregards for Pregnant Minors  
(LAC 50:III.10305)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:III.10305 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, Bureau of Health Services Financing promulgated a final Rule which repealed the provisions of the June 20, 2003 Rule governing income disregards for low income pregnant women in order to adopt more restrictive eligibility standards (*Louisiana Register*, Volume 39, Number 12). As a result of the Medicaid eligibility changes for January 2014, these income disregard provisions were determined to no longer be applicable to the financial eligibility determination for Medicaid coverage of low income pregnant women in the LaMOMS Program.

In compliance with the Patient Protection and Affordable Care Act of 2010, the department promulgated an Emergency Rule which amended the provisions governing the Medicaid eligibility group for Pregnant Unmarried Minors (PUMs) by disregarding the income of parents when determining eligibility for pregnant women up to age 18 (*Louisiana Register*, Volume 40, Number 1). This proposed Rule is being promulgated to continue the provisions of the December 31, 2013 Emergency Rule.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part III. Eligibility

#### Subpart 5. Financial Eligibility

#### Chapter 103. Income

#### §10305. Income Disregards

A. - B.5. ...

C. ...

D. Effective December 31, 2013, the income of parents or siblings of pregnant unmarried minors (PUMs) or pregnant minor unmarried mothers (MUMs) will not be included when determining Medicaid eligibility for a PUM or pregnant MUM.

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 34:1629 (August 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1898 (September 2009), LR 40:

#### Family Impact Statement

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 may have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 as it permits the state to continue to provide vital

prenatal health care services to pregnant minors in order to promote healthy pregnancies and healthy children.

#### Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by reducing the financial burden on families by improving access to Medicaid covered services for pregnant unmarried minors who may otherwise be uninsured.

#### Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

#### Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, September 24, 2014 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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.

Kathy H. Kliebert  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Medicaid Eligibility Income Disregards for Pregnant Minors

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

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 14-15. It is anticipated that \$328(\$164 SGF and \$164 FED) will be expended in FY 14-15 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 revenue collections other than the federal share of the promulgation costs for FY 14-15. It is anticipated that \$164 will be collected in FY 14-15 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 proposed Rule continues the provisions of the December 31, 2013 Emergency Rule which amended the provisions governing the Medicaid eligibility group for Pregnant Unmarried Minors (PUMs) in order to continue the current practice of the department in disregarding the income of parents when determining financial eligibility for pregnant women up to age 18 under the new eligibility criteria resulting from the Affordable Care Act. It is anticipated that implementation of this proposed rule will not have economic costs or benefits for FY 14-15, FY 15-16, and FY 16-17.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

J. Ruth Kennedy  
Medicaid Director  
1408#073

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

**Outpatient Hospital Services  
Removal of Emergency Room Visit Limits  
(LAC 50:V.5117)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend the August 20, 1983 Rule governing outpatient hospital services covered 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 Human Resources, Office of Family Security promulgated a Rule governing outpatient hospital services that placed limits on the number of visits for selected services, including emergency room services (*Louisiana Register*, Volume 9, Number 8).

The U.S. Department of Health and Human Services, Centers for Medicaid and Medicare Services (CMS) notified the department that the current provisions governing outpatient hospital services covered in the Medicaid State Plan were no longer consistent with federal regulations due to the visit limits placed on emergency room services. To ensure compliance with federal regulations, the department promulgated an Emergency Rule which amended the August 20, 1983 Rule governing outpatient hospital services to remove the visit limits on emergency room services (*Louisiana Register*, Volume 40, Number 5). This proposed Rule is being promulgated to continue the provisions of the June 1, 2014 Emergency Rule and to ensure that these provisions are appropriately promulgated in a codified format for inclusion in the *Louisiana Administrative Code*.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part V. Hospital Services**

**Subpart 5. Outpatient Hospital Services**

**Chapter 51. General Provisions**

**§5117. Service Limits**

A. Outpatient hospital services shall be limited to the following:

1. rehabilitation services-number of visits in accordance with a rehabilitation plan prior authorized by the department or its designee;

2. clinic services-physician services provided in a clinic in an outpatient hospital setting shall be considered physician services, not outpatient services, and shall be included in the limit of 12 physician visits per year per recipient; and

3. all other outpatient services, including therapeutic and diagnostic radiology services, shall have no limit imposed other than the medical necessity for the services.

B. There shall be no limits placed on emergency room visits.

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 Human Resources, Office of Family Security, LR 9:551 (August 1983), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

**Family Impact Statement**

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 and autonomy as described in R.S. 49:972 as this Rule will increase access to emergency room services.

**Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by reducing the financial burden on families for the cost of emergency room services.

**Provider Impact Statement**

In compliance with House Concurrent Resolution 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service since this proposed Rule may increase payments to providers for the same services they already render.

**Public Comments**

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O.



Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule.

### Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, September 24, 2014 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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 receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Kathy H. Kliebert  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Outpatient Hospital Services Removal of Emergency Room Visit Limits

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

It is anticipated that the implementation of this proposed Rule will result in estimated state general fund programmatic costs of \$522,914 for FY 14-15, \$535,069 for FY 15-16 and \$549,805 for FY 16-17. It is anticipated that \$246 (\$123 SGF and \$123 FED) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed Rule and the Final Rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.06 percent in FY 14-15 and 62.30 in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

#### 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 \$855,274 for FY 14-15, \$884,212 for FY 15-16 and \$912,054 for FY 16-17. It is anticipated that \$123 will be expended in FY 14-15 for the federal administrative expenses for promulgation of this proposed rule and the Final Rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.06 percent in FY 14-15 and 62.30 in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

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

This proposed Rule continues the provisions of the June 1, 2014 Emergency Rule which amended the provisions of the August 20, 1983 Rule governing outpatient hospital services to remove the visit limits on emergency room services. It is anticipated that implementation of this proposed rule will increase program expenditures for outpatient hospital services and payments to physicians by approximately \$1,377,942 for FY 14-15, \$1,419,281 for FY 15-16 and \$1,461,859 for FY 16-17.

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

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

J. Ruth Kennedy  
Medicaid Director  
1408#074

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Radiologic Technology Board of Examiners

Radiologic Technologists  
(LAC 46:LXVI.Chapters 1, 3, 7, 9, 11, 12, and 13)

Notice is hereby given that the Louisiana State Radiologic Technology Board of Examiners, pursuant to the authority of the Louisiana R.S. 37:3207 and in accordance with the provisions of the Louisiana Administrative Procedures Act, R.S. 49:950 et seq., intends to amend its rules governing general provisions, LAC 46:LXVI. The proposed Rule changes codify requirements enacted into law pursuant to Act 250 of the 2014 Regular Session of the Louisiana Legislature. The proposed Rule change updates relevant occupational lists, makes technical changes to the meetings and structure of the board, updates the initial and renewal licensure procedures, and establishes a new licensure fee schedule.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LXVI. Radiologic Technologists

### Chapter 1. Implementation of the Medical Radiation Health and Safety Act

#### §101. Authority

A. The Louisiana Medical Radiation Health and Safety Act, R.S. 37:3200 through R.S. 37:3221, provides that, in order to safeguard life and health by preventing excessive and improper exposure to ionizing radiation, any person practicing or offering to practice as a radiologic technologist in this state shall submit evidence that (s)he is qualified to do so and shall be allowed to practice as a radiologic technologist. The Act creates a board of examiners with regulatory authority, dictates the board's composition and qualifications, methods of appointment of office of the board members. The duties of the board are specified in the act and these duties provide for the implementation of the Medical Radiation Health and Safety Act through the adoption of rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:868 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 40:

#### §103. Applicability

A. All persons using radioactive materials or equipment emitting or detecting ionizing radiation on humans for diagnostic or therapeutic purposes shall be responsible for compliance in accordance with the provisions of this Chapter (refers to R.S. 37:3200-3221) and the provisions of these rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technologists Board of Examiners, LR 11:868 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 14:542 (August 1988), LR 40:

### Chapter 3. The Board of Examiners

#### §305. Meetings of the Board

A. As required by R.S. 37:3205(B), the board shall meet at least every three months and at such other times as may be necessary. The quarterly meetings of the board shall be held in January, April, July and October. The annual meeting shall be in July.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3205 and R.S. 37:3207.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:868 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 40:

### Chapter 7. Actions before the Board

#### §705. Informal Proceeding/Consent Order

A. - D. ...

E. If, at any point during investigation or during informal/formal proceedings as described herein, the board finds that public health, safety, or welfare imperatively requires emergency actions, the board is hereby authorized to immediately suspend the license of the licensee during the course of the proceedings. If the board decides to institute a formal hearing, the hearing shall be promptly instituted and conducted at the board's next scheduled hearing date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:869 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 19:1433 (November 1993), LR 29:182 (February 2003), LR 40:

#### §707. Conduct of a Formal Hearing

A. - A.3.e. ...

4. The chairperson shall appoint a hearing panel, consisting of one or more board members and totaling less than a quorum whose primary role shall be to hear evidence and arguments and to submit written findings, conclusions and recommendations to the board.

a. ...

b. At the hearing, the charge shall be prosecuted by the board's personnel who conducted the investigation, who may be assisted by board attorney, and who will present evidence that disciplinary action should be taken against the licensee.

A.4.c. - B.1.f. ...

2. Subpoenas. The board is empowered by statute to issue subpoenas when requested in writing by any party to the proceedings.

B.2.a. - C.1.b.ii. ...

c. Repealed.

2. - 6. ...

7. After the hearing is conducted, the hearing officer/panel shall issue a report to the board containing the officer/panel's findings of fact, conclusions of the law, and recommendations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:870 (September 1985), amended by the

Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 19:1434 (November 1993), LR 40:

#### §709. The Final Decision of the Board

A. ...

B. Having considered the report of the hearing officer/panel and having reviewed the record of the proceedings, the board may affirm, adopt, modify, or reject the findings and recommendations of the hearing officer/panel or it may determine findings and recommendations of its own.

C. The board's decision must be accompanied by a statement of the reasons for the decision and must dispose individually of each issue of fact or law necessary from the hearing officer.

D. The vote of the board must be recorded and made a part of the decision. The decision of a majority of a quorum shall be adopted as the final decision of the board. A member of the board who serves as a hearing officer or on a hearing panel, shall not participate in the board's final decision with respect to the subject matter of such panel, nor shall said member be considered in determining a quorum for a vote on the final decision of the board.

E. The board may assess the licensee with the costs of the hearing.

F. The final decision shall be delivered to each party by registered or certified mail, return receipt requested.

G. The final decision shall be delivered within 30 days of the close of the hearing.

H. The final decision shall become effective 11 days after the receipt of notification of all parties, provided that there is no appeal. Publication shall be withheld until that date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:871 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 40:

### Chapter 9. General Provisions

#### §901. Definitions

A. ...

\*\*\*

*Ionizing Radiation*—commonly known as x-rays or gamma rays, they remove electrons from the atoms of matter lying in their path (e.g., ionization).

\*\*\*

*Radiologic Technologist*—any person who is a radiographer, radiation therapy technologist, nuclear medicine technologist, fusion technologist, licensed under this Chapter who under the direction and supervision of a licensed practitioner applies radiation to humans upon prescription of a licensed practitioner.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:872 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 23:71 (January 1997), LR 38:97 (January 2012), LR 40:

## **Chapter 11. Licensure**

### **§1101. Scope of License**

A. There are four categories of licenses for radiologic technology as defined in R.S. 37:3200 by their area of specialization. The categories are radiographer, radiation therapy technologist, nuclear medicine technologist, and fusion technologist. A radiologic technologist shall be restricted to the use of ionizing radiation by the category that is defined on his license.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1300, R.S. 37:3207 and R.S. 37:3213.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:872 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 40:

### **§1105. Qualifications of Applicants for Licensure**

A. - A.1. ...

2. is of good moral character;

3. is not in violation of any of the provisions of this Chapter and the rules and regulations adopted hereunder;

4. has successfully completed a four-year course of study in a secondary school (high school) approved by the state Board of Elementary and Secondary Education, passed an approved equivalency test, or has graduated from a secondary school outside Louisiana having comparable approval;

5. has successfully completed a course of study in radiography, radiation therapy technology, nuclear medicine technology, or fusion technologist as approved by the board in accordance with standards promulgated by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3208 and R.S. 37:3207.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:873 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 40:

### **§1109. Licensure by Examination**

A. Pursuant to R.S. 37:3207 and 3209, an application for licensure shall be required to pass the written examination of the American Registry of Radiologic Technologists (ARRT), Nuclear Medicine Technology Certification Board (NMTCB), or American Society of Clinical Pathology (ASCP).

1. ..

B. The board establishes as the passing criterion on the ARRT, NMTCB, ASCP written examination the passing score as established by the credentialing agency.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207, R.S. 37:3208 and R.S. 37:3209.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:873 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 29:183 (February 2003), LR 40:

### **§1111. Application for Initial Licensure for Temporary Work Permit by Examination**

A. Requests for application for initial licensure and for temporary work permit by examination forms shall be requested and submitted to the state board.

B. Pursuant to R.S. 37:3210(C), upon payment a temporary 90-day work permit shall be issued one time only and for the time listed on the temporary work permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207 and R.S. 37:3209.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:873 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 29:183 (February 2003), LR 40:

### **§1113. Follow-Up to Application Submission**

A. - B.1. ...

B.2. - C.3. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:873 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 40:

### **§1115. Modifications to Submitted Information**

A. Address or Name Changes. If a licensure/temporary work permit applicant must change the mailing address which was entered on the application form, the licensee must inform the board in writing. Changes in the licensee name are to be handled in the same manner, but must be accompanied by documentary evidence of the change (e.g., copy of marriage certificate, legal name change form, etc.).

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:873 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 29:183 (February 2003), LR 40:

### **§1117. Re-Examination**

A. An applicant who fails to pass the examination within the issued 90-day time frame of the temporary work permit shall become ineligible for an extension of that temporary work permit. Board will hold original application for licensure up to one year with no additional fee.

1. - 3. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:874 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 40:

### **§1121. Renewal of License**

A. ...

B. Notification for renewal of license shall be mailed prior to expiration by the board to each person holding a license issued under these rules and regulations. Such notification shall be mailed to the most recent address as reflected in the official records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3215 and R.S. 37:3207.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:874 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 40:

**§1125. Reinstatement of License**

A. ...

1. An application for reinstatement from a radiologic technologist who has not ceased practice in accordance with provisions of R.S. 37:3200-3221 shall be made upon a form supplied by the board accompanied by two letters of character recommendation from physicians of the former licensee's place of employment, together with the applicable renewal fee plus a penalty.

a. - c Repealed.

2. ....

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3216 and R.S. 37:3207.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:874 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 40:

**§1129. Fusion Technology Temporary Permit**

A. - A.3. ...

4. satisfies the applicable fees prescribed in these rules and the Radiologic Technology Practice Act.

B. - B.2. ...

C. A temporary permit issued under this Section which has expired may be renewed or reissued by the board for one or more successive 12-month periods, not to exceed 3 years, provided that prior to the expiration of the initial temporary permit:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 38:98 (January 2012), amended LR 40:

**Chapter 12. Continuing Education Requirements**

**§1201. Definitions**

\* \* \*

*Approved Academic Course*—a formal course of study offered by an accredited post-secondary educational institution in the biological sciences, physical sciences, radiologic sciences, health and medical sciences, social sciences, communication (verbal and written), mathematics, computers, management or education methodology. Activities meeting the definition of an *approved academic course* will be awarded credit at the rate of 16 CE credits for each academic semester credit and 12 CE credits for each academic quarter credit. An official transcript showing a grade of "C" or better is required to receive CE credit for an academic course. Official transcript must come from a recognized United States Department of Education (USDE) or Council for Higher Education Accreditation (CHEA) institution authorized to grant degrees by the U.S. Congress, state government, or a recognized sovereign Indian tribe.

*Approved Continuing Education Activity*—an educational activity which has received approval through a recognized continuing education evaluation/mechanism.

1. - 3. ...

\* \* \*

*CPR*—advanced *CPR* certification (ACLS, PALS, or instructor, or instructor trainer *CPR* certification) will automatically be awarded six credits per biennium.

1. Repealed.

*Category A and A+ Credit*—educational activity which is planned, organized, and administered to enhance the knowledge and skills of the licensed individual and provides services to patients, the public, or medical profession.

*Category B Credit*—Repealed.

*Continuing Education (CE)*—educational activities which serve to improve and expand the knowledge and skills underlying professional performance that a radiologic technologist uses to provide services for patients, the public or the medical profession. A contact hour credit is awarded for each 50 to 60 minute educational activity. Activities longer than one hour will be assigned whole or partial CE credit based on the 50-minute hour. Educational activities of 30 to 49 minutes of duration will be awarded 1/2 a credit. An activity that lasts less than 30 minutes will receive no credit.

\* \* \*

*Documentation*—proof of participation in a particular educational activity. *Documentation* must include: dates of attendance, hand written dates are not accepted; title and content of the activity; number of contact hours for the activity; name of sponsor; signature of the instructor or an authorized representative of the sponsor issuing the documentation; and a reference number, if the activity has been approved by a recognized continuing education evaluation mechanism (RCEEM). Board reserves the right to verify all continuing education documents.

\* \* \*

*Independent Study*—an educational activity offered by an accredited post-secondary educational institution or a comparable sponsor wherein the participant independently completes the objectives and submits the required assignments for evaluation. *Independent study* may be delivered through various formats such as directed readings, videotapes, audiotapes, computer-assisted instruction and/or learning methods.

\* \* \*

*Recognized Continuing Education Evaluation Mechanism (RCEEM)*—a mechanism for evaluating the content, quality, and integrity of an educational activity. The evaluation must include review of educational objectives, content selection, faculty qualifications, and educational methods and materials.

\* \* \*

*Sponsor*—an organization responsible for the content, quality and integrity of the educational activity, which plans, organizes, supports, endorses, subsidizes and/or administers educational activities. *Sponsors* may be, but are not limited to, state, national, regional and district professional societies, academic institutions, health care agencies, health care facilities, federal or state government agencies. *Sponsors* must apply and receive approval from a RCEEM in order to offer credit for activities.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:178 (February 1995), amended LR 23:71 (January 1997), LR 40:

**§1203. Renewal of License**

A. ...

B. After June 1, 2013, every person licensed under the provision of this Chapter shall maintain certification and document on-going compliance through the ARRT, NMTCB, or ASCP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:180 (February 1995), amended LR 40:

**§1205. Continuing Education Requirements**

A. Twenty-four hours of continuing education credits must be earned per licensing term to meet the continuing education requirements. Credits earned in excess of 24 per licensing term may not be carried over into the next licensing term. The continuing education requirement is independent of the number of licenses held by an individual (i.e., a radiologic technologist certified in both radiography and radiation therapy technology needs only 24 credits).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:180 (February 1995), amended LR 23:73 (January 1997), LR 40:

**§1207. Licensing Term Schedule**

A. Since the licensing term is defined as that period from June 1 of the renewal or issuance of license year, to the second May 31 to occur after that date, the continuing education credits must be earned in the two years prior to the second occurrence of May 31.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:180 (February 1995), amended LR 23:73 (January 1997), LR 40:

**§1209. Renewal of License by Examination**

A. ...

B. Subsequent renewal of license will require documentation of 24 hours of active participation in continuing education activities for the following licensing term and every two years thereafter, unless another Board approved examination is passed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:180 (February 1995), amended LR 23:73 (January 1997), LR 40:

**§1211. Biannual Application for License Renewal**

A. Notification for the renewal of the license will be mailed to each radiologic technologist whose license to practice radiologic technology will expire that May 31 with the license fee due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:180 (February 1995), amended LR 23:73 (January 1997), LR 40:

**§1215. Applicants for Renewal Who Fail to Meet CE Requirements**

A. A radiologic technologist who applies for renewal of license, but who fails to meet the renewal requirements within the previous licensing term, will automatically be transferred to a probational status. Individuals who are listed as having a probational status, due to failure to meet these renewal requirements, status will be published on website by the Louisiana State Radiologic Technology Board of Examiners and will be reported in response to any inquiries regarding the radiologic technologist's status with the Louisiana State Radiologic Technology Board of Examiners.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:181 (February 1995), amended LR 40:

**§1217. Fee and Expenses**

A. The rules of this Chapter prescribe the fees and costs applicable to the licensing of radiologic technologists.

B. For processing applications for licensure, the following fees shall be payable to the board:

1. initial two year license—\$100;
2. duplicate license—\$25;
3. biennial renewal of license, 2 years—\$100;
4. issuance of 90 day temporary working permit—\$10;
5. delinquency fee in addition to the renewal fee for a license placed on probation using a postmark date:
  - a. all or part of June, July, August—\$50;
  - b. all or part of September—\$75;
  - c. all or part of October—\$100;
  - d. all or part of November—\$150;
  - e. all or part of December—\$200;
6. reinstatement fee, in addition to delinquency fee and renewal fee of a license which has expired—\$25 per month;
7. reinstatement of a license that has been revoked or suspended—\$300.

C. The following miscellaneous expenses, fees and charges shall be payable to the board:

1. actual cost plus \$25 processing fee for any check, money order, cashier's check, or other instrument of payment that is dishonored by the financial institution against which it is drawn;
2. actual costs associated with electronic or credit card payments and transactions;
3. photocopies of documents—\$0.25 per page;
4. actual cost for creation and provision of electronic information data or service;
5. official list of all licensed radiologic technologists—\$300;
6. processing and handling a request for the board's endorsement of licensure status to another state for the purpose of reciprocity licensure—\$25;
7. postage, mailing, shipping, handling or other costs in excess of the applicable minimum first class postage;

8. issuance of a subpoena or subpoena duces tecum in addition to the witness fees required by R.S. 49:956—\$15;

9. actual costs of the board related to any administrative hearing, judicial review, or any investigation of charges instituted by the board, unless charges are subsequently dismissed or not proven.

D. Payment to the board of any fees under this Chapter is nonrefundable.

E. Notwithstanding the foregoing, the board may, by majority vote reduce the amount of and/or waive the collection of any such fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:181 (February 1995), amended LR 40:

### **Chapter 13. Minimum Standards for the Accreditation of Education Programs**

#### **§1301. Minimum Standards for the Accreditation of Education Programs**

A. Pursuant to R.S. 37:3207(3), the board adopts as its standards for education programs and colleges that are programmatic or regionally recognized by the Council for Higher Education Accreditation (CHEA).

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:874 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 23:74 (January 1997), LR 40:

#### **Family Impact Statement**

After considering R.S.49:972, it is anticipated that the proposed Rule change will have no significant effect on the:

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

#### **Poverty Impact Statement**

After considering R.S.49:973, it is anticipated that the proposed Rule change will have no significant effect on the:

1. household income, assets, and financial security;
2. early childhood or education development;
3. employment or workforce development;
4. taxes and tax credits; or
5. child and dependent care, health care, nutrition, transportation, and utilities assistance.

#### **Provider Impact Statement**

After considering HCR 170 of the 2014 Regular Legislative Session, it is anticipated that the proposed Rule change will have no effect on the:

1. staffing level requirements or qualifications required to provide the same level of service;
2. total direct and indirect effect on the cost to the provider to provide the same level of service; or
3. overall effect on the ability of the provider to provide the same level of service.

### **Public Comments**

Interested persons may submit written comments on the proposed Rule to Executive Director, Louisiana State Radiologic Technology Board of Examiners, at 3108 Cleary Avenue, Suite 207, Metairie, LA 70002, telephone (504) 838-5231. The Executive Director is responsible for responding to inquiries. Written comments will be accepted until 4pm, September 19, 2014.

### **Public Hearing**

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the board within 20 days of the date of this notice. Should it become necessary to convene a public hearing to receive data, views, arguments, information, or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on September 30, 2014 at 10 a.m. at the office of the Louisiana State Radiologic Technology Board of Examiners, at 3108 Cleary Avenue, Suite 207, Metairie, LA 70002. Any person wishing to attend should call to confirm that a hearing is being held by calling (504) 838-5231.

Kenneth Jones  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Radiologic Technologists**

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

Other than a one-time cost of approximately \$800 in FY 15 for the publication in the Louisiana Register for promulgation, the proposed rule changes are not anticipated to result in any estimated costs or savings to state or local governmental units. The proposed rule changes codify requirements enacted into law pursuant to Act 250 of the 2014 Regular Session of the Louisiana Legislature. The proposed rule change updates relevant occupational lists, makes technical changes to the meetings and structure of the board, updates the initial and renewal licensure procedures, and establishes a new licensure fee schedule.

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

Pursuant to Act 250 of 2014, the requested change in rules will increase the radiologic technology license renewal fee from \$25 per year to \$50 per year, establish an initial two-year license, and update the delinquency and reinstatement fee schedule, resulting in an approximate increase of \$150,000 to \$175,000 in self-generated revenues each fiscal year beginning in FY 15. Furthermore, the proposed rule change will establish a series of fees to cover minimal administrative costs that are currently an operational expense (credit card transactions, NSF checks, photocopies, postage, etc.). The fees for administrative expenses are not anticipated to produce a significant increase in revenues. Increased annual revenues will be used to cover the Board's general operating expenses and to upgrade office infrastructure for greater efficiency and convenience for licensees.

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

The proposed rule change will affect those already licensed by L.R.S 37:3200-3221. The current licensing fee is \$50 for a two-year period (\$25 per year). Proposed changes to the rule

will increase the licensing fee to \$100 for a two year period (\$50 per year), or \$25 per year. The proposed rule change will also establish administrative fees for certain services or transactions, resulting in a potential cost to licensees in-line with the board's cost of delivering those services. The increase in fees will be used by the board to upgrade its systems and implement a web-based renewal process, which may create economic benefits to licensees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition and employment.

Kenneth Jones  
Executive Director  
1408#035

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Natural Resources  
Office of Conservation**

Fees (LAC 43:XIX.Chapter 7)

Pursuant to power delegated under the laws of the state of Louisiana, and particularly title 30 of the *Louisiana Revised Statutes* of 1950, as amended, the Office of Conservation proposes to amend LAC 43:XIX.701, 703, and 707 (Statewide Order No. 29-R) in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. The proposed action will adopt Statewide Order No. 29-R-14/15 (LAC 43:XIX, Subpart 2, Chapter 7), which establishes the annual Office of Conservation Fee Schedule for the collection of Application, Production, and Regulatory Fees, and will replace the existing Statewide Order No. 29-R-13/14.

**Title 43**

**NATURAL RESOURCES**

**Part XIX. Office of Conservation—General Operations**

**Subpart 2. Statewide Order No. 29-R**

**Chapter 7. Fees**

**§701. Definitions**

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*BOE*—annual barrels oil equivalent. Gas production is converted to *BOE* by dividing annual MCF by a factor of 29.0.

*Capable Gas*—natural and casing head gas not classified as incapable gas well gas or incapable oil well gas by the Department of Revenue, as of December 31, 2013.

*Capable Oil*—crude oil and condensate not classified as incapable oil or stripper oil by the Department of Revenue, as of December 31, 2013.

\*\*\*

*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, as of December 31, 2013.

*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 as of December 31, 2013, 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.

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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), LR 31:2950 (November 2005), LR 32:2087 (November 2006), LR 33:2461 (November 2007), LR 34:2404 (November 2008), LR 35:2463 (November 2009), LR 36:2567 (November 2010), LR 37:3271 (November 2011), LR 38:2930 (November 2012), LR 39:3099 (November 2013), LR 40:

**§703. Fee Schedule for Fiscal Year 2014-2015**

A. ...

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B. Regulatory Fees

1. Operators of each permitted type A facility are required to pay an annual regulatory fee of \$6,496 per facility.

2. Operators of each permitted type B facility are required to pay an annual Regulatory Fee of \$3,248 per facility.

3. Operators of record of permitted non-commercial class II injection/disposal wells are required to pay \$651 per well.

4. Operators of record of permitted class III and Storage wells are required to pay \$651 per well.

C. Class I Well Fees. Operators of permitted class I wells are required to pay \$11,940 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	17
Tier 2	1 - 5,000	94
Tier 3	5,001 - 15,000	267
Tier 4	15,001 - 30,000	443
Tier 5	30,001 - 60,000	700
Tier 6	60,001 - 110,000	974
Tier 7	110,001 - 9,999,999	1,202

E. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq., R.S. 30:560 and 706.

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), LR 30:2494 (November 2004), LR 31:2950 (November 2005), LR 32:2088 (November 2006), LR 33:2461 (November 2007), LR 34:2405 (November 2008), LR 35:2463 (November 2009), LR 36:2569 (November 2010), LR 37:3273 (November 2011), LR 38:2931 (November 2012), LR 39:3099 (November 2013), LR 40:

#### **§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), LR 34:2406 (November 2008), LR 36:2569 (November 2010), LR 37:3274 (November 2011), LR 38:2931 (November 2012), LR 39:3100 (November 2013), LR 40:

#### **§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-14/15 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-14/15) supersedes Statewide Order No. 29-R-13/14 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), LR 30:2494 (November 2004), LR 31:2950 (November 2005), LR 32:2088 (November 2006), LR 33:2462 (November 2007), LR 34:2406 (November 2008), LR 35:2464 (November 2009), LR 36:2570 (November 2010), LR 37:3274 (November 2011), LR 38:2931 (November 2012), LR 39:3100 (November 2013), LR 40:

#### **Family Impact Statement**

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

This Rule has no known impact on poverty as described in R.S. 49:973.

#### **Small Business Statement**

This Rule has no known impact on small businesses as described in R.S. 49:965.6.

#### **Provider Impact Statement**

This Rule has no known impact on providers as described in HCR 170 of 2014.

#### **Public Comments**

Comments and views regarding the proposed fees will be accepted until 4:30 p.m., Monday, September 29, 2014. Comments should be, in writing, to Todd Keating, Director, Engineering Division, Office of Conservation, P.O. Box 94275, Capitol Station, Ninth Floor, Baton Rouge, LA 70804-9275 (Re: Docket No. 14-419 Proposed Statewide Order No. 29-R-14/15).

#### **Public Hearing**

A public hearing will be held at 9 a.m., Wednesday, September 24, 2014, in the LaBelle Hearing Room, located on the First Floor, LaSalle Building, 617 North Third Street, Baton Rouge, LA.

James H. Welsh  
Commissioner

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Fees**

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

There are no estimated implementation costs or savings to the state or local governmental units as a result of the proposed rule changes. The proposed rule provides for changes in the Office of Conservation's General Operations Statewide Order No. 29-R. The proposal provides for changes in the definitions, the fee schedule and the severability and effective date of the Office of Conservation General Operations Statewide Order No. 29-R. Changes to the definitions include: (1) changing the BOE-annual barrels oil equivalent from 26.0 to 29.0 that is based on a three year average (Calendar Year 11, 12, & 13) of the cost of oil and gas; and (2) changing the date in capable gas definition, capable oil definition, production well definition and regulatory fee definition from December 31, 2012 to December 31, 2013. The rule changes also increase the fee for most annual regulatory fees and all annual production fees. Annual regulatory fees are increased as follows: (1) Operators of Type A facility from \$6,360 to \$6,496; (2) Operators of Type B facility from \$3,180 to \$3,348; (3) Operators of record of permitted non-commercial Class II injection/disposal wells from \$641 to \$651; (4) Operators of record of permitted Class III storage wells from \$641 to \$651; and (5) Operators of permitted Class I well from \$10,810 to \$11,940. The per well annual production fees for operators of capable oil wells and capable gas wells are increased as follows: Tier 1 from \$15 to \$17; Tier 2 from \$79 to \$94; Tier 3 from \$225 to \$267; Tier 4 from \$373 to \$443; Tier 5 from \$586 to \$700; Tier 6 from \$816 to \$974; and Tier 7 from \$1,013 to \$1,202. The severability and effective date of the proposed rule is November 20, 2014.

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

There is a minimal anticipated effect on revenue collections of state governmental units as a result of the proposed rule changes. Fee increases are offset by the reduced number of wells such that total collections are only minimally impacted. The reduction in the number of wells is due to an increase in the number of wells classified as incapable or as a stripper well. These types of wells are not assessed an annual production fee.



The agency will retain the maximum revenue caps authorized by R.S. 30:21 et seq. No effect on revenue collections of local governmental units is anticipated.

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

Due to a reduction in the number of wells, most operators will pay more for the annual regulatory fee and all well operators will pay more for the well production fee. Annual regulatory fees are increased as follows: (1) Operators of Type A facility - \$136; (2) Operators of Type B facility - \$68; (3) Operators of record of permitted non-commercial Class II injection/disposal wells - \$10; (4) Operators of record of permitted Class III storage wells - \$10. The fee for operators of permitted Class 1 wells increased \$1,130. The per well annual production fees for operators of capable oil wells and capable gas wells are increased as follows: Tier 1 - \$2; Tier 2 - \$15; Tier 3 - \$42; Tier 4 - \$70; Tier 5 - \$114; Tier 6 - \$158; Tier 7 - \$189.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of the proposed rule changes will have no impact on competition and employment in the public and private sector.

Gary P. Ross  
Assistant Commissioner  
1408#026

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Natural Resources  
Office of Conservation**

Statewide Order No. 29-B—Two Well Tests  
Per Year Requirement (LAC 43:XIX.121 and 137)

The Department of Natural Resources, Office of Conservation proposes to amend LAC 43:XIX.121 and 137 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The proposed Rule change in §121 codifies the long standing practice of requiring oil and gas operators to conduct two well tests per year. Additionally, as a result of low or no production, wells drilled to or completed in the Monroe gas rock or stripper oil lease wells shall not be required to conduct well tests. The proposed Rule change in §137 updates language to reflect the proposed Rule change being made in §121.

**Title 43**

**NATURAL RESOURCES**

**Part XIX. Office of Conservation—General Operations**

**Subpart 1. Statewide Order No. 29-B**

**Chapter 1. General Provisions**

**§121. Production, Production Records, Production Tests**

A - C.4. ...

D.1. Each operator shall conduct semi-annual tests on all producing/service wells and shall report the results on the approved forms DM-1-R, oil well deliverability test or DT-1, gas well deliverability test or other method prescribed by the Office of Conservation no later than the first day of May and November of each year. Well tests shall be conducted a

minimum of 60 days prior to the required filing date. All wells which are shut in shall also be shown on this form and the date of last production or date the service well ceased to be used shall be indicated.

2. The requirements of LAC 43:XIX.121.D.1 shall not be applicable for wells drilled to or completed in the Monroe gas rock or stripper oil lease wells.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), amended (January 1963), (July 1959), amended by the Department of Natural Resources, Office of Conservation, LR 40:

**§137. Plugging and Abandonment**

A. All wells wherein production operations or use as a service well have ceased on or after the effective date of this order shall continue to be reported on the Forms DM-1-R, oil well deliverability test or DT-1, gas well deliverability test or other method prescribed by the Office of Conservation no later than the first day of May and November of each year with the appropriate notation that the well is off production or no longer in use as a service well along with the date of last production or date the service well ceased to be used; and, after six months, if such a well has not been restored to production or use as a service well, it shall thereafter be reported by the operator on the semiannual inactive well report, Form INACT WR-1 which report shall be filed with the Office of Conservation showing the status of such well as of May 1 and November 1 of each year. Such wells shall continue to be reported on the Form DM1-R or Form DT-1 showing the date of last production or the date the well ceased to be used as a service well, together with a notation showing the well is carried on the Form INACT WR-1, inactive well report, until the well is plugged and abandoned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), amended (March 1974), amended by the Department of Natural Resources, Office of Conservation, LR 40:

**Family Impact Statement**

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Poverty Impact Statement**

This Rule has no known impact on poverty as described in R.S. 49:973.

**Small Business Statement**

This Rule has no known impact on small businesses as described in R.S. 49:965.6.

**Provider Impact Statement**

This Rule has no known impact on providers as described in HCR 170 of 2014.

**Public Comments**

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at the public hearing in accordance with R.S. 49:953. Written comments will be accepted until 4:30 p.m., October 6, 2014, at Office of Conservation, Environmental Division, P.O. Box 94275, Baton Rouge, LA, 70804-9275; or Office of Conservation, Environmental Division, 617 North Third St., Room 817, Baton Rouge, LA 70802. Reference Docket No.

ENG RULE 2014-09 on all correspondence. All inquiries should be directed to Daniel Henry at the above addresses or by phone to (225) 342-5570. No preamble was prepared.

**Public Hearing**

The commissioner of conservation will conduct a public hearing at 9 a.m., September 29, 2014, in the LaBelle Room located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

James H. Welsh  
Commissioner

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

**RULE TITLE: Statewide Order No. 29-B  
Two Well Tests Per Year Requirement**

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

There is no anticipated direct material effect on state or local governmental expenditures as a result of the proposed Rule change. The proposed Rule change in §121 codifies the long standing practice of requiring oil and gas operators to conduct two well tests per year. Additionally, as a result of low or no production, wells drilled to or completed in the Monroe Gas Rock or stripper oil lease wells shall not be required to conduct well tests. The proposed Rule change in §137 updates language to reflect the proposed Rule change being made in §121.

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

The proposed Rule change 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)**

The proposed Rule change will only affect the operators of oil and gas wells. There are no anticipated cost increases associated with the Rule change and all required documentation will be provided on existing paperwork.

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

The proposed Rule change will have no effect on competition and employment

James H. Welsh  
Commissioner  
1408#083

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Natural Resources  
Office of Conservation**

**Statewide Order No. 29-M—Class II Hydrocarbon Storage Wells in Salt Dome Cavities (LAC 43:XVII.Chapter 3)**

The Department of Natural Resources, Office of Conservation proposes to amend LAC 43:XVII.Chapter 3 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana in order to implement Acts 691 and 766 of the 2013 session

**Title 43**

**NATURAL RESOURCES**

**Part XVII. Office of Conservation—Injection and Mining**

**Subpart 3. Statewide Order No. 29-M**

**Chapter 3. Class II Hydrocarbon Storage Wells in Salt Dome Cavities**

**§301. Definitions**

\* \* \*

*Qualified Professional Appraiser*—for the purposes of these rules, any licensed real estate appraiser holding current certification from the Louisiana Real Estate Appraisers Board and functioning within the rules and regulations of their licensure.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:342 (February 2014), amended LR 40:

**§303. General Provisions**

A. - B.1. ...

2. For existing hydrocarbon storage caverns that are in compliance with Statewide Order No. 29-M, but not in compliance with Statewide Order No. 29-M (revision 3) as of the effective date of these rules, they may continue to operate for one year under Statewide Order No. 29-M. Within that year, the owner or operator must submit an alternate means of compliance or a request for a variance pursuant to §303.F and/or present a corrective action plan to meet the requirements of Statewide Order No. 29-M (revision 3). During the review period of the request until a final determination is made regarding the alternate means of compliance or variance and/or corrective action plan, the affected hydrocarbon storage well may continue to operate in compliance with Statewide Order No. 29-M in effect as of the effective date of these regulations.

3. By no later than one year after the effective date of these rules the owner or operator shall provide for review documentation of any variance previously authorized by the Office of Conservation. Based on that review, the commissioner may terminate, modify, or revoke and reissue the existing permit with the variance if it is determined that continued operations cannot be conducted in a way that is protective of the environment, or the health, safety, and welfare of the public. The process for terminating, modifying, or revoking and reissuing the permit with the variance is set forth in 311.K. During the review period the affected hydrocarbon storage well may continue to operate in compliance with such variance. If the commissioner does not terminate, modify, or revoke and reissue the existing permit, the affected solution-mining well may continue to operate in compliance with such variance.

C. - F.3. ...

**G. Additional Requirements**

1. All tests, reports, logs, surveys, plans, applications, or other submittals whether required by these rules and regulations or submitted for informational purposes are required to bear the Louisiana Office of Conservation serial

number of any solution mining or hydrocarbon storage well associated with the submittal.

2. The commissioner may prescribe additional requirements for hydrocarbon storage wells or projects in order to protect USDWs and the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:344 (February 2014), amended LR 40:

### §309. Legal Permit Conditions

A. - B.2. ...

3. Assistance to Residents. The operator shall have the duty to and agree to provide assistance to residents of areas deemed to be at immediate potential risk in the event of a sinkhole developing or other incident that requires an evacuation if the potential risk or evacuation is associated with the operation of the hydrocarbon storage well or cavern.

a. As soon as practicable following the issuance of an evacuation order pursuant to R.S. 29:721 et seq., and associated with a sinkhole or other incident at a hydrocarbon storage cavern facility, the commissioner of conservation shall:

i. after consulting with the authority which issued the evacuation order and local governmental officials for the affected area, establish assistance amounts for residents subject to the evacuation order and identify the operator(s) responsible for providing assistance. The assistance amount shall remain in effect until the evacuation order is lifted or until a subsequent order is issued by the commissioner in accordance with Paragraph 2 of this Subsection;

ii. upon request of an interested party, call for a public hearing to take testimony from all interested parties in order to consider modifying the evacuation assistance amounts and/or consider a challenge to the finding of the responsible operator(s). The public hearing shall be noticed and held in accordance with R.S. 30:6. The order shall remain in effect until the evacuation is lifted or the commissioner's order is modified, supplemented, or revoked and reissued, whichever occurs first.

4. Reimbursement. The operator shall have the duty and agree to provide the following:

a. reimbursement to the state or any political subdivision of the state for reasonable and extraordinary costs incurred in responding to or mitigating a disaster or emergency due to a violation of this Chapter or any rule, regulation or order promulgated or issued pursuant to this Chapter. Such costs shall be subject to approval by the director of the Governor's Office of Homeland Security and Emergency Preparedness prior to being submitted to the permittee for reimbursement. Such payments shall not be construed as an admission of responsibility or liability for the emergency or disaster;

b. reimbursement to any person who owns noncommercial residential immovable property located within an area under a mandatory or forced evacuation pursuant to R.S. 29:721 et seq., for a period of more than 180 days, without interruption due to a violation of this Chapter, the permit or any order issued pursuant to this Chapter. The offer for reimbursement shall be calculated based upon an appraisal by a qualified professional

appraiser. The replacement value of the property shall be calculated based upon the estimated value of the property prior to the time of the incident resulting in the declaration of the disaster or emergency. The reimbursement shall be made to the property owner within 30 days after notice by the property owner to the permittee indicating acceptance of the offer and showing proof of continuous ownership prior to and during the evacuation lasting more than 180 days, provided that the offer for reimbursement is accepted within 30 days of receipt, and transfers the immovable property free and clear of any liens, mortgages, or other encumbrances to the permittee.

c. The commissioner shall have authority to ensure collection of reimbursement(s) due pursuant to §309.B.4.

i. Upon petition by the state, a political subdivision of the state, or any person who is eligible for reimbursement under §309.B.4, the commissioner shall issue an order to the permittee to make payment within 30 days for the itemized costs and/or the appraised amount.

ii. Failure to make the required payment(s) shall be a violation of the permit and these rules.

iii. Should any interested party dispute the amount of reimbursement, they may call for a public hearing to submit evidence and take testimony from all interested parties. The public hearing shall be noticed and held in accordance with R.S. 30:6.

iv. All reimbursements shall be paid directly to the eligible parties in accordance with §309.B.4.

C. - F.2. ...

3. The Office of Conservation may immediately prohibit further operations if it determines that continued operations at a hydrocarbon storage well, or part thereof, may cause unsafe operating conditions, or endanger the environment, or the health, safety and welfare of the public. The prohibition shall remain in effect until it is determined that continued operations can and shall be conducted safely. It shall be the duty of the operator to prove that continued operation of the hydrocarbon storage well, or part thereof, shall not endanger the environment, or the health, safety and welfare of the public.

G. - M.3.c. ...

4. If the commissioner determines that any well constructed pursuant to §309.M.3 does not satisfy any of the requirements of §309.M.3.a and b, the commissioner may modify the permit under §311.K.3, terminate under §311.K.7, or take enforcement action. If the commissioner determines that cumulative effects are unacceptable, the permit may be modified under §311.K.3.

N. Recordation of Notice of Existing Hydrocarbon Storage Caverns. The owner or operator of an existing hydrocarbon storage cavern shall record a certified survey plat of the well location for the cavern in the mortgage and conveyance records of the parish in which the property is located. Such notice shall be recorded no later than six months after the effective date of these rules and the owner or operator shall furnish a date/file-stamped copy of the recorded notice to the Office of Conservation within 15 days of its recording. If an owner or operator fails or refuses to record such notice, the commissioner may, if he determines that the public interest requires, and after due notice and an opportunity for a hearing has been given to the owner and operator, cause such notice to be recorded.

O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:349 (February 2014), amended LR 40:

### §311. Permitting Process

A. - D.1.b. ...

c. For public hearings held pursuant §311.G.5 to expand or convert an existing solution-mined cavern to hydrocarbon storage in Iberia Parish, the owner or operator shall give public notice on 3 separate days within a period of 30 days prior to the public hearing, with at least 5 days between each publication notice, both in the official state journal and in the official journal of Iberia Parish. Any public hearing held pursuant to §311.G.5 shall be held in accordance with the requirements of §311.G.

2. - 2.a. ...

b. The Office of Conservation shall provide notice of the scheduled public hearing by forwarding a copy of the notice by mail or e-mail to:

- i. the applicant;
- ii. all property owners within 1320 feet of the hydrocarbon storage facility's property boundary;
- iii. operators of existing projects located on or within the salt stock of the proposed project;
- iv. United States Environmental Protection Agency;
- v. Louisiana Department of Wildlife and Fisheries;
- vi. Louisiana Department of Environmental Quality;
- vii. Louisiana Office of Coastal Management;
- viii. Louisiana Office of Conservation, Pipeline Division;
- ix. Louisiana Department of Culture, Recreation and Tourism, Division of Archaeology;
- x. the governing authority for the parish of the proposed project; and
- xi. any other interested parties.

D.3. - G.4. ...

5. No permit to expand or convert an existing solution-mined cavern in Iberia Parish may be issued until after a public hearing is held no earlier than August 15, 2015 on the application for the permit. The provisions of this Paragraph shall not apply to any activity or operation related to safety, maintenance, inspection, testing or regulatory compliance, when necessary, or when required by the regulators.

H. - J.2.f. ...

g. If the commissioner does not notify the existing operator and the proposed new owner or operator of his intent to modify or revoke and reissue the permit under §311.K.3.b, the transfer is effective on the date specified in the agreement mentioned in Clause b.iii above.

J.2.h. - K.3.d. ...

4. Causes for Modification or Revocation and Reissuance. The following are causes to modify or, alternatively, revoke and reissue a permit.

a. Cause exists for termination under §311.K.7, and the Office of Conservation determines that modification or revocation and reissuance is appropriate.

b. The Office of Conservation has received notification of a proposed transfer of the permit and the transfer is determined not to be a minor permit modification. A permit may be modified to reflect a transfer after the effective date (§311.J.2.b.ii) but will not be revoked and reissued after the effective date except upon the request of the new operator.

5. - 7.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:352 (February 2014), amended LR 40:

### §313. Site Assessment

A. - F.2. ...

3. No permit to inject shall be issued for a new hydrocarbon storage well until all required corrective action obligations have been fulfilled.

4. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:357 (February 2014), amended LR 40:

### §323. Monitoring Requirements

A. - C.2. ...

3. A casing inspection or similar log shall be run on the entire length of the cemented casing in each well at least once every 10 years for liquid hydrocarbon storage caverns and 15 years for natural gas storage caverns.

C.4. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:363 (February 2014), amended LR 40:

### §329. Cavern Configuration and Capacity Measurements

A. ...

B. Frequency of Surveys. For liquid hydrocarbon storage caverns, a sonar caliper survey, or other approved survey, shall be performed at least once every 5 years. At least once every 10 years a sonar caliper survey, or other approved survey, shall be performed that logs the roof of the cavern. For natural gas storage caverns, a sonar caliper survey, or other approved survey, shall be performed at least once every 5 years. At least once every 15 years a sonar caliper survey, or other approved survey, shall be performed that logs the roof of the cavern. Additional surveys as specified by the Office of Conservation shall be performed for any of the following reasons regardless of frequency:

B.1. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:366 (February 2014), amended LR 40:

### §337. Closure and Post-Closure

A. - A.2. ...

3. Closure Plan Requirements. The owner or operator shall review the closure plan at least every five years to determine if the conditions for closure are still applicable to the actual conditions. Any revision to the plan shall be

submitted to the Office of Conservation for approval. At a minimum, a closure plan shall address the following:

a. assurance of financial responsibility as required in §309.B.1. All instruments of financial responsibility shall be reviewed according to the following process:

i. detailed cost estimate for closure of the well and related appurtenances (well, cavern, surface appurtenances, etc.) as prepared by a qualified professional. The closure plan and cost estimate shall include provisions for closure acceptable to the Office of Conservation;

A.3.a.ii. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:367 (February 2014), amended 40:

#### **Family Impact Statement**

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

This Rule has no known impact on poverty as described in R.S. 49:973.

#### **Small Business Statement**

This Rule has no known impact on small businesses as described in R.S. 49:965.6.

#### **Provider Impact Statement**

This Rule has no known impact on providers as described in HCR 170 of 2014.

#### **Public Comments**

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at the public hearing in accordance with R.S. 49:953. Written comments will be accepted until 4:30 p.m., October 6, 2014, at Office of Conservation, Environmental Division, P.O. Box 94275, Baton Rouge, LA, 70804-9275; or Office of Conservation, Environmental Division, 617 North Third St., Room 817, Baton Rouge, LA 70802. Reference Docket No. IMD RULE 2014-09 on all correspondence. All inquiries should be directed to Daniel Henry at the above addresses or by phone to (225) 342-5570. No preamble was prepared.

#### **Public Hearing**

The commissioner of conservation will conduct a public hearing at 9 a.m., September 29, 2014, in the LaBelle Room located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

James H. Welsh  
Commissioner

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

#### **RULE TITLE: Statewide Order No. 29-M—Class II Hydrocarbon Storage Wells in Salt Dome Cavities**

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

There is no anticipated additional cost to state or local governmental expenditures or an anticipated increase in workload as a result of the proposed rule change regarding hydrocarbon storage wells in salt dome cavities. As a result of Acts 691 and 766 of the 2014 Regular Legislative Session, the rules regarding reimbursement and public comment have been changed. Act 691 provides for rules regarding reimbursement

for residential property in an area under a mandatory or forced evacuation associated with a sinkhole. Act 766 provides for the issuance of permits for solution-mined caverns in Iberia Parish. The proposed rule change specifies; (1) criteria for public hearings for permitting solution mining wells in Iberia Parish; (2) provides for reimbursement for non-commercial property owners subject to evacuation resulting from emergencies associated with solution mining wells; (3) authorizes the commissioner of conservation to ensure collection of reimbursement to the above referenced non-commercial property owners and reimbursement to the state and any political subdivision of the state for costs incurred in responding to emergencies associated with solution mining wells; (4) requires submittals to the Office of Conservation from solution mining well operators to include the associated state solution mining well serial number with any submittal; (5) corrects typographical errors; (6) adds language to clarify the existing regulations; and (7) adds a definition related to new regulatory requirements.

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

The proposed rule change will have no effect on revenue collections of state or local government units.

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

The proposed rule change will only affect the owners and/or operators of solution mining wells. As a result of Act 766, there will not be any increased costs to operators of solution mining wells seeking permits in Iberia Parish. Any additional advertising costs associated with the requirement for increased public notice for public hearings in Iberia Parish will be covered by the current Office of Conservation fee for public hearings. In the event that an emergency situation associated with a solution mining well leads to a forced or mandatory evacuation being in place for more than 180 days, the new rule, consistent with Act 691 of 2014, requires that the operator of the well provide an offer to reimburse the owners of the non-commercial immovable property. It is unknown what, if any, additional costs to the solution mining well operator such a situation might require above what would already be required by law. All other rule changes will not result in increased costs to solution mining well operators. All required documentation will be provided on existing paperwork.

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

The proposed rule change will have no effect on competition and employment.

James H. Welsh  
Commissioner  
1408#081

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Natural Resources Office of Conservation**

Statewide Order No. 29-M-3—Class III Solution-Mining  
Injection Wells (LAC 43:XVII.Chapter 33)

The Department of Natural Resources, Office of Conservation proposes to amend LAC 43:XVII.Chapter 33 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana in order to implement Acts 691 and 766 of the 2013 Legislative Session.

**Title 43**  
**NATURAL RESOURCES**  
**Part XVII. Office of Conservation—Injection and**  
**Mining**  
**Subpart 5. Statewide Order No. 29-M-3**  
**Chapter 33. Class III (Solution-Mining) Injection**  
**Wells**

**§3301. Definitions**

\* \* \*

*Qualified Professional Appraiser*—for the purposes of these Rules, any licensed real estate appraiser holding current certification from the Louisiana Real Estate Appraisers Board and functioning within the rules and regulations of their licensure.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:316 (February 2014), amended LR 40:

**§3303. General Provisions**

A. - F.3. ...

G. Additional Requirements

1. All tests, reports, logs, surveys, plans, applications, or other submittals whether required by these rules and regulations or submitted for informational purposes are required to bear the Louisiana Office of Conservation serial number of any solution mining or hydrocarbon storage well associated with the submittal.

2. The commissioner may prescribe additional requirements for Class III wells or projects in order to protect USDWs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:318 (February 2014), amended LR 40:

**§3309. Legal Permit Conditions**

A. - B.2. ...

3. Assistance to Residents. The operator shall have the duty to and agree to provide assistance to residents of areas deemed to be at immediate potential risk in the event of a sinkhole developing or other incident that requires an evacuation if the potential risk or evacuation is associated with the operation of the solution-mining well or cavern.

a. As soon as practicable following the issuance of an evacuation order pursuant to R.S. 29:721 et seq., and associated with a sinkhole or other incident at a solution mining well or cavern, the commissioner of conservation shall:

i. after consulting with the authority which issued the evacuation order and local governmental officials for the affected area, establish assistance amounts for residents subject to the evacuation order and identify the operator(s) responsible for providing assistance. The assistance amount shall remain in effect until the evacuation order is lifted or until a subsequent order is issued by the commissioner in accordance with Paragraph 2 of this Subsection;

ii. upon request of an interested party, call for a public hearing to take testimony from all interested parties in order to consider modifying the evacuation assistance amounts and/or consider a challenge to the finding of the responsible operator(s). The public hearing shall be noticed

and held in accordance with R.S. 30:6. The order shall remain in effect until the evacuation is lifted or the commissioner's order is modified, supplemented, or revoked and reissued, whichever occurs first.

4. Reimbursement. The operator shall have the duty and agree to provide the following:

a. reimbursement to the state or any political subdivision of the state for reasonable and extraordinary costs incurred in responding to or mitigating a disaster or emergency due to a violation of this Chapter or any rule, regulation or order promulgated or issued pursuant to this Chapter. Such costs shall be subject to approval by the director of the Governor's Office of Homeland Security and Emergency Preparedness prior to being submitted to the permittee for reimbursement. Such payments shall not be construed as an admission of responsibility or liability for the emergency or disaster;

b. reimbursement to any person who owns noncommercial residential immovable property located within an area under a mandatory or forced evacuation pursuant to R.S. 29:721 et seq. for a period of more than 180 days, without interruption due to a violation of this Chapter, the permit or any order issued pursuant to this Chapter. The offer for reimbursement shall be calculated based upon an appraisal by a qualified professional appraiser. The replacement value of the property shall be calculated based upon the estimated value of the property prior to the time of the incident resulting in the declaration of the disaster or emergency. The reimbursement shall be made to the property owner within 30 days after notice by the property owner to the permittee indicating acceptance of the offer and showing proof of continuous ownership prior to and during the evacuation lasting more than 180 days, provided that the offer for reimbursement is accepted within 30 days of receipt, and transfers the immovable property free and clear of any liens, mortgages, or other encumbrances to the permittee;

c. the commissioner shall have authority to ensure collection of reimbursement(s) due pursuant to §3309.B.4.

i. Upon petition by the state, a political subdivision of the state, or any person who is eligible for reimbursement under §3309.B.4, the commissioner shall issue an order to the permittee to make payment within 30 days for the itemized costs and/or the appraised amount.

ii. Failure to make the required payment(s) shall be a violation of the permit and these rules.

iii. Should any interested party dispute the amount of reimbursement, they may call for a public hearing to submit evidence and take testimony from all interested parties. The public hearing shall be noticed and held in accordance with R.S. 30:6.

iv. All reimbursements shall be paid directly to the eligible parties in accordance with §3309.B.4.

C. - F.2. ...

3. The Office of Conservation may immediately prohibit further operations if it determines that continued operations at a solution-mining well, cavern, and related facility, or parts thereof, may cause unsafe operating conditions, or endanger the environment, or the health, safety and welfare of the public. The prohibition shall remain in effect until it is determined that continued operations can and shall be conducted safely. It shall be the

duty of the operator to prove that continued operation of the solution-mining well, or part thereof, shall not endanger the environment, or the health, safety and welfare of the public.

G. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:323 (February 2014), amended LR 40:

### §3311. Permitting Process

A. - D.1.b. ...

c. For public hearings held pursuant §3311.G.6 to drill or operate a new solution-mined cavern in Iberia Parish, the owner or operator shall give public notice on 3 separate days within a period of 30 days prior to the public hearing, with at least 5 days between each publication notice, both in the official state journal and in the official journal of Iberia Parish. Any public hearing held pursuant to §3311.G.6 shall be held in accordance with the requirements of §3311.G.

D.2. - G.5. ...

6. No permit to drill or operate a new solution-mined cavern in Iberia Parish may be issued until after a public hearing is held no earlier than August 15, 2015 on the application for the permit. The provisions of this Paragraph shall not apply to any activity or operation related to safety, maintenance, inspection, testing or regulatory compliance, when necessary, or when required by the regulators.

H. - J.2.f. ...

g. If the commissioner does not notify the existing operator and the proposed new owner or operator of his intent to modify or revoke and reissue the permit under §3311.K.3.b the transfer is effective on the date specified in the agreement mentioned in §3311.J.2.b.iii.

J.2.h. - K.4.a. ...

b. The Office of Conservation has received notification of a proposed transfer of the permit and the transfer is determined not to be a minor permit modification. A permit may be modified to reflect a transfer after the effective date (§3311.J.2.b.ii) but will not be revoked and reissued after the effective date except upon the request of the new operator.

5. - 7.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:326 (February 2014), amended LR 40:

### §3313. Site Assessment

A. - F.2. ...

3. No permit to inject shall be issued for a new solution-mining well until all required corrective action obligations have been fulfilled.

4. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:330 (February 2014), amended LR 40:

### Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

### Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

### Small Business Statement

This Rule has no known impact on small businesses as described in R.S. 49:965.6.

### Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

### Public Comments

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at the public hearing in accordance with R.S. 49:953. Written comments will be accepted until 4:30 p.m., October 6, 2014, at Office of Conservation, Environmental Division, P.O. Box 94275, Baton Rouge, LA, 70804-9275; or Office of Conservation, Environmental Division, 617 North Third St., Room 817, Baton Rouge, LA 70802. Reference Docket No. IMD RULE 2014-10 on all correspondence. All inquiries should be directed to Daniel Henry at the above addresses or by phone to (225) 342-5570. No preamble was prepared.

### Public Hearing

The commissioner of conservation will conduct a public hearing at 9 a.m., September 29, 2014, in the LaBelle Room located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

James H. Welsh  
Commissioner

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Statewide Order No. 29-M-3** **Class III Solution-Mining Injection Wells**

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

There is no anticipated additional cost to state or local governmental expenditures or an anticipated increase in workload as a result of the proposed Rule change regarding Class III Injection Wells. As a result of Acts 691 and 766 of the 2014 Regular Legislative Session, the Rules regarding reimbursement and public comment have been changed. Act 691 provides for rules regarding reimbursement for residential property in an area under a mandatory or forced evacuation associated with a sinkhole. Act 766 provides for the issuance of permits for solution-mined caverns in Iberia Parish. The proposed Rule change specifies; (1) criteria for public hearings for permitting solution mining wells in Iberia Parish; (2) provides for reimbursement for non-commercial property owners subject to evacuation resulting from emergencies associated with solution mining wells; (3) authorizes the commissioner of conservation to ensure collection of reimbursement to the above referenced non-commercial property owners and reimbursement to the state and any political subdivision of the state for costs incurred in responding to emergencies associated with solution mining wells; (4) requires submittals to the Office of Conservation from solution mining well operators to include the associated state solution mining well serial number with any submittal; (5) corrects typographical errors; (6) adds language to clarify the existing regulations; and (7) adds a definition related to new regulatory requirements.

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

The proposed Rule change will have no effect on revenue collections of state or local government units.

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

The proposed Rule change will only affect the owners and/or operators of solution mining wells. As a result of Act 766, there will not be any increased costs to operators of solution mining wells seeking permits in Iberia Parish. Any additional advertising costs associated with the requirement for increased public notice for public hearings in Iberia Parish will be covered by the current Office of Conservation fee for public hearings. In the event that an emergency situation associated with a solution mining well leads to a forced or mandatory evacuation being in place for more than 180 days, the new rule, consistent with Act 691 of 2014, requires that the operator of the well provide an offer to reimburse the owners of the non-commercial immovable property. It is unknown what, if any, additional costs to the solution mining well operator such a situation might require above what would already be required by law. All other rule changes will not result in increased costs to solution mining well operators. All required documentation will be provided on existing paperwork.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule change will have no effect on competition and employment.

James H. Welsh  
Commissioner  
1408#082

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Corrections Services**

Restoration of Good Time (LAC 22:I.319)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the contents of Section 319, Restoration of Good Time.

**Title 22**

**CORRECTIONS, CRIMINAL JUSTICE AND LAW  
ENFORCEMENT**

**Part I. Corrections**

**Chapter 3. Adult Services**

**§319. Restoration of Good Time**

A. Purpose—to state the secretary’s policy regarding the restoration of previously forfeited good time for disciplinary violations for offenders who have demonstrated satisfactory progress in faithfully observing the disciplinary rules and procedures for adult offenders.

B. Applicability—deputy secretary, chief of operations, regional wardens, wardens, the sheriff or administrator of local jail facilities and the director of the office of information services. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy. It is the secretary’s policy to strengthen the department’s commitment to an offender’s successful reentry

efforts by implementing positive rewards for offenders who have demonstrated improved institutional behavior.

D. Definitions

*ARDC Supervisor/Manager*—a member of the records section staff, whether employed at a state correctional facility or in the office of adult services at headquarters.

*Major Rule Violation*—an offense identified as a schedule B offense.

*Minor Rule Violation*—an offense identified as a schedule A offense.

*Unit Head*—the head of an operational unit, specifically, the warden or sheriff or administrator of a local jail facility or transitional work program.

E. General Procedures

1. In accordance with Act No. 87 of the 2014 Regular Session, offenders who have previously forfeited good time as a result of disciplinary action and have not been found guilty of a major rule violation for a consecutive 24-month period and have not been found guilty of a minor rule violation for a consecutive 6-month period may be eligible for restoration of previously forfeited good time. Restoration of previously forfeited good time shall not exceed 540 days during an offender's instant term of incarceration.

2. Forfeiture of good time resulting from any schedule A or schedule B rule violation may be restored in accordance with the provisions of this regulation, with the exception of rule #8, escape or attempt to escape, or any rule violation that was a result of battery of an employee, visitor, guest or their families. All rule #1 and #21 offenses shall be carefully reviewed for consideration of restoration of good time.

3. For offenders released on parole or good time parole supervision and returned to custody as a parole violator, the availability of forfeited good time is limited to the amount earned during the instant term of incarceration. Time spent in custody prior to release on parole or good time parole supervision shall not apply toward the 24-consecutive-month period required for the review of major rule violations or the 6-consecutive-month period required for the review of minor rule violations.

4. Even though an offender may receive approval for restoration of goodtime, the department shall retain authority to void or adjust the amount of the restoration at any time during the offender’s incarceration if a review of the record reveals the restoration calculation was erroneous.

5. Under no circumstances shall an offender's restoration of previously forfeited good time under the provisions of this regulation cause him to be considered overdue for release at the time of approval.

6. If an offender’s request for restoration of good time is denied or good time is partially restored, the offender may reapply for reconsideration in six months from the date of the original application.

7. The decision regarding restoration of good time is final and shall not be appealed through the administrative remedy procedure.

F. Review and Outcome Process

1. State Correctional Facilities

a. Offenders housed in state correctional facilities who have not been found guilty of a major rule violation for a consecutive 24-month period, except as noted in Paragraph E.2, and have not been found guilty of a minor rule violation



for a consecutive 6-month period shall complete an application for restoration of good time and submit the application to the institution's records office.

b. The ARDC supervisor/manager or designee shall review the offender's application and disciplinary record to verify the offender's eligibility for restoration of forfeited good time. (If the offender is ineligible for restoration of forfeited good time, the ARDC supervisor/manager shall indicate the reason for ineligibility on the application form and return a copy to the offender. The original application shall be filed in the offender's master record.) If the offender is eligible for restoration of good time, the number of days to be restored shall include consideration of participation or failure to participate in rehabilitative programs. If the offender is eligible for restoration of forfeited good time, the ARDC supervisor/manager shall indicate the number of days eligible for restoration on the application for restoration of good time. Upon completion, the ARDC supervisor/manager shall forward the offender's application to the warden or designee for consideration.

c. The warden or designee shall review the offender's application and verification of eligibility and shall approve or disapprove the recommendation. If approved, the ARDC supervisor/manager or designee shall restore the amount of good time approved by the warden. Only that amount which was actually forfeited can be restored. A copy of the approved application, as well as the revised master prison record shall be sent to the offender. The originals shall be filed in the offender's master record.

d. If denied, the ARDC supervisor/manager or designee shall provide a written reason on the application for restoration of good time and provide a copy to the offender (including the justification for denial). The original application shall be filed in the offender's master record.

## 2. Local Jail Facilities

a. The office of adult services shall ensure that an Application for Restoration of Good Time is provided by the basic jail guidelines team leaders to the sheriff or administrator of each local jail facility within their region.

b. Offenders housed in local jail facilities who meet the eligibility requirements stated in Subparagraph F.1.a shall complete an application for restoration of good time and submit it to the sheriff or administrator, who shall forward all completed applications to the chief of operations at headquarters.

c. The chief of operations shall designate OAS staff to review the offender's application and disciplinary record to verify the offender's eligibility for restoration of forfeited good time. (If the offender is ineligible for restoration of forfeited good time, the reviewing staff member shall indicate the reason for ineligibility on the application form and return a copy to the sheriff or administrator of the local jail facility who shall notify the offender. The original application shall be filed in the offender's master record.) If the offender is eligible for restoration of good time, the number of days to be restored shall include consideration of participation or failure to participate in rehabilitative programs (if available at the local jail facility). If the offender is eligible for restoration of forfeited good time, the reviewing staff member shall indicate the number of days eligible for restoration on the application for restoration of

good time. Upon completion, the reviewing staff member shall forward the offender's application to the chief of operations or designee for consideration.

d. The chief of operations or designee shall review the offender's application and verification of eligibility and shall approve or disapprove the recommendation. If approved, an OAS ARDC supervisor/manager or designee shall restore the amount of good time approved by the chief of operations. Only that amount which was actually forfeited can be restored. A copy of the approved application, as well as the revised master prison record shall be returned to the sheriff or administrator of the local jail facility who shall notify the offender. The originals shall be filed in the offender's master record.

e. If denied, an OAS ARDC supervisor/manager or designee shall provide a written reason on the application for restoration of good time and return the application (including the justification for denial) to the sheriff or administrator of the local jail facility who shall notify the offender. The original application shall be filed in the offender's master record.

3. In addition to the current offender management system procedures in place regarding the maintenance of the amount of good time forfeited per offender, the Office of Information Services shall also track the restoration of good time pursuant to this regulation. The amount of good time restored shall be displayed on the offender management system master prison record screen.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services LR 36:533 (March 2010), amended LR 40:

### **Family Impact Statement**

Amendment to the current Rule has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

### **Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S.49:973.

### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session.

### **Public Comments**

Written comments may be addressed to Melissa Callahan, Deputy Assistant Secretary, Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on September 9, 2014.

James M. Le Blanc  
Secretary

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Restoration of Good Time**

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

The proposed rule change may result in an indeterminable decrease in expenditures to the Department of Corrections for each offender being released from custody earlier due to good

time. The proposed rule change amends the Secretary's policy regarding restoration of previously forfeited good time for disciplinary violations for offenders who have demonstrated satisfactory progress in faithfully observing the Disciplinary Rules and Procedures for Adult Offenders, in accordance with Act 87 of the 2014 Regular Legislative Session. Present rules and regulations provide that in order to be eligible for restoration of good time or credits toward the reduction of the projected good time parole supervision date which has been previously forfeited, the inmate shall not have been guilty of any disciplinary violation for a consecutive 24-month period. Act 87 defines disciplinary violations as major or minor rule violations and provides that in order to be eligible for restoration of good time, the inmate shall not have been found guilty of a major rule citation for a consecutive 24-month period and a minor violation for a consecutive six-month period. Savings are more likely to be incurred for offenders housed at the local level due to state facilities backfilling beds in a more timely manner. For each offender who is released from custody earlier due to good time, savings to the state would be \$21.85 per day (\$24.39, per offender - \$2.54 per day per offender supervision).

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

The proposed rule change may result in an indeterminable increase in self-generated revenue as a result of offenders being released into parole supervision. For each offender that is released to parole at an earlier date, the Department of Corrections could collect up to \$63 per month from each offender under parole supervision. The Board of Parole determines the amount paid by the offender based on the offender's ability to pay.

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

For every offender released, there would be costs to affected person for parole fees. However, there would be economic benefits to the affected person provided he is employed upon release.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule change.

Thomas C. Bickham, III  
Undersecretary  
1408#037

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Corrections Services**

**Home Incarceration/Electronic Monitoring  
Pilot Program (LAC 22:I.401)**

The Department of Public Safety and Corrections, Corrections Services, in accordance with R.S. 36:404, hereby gives notice of its intent to repeal LAC 22:I.401, Home Incarceration/Electronic Monitoring Pilot Program in its entirety. Act no. 2 of the 2014 Regular Session repealed R.S. 15:571.35, relative to pilot programs for alternative methods of incarceration and electronic monitoring.

**Title 22  
CORRECTIONS, CRIMINAL JUSTICE AND LAW  
ENFORCEMENT**

**Part I. Corrections**

**Chapter 4. Division of Probation and Parole**

**§401. Home Incarceration/Electronic Monitoring Pilot Program**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Correction Services, LR 28:1026 (May 2002), repealed by the Department of Public Safety and Corrections, Correction Services, LR 40:

**Family Impact Statement**

The proposed repeal of the Rule has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

**Poverty Impact Statement**

The proposed repeal of the Rule will have no impact on poverty as described in R.S. 49:973.

**Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session.

**Public Comments**

Written comments may be addressed to Melissa Callahan, Deputy Assistant Secretary, Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on September 9, 2014.

James M. LeBlanc  
Secretary

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

**RULE TITLE: Home Incarceration/Electronic  
Monitoring Pilot Program**

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

The proposed rule change will have no impact on state or local governmental unit expenditures. The proposed rule repeals the rule on the Home Incarceration/Electronic Monitoring Pilot Program in accordance with Act 2 of the 2014 Regular Legislative Session. This Act repealed the law requiring the Department of Public Safety and Corrections to implement certain pilot programs utilizing alternative methods of incarceration and electronic monitoring for certain offenders. The department does not currently have any pilot programs utilizing alternative methods of incarceration and electronic monitoring of offenders.

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 as a result of the proposed rule change.

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

There is no estimated cost and/or economic benefit to directly affected persons or non-governmental groups as a result of the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

There is no estimated effect on competition and employment as a result of the proposed rule change.

Thomas C. Bickham, III  
Undersecretary  
1408#038

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Gaming Control Board**

**Collection and Deduction—Landbased Casino  
(LAC 42:III.4732)**

The Louisiana Gaming Control Board hereby gives notice that pursuant to R.S. 27:15 and R.S. 27:24 it intends to promulgate LAC 42:III.4732.

**Title 42**

**LOUISIANA GAMING**

**Part III. Gaming Control Board**

**Chapter 47. Landbased Casino Gaming**

**§4732. Collection and Deduction from Gross Revenue**

A. The casino operator or casino manager, after extending credit and prior to taking a deduction for uncollected credit instruments, shall:

1. furnish to the division documentation showing that it has attempted to collect the full amount of the debt at least once every 30 days while the debt was treated as collectible by requesting payment in a letter sent to the debtor's known address, or in personal or telephone conversations with the debtor, or by presenting the credit instrument to the debtor's bank for collection, or otherwise demonstrate to the satisfaction of the division that it has made good faith attempts to collect the full amount of the debt; and

2. furnish the credit instrument within 30 days of the division's request, unless the casino operator or casino manager has independent, written, and reliable verification that the credit instrument:

a. is in the possession of a court, governmental agency, or financial institution;

b. has been returned to the debtor upon the casino operator's or casino manager's good faith belief that it had entered into a valid and enforceable settlement; or

c. has been stolen and the casino operator or casino manager has made a written report of the theft to an appropriate law enforcement agency, other than the division, having jurisdiction to investigate the theft.

B. The division may waive the requirements of Paragraph 2 of Subsection A of this Section if the credit instrument cannot be produced because of circumstances beyond the casino operator's or casino manager's control. Such waiver shall be solely within the division's discretion.

C. If the casino operator, or casino manager has returned a credit instrument upon partial payment, consolidation, or redemption of the debt, it shall issue a new substituted credit instrument in place of the original and shall furnish the substituted credit instrument to the division in lieu of the original credit instrument as provided in Paragraph 2 of Subsection A of this Section.

D. Any report of theft made pursuant to Subparagraph c of Paragraph 2 of Subsection A of this Section shall be made within 30 days of the casino operator's or casino manager's discovery of the theft and shall include general information about the alleged crime, including, without limitation, the amount of financial loss sustained, the date of the alleged crime, and the names of employees, agents, or representatives of the casino operator or casino manager who may be contacted for further information. The casino operator or casino manager shall furnish to the division a copy of the theft report within 30 days of its creation.

E. If the casino operator or casino manager believes that a credit or substituted credit instrument has been subject to a forgery, then the casino operator or casino manager shall within 30 days of the discovery of the forgery:

1. submit a written report of the forgery to an appropriate law enforcement agency having jurisdiction to investigate the crime, which report shall include the amount of financial loss sustained, the date of the alleged forgery, and the names of employees, agents, or representatives of the casino operator or casino manager who may be contacted for further information. The casino operator or casino manager shall furnish a copy of forgery report made pursuant to this paragraph to the division within 30 days of their creation;

2. retain all documents evidencing or relevant to the forgery and shall create and retain detailed records of compliance with Subsection E of this Section and furnish them to the division within 30 days of its request.

F. Unless ordered by a bankruptcy court or approved by the division, the casino operator or casino manager shall not settle a debt for less than its full amount unless:

1. such settlement is designed to:

a. induce the debtor to make a partial payment;

b. compromise a genuine dispute between the debtor and the casino operator or casino manager regarding the existence or amount of the debt;

c. obtain the debtor's business and to induce timely payment of the credit instrument; and

2. the percentage of the discount off the face value of the credit instrument is reasonable as compared to the prevailing practice in the gaming industry at the time the credit instrument was issued and the casino operator or casino manager documents or otherwise keeps detailed records of the settlement.

G. The casino operator or casino manager shall ensure that:

1. the settlement is in writing and is with and executed by the debtor to whom credit was initially extended or his successors and assigns;

2. the individuals executing the settlement agreement on behalf of the parties have been duly authorized in writing to settle the debt and to execute any and all documents necessary to effectuate such settlement;

3. the terms of the settlement are set forth in a single written agreement prepared within 30 days of any oral agreement; and

4. the written settlement agreement includes:

a. the names of all parties to the agreement, including, without limitation, the names of the creditor and debtor;

- b. the original amount of the debt;
- c. the rate of interest, if any, on the debt;
- d. the amount of the settlement stated in both numbers and words;
- e. the date of the agreement;
- f. the basis or reason for the settlement; and
- g. the signatures of the parties;

5. the parties' signatures are duly acknowledged before a notary public unless the settlement is an authentic act executed before a notary public.

H. If the division determines that it is necessary to independently verify the existence or the amount of a settlement, the casino operator or casino manager shall fully cooperate with and use its best efforts to assist the division with its efforts to verify the settlement and its terms and circumstances with the debtor to whom the credit was initially extended, its successors and assigns, and any third party whom the division believes may have information or documentation relative to the settlement.

I. The settlement or write-off of an uncollectible account shall be authorized and approved by a credit committee composed of key employees of the casino operator or casino manager. No individual who was involved in the original issuance of a credit or who was involved in any attempts at collection or in settlement talks concerning the credit shall be a member of the credit committee authorizing and approving the settlement or write-off of such credit. A majority of the committee may approve a settlement or write-off of an uncollectable debt as a group but no individual member acting alone may do so. The committee's approval of a settlement or write-off shall be in writing and signed by each member voting to approve the settlement or write-off.

J. The casino operator or casino manager shall provide to the division all records relevant to the debt, including, but not limited to, the debtor's credit and collection file, upon request.

K. The division may approve or disapprove any settlement or write-off of uncollectable debt consistent with these regulations and the division shall notify the casino operator or casino manager in writing of its approval or disapproval.

L. In the case of a dispute, the casino operator or casino manager may request review of the division's determination by the hearing officer of the board whose decision may be appealed to the board in accordance with the Act and these regulations. Such request for review shall be made within 10 days of receipt of the division's determination.

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 40:

**Family Impact Statement**

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of adopting LAC 42:III.4732. It is accordingly concluded that adopting LAC 42:III.4732 would appear to have no impact on the following:

- 1. the effect on stability of the family;
- 2. the effect on the authority and rights of parents regarding the education and supervision of their children;

3. the effect on the functioning of the family, the effect on family earnings and family budget;

4. the effect on the behavior and personal responsibility of children;

5. the ability of the family or a local government to perform the function as contained in the proposed Rule.

**Poverty Impact Statement**

Pursuant to the provisions of R.S. 49:973, the Louisiana Gaming Control Board, through its chairman, has considered the potential poverty impact of adopting LAC 42:III.4732. It is accordingly concluded that adopting LAC 42:III.4732 would appear to have no impact on the following:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

**Small Business Statement**

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small business if LAC 42:III.4732 is adopted as the change will not apply to small businesses.

**Provider Impact Statement**

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential provider impact of adopting LAC 42:III.4732. It is accordingly concluded that adopting LAC 42:III.4732 would appear to have no impact on the following:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the costs to the provider to provide the same level of service;

3. the overall effect on the ability of the provider to provide the same level of service.

**Public Comments**

All interested persons may contact Earl Pitre, Jr., Attorney General's Gaming Division, telephone (225) 326-6500, and may submit comments relative to these proposed rules, through September 10, 2014, to 1885 North Third Street, Suite 500, Baton Rouge, LA 70802.

Ronnie Jones  
Chairman

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

**RULE TITLE: Collection and Deduction—Landbased Casino**

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

The proposed rule change will have no direct material effect on state or local governmental expenditures. The proposed rule change establishes procedures for the casino operator or casino manager to report the collection, deduction and settling of debt, and to report the theft or forgery of the debt instrument. The proposed rule change is intended to

replace a similar rule that was mistakenly repealed during reorganization/consolidation in 2012.

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

The proposed rule change 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)

The proposed rule change will have no effect on costs or economic benefits to directly affected persons or non-governmental units. Even though the rule was repealed in 2012, the landbased casino continued to follow the same procedures as the previous rule stated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Ronnie Jones  
Chairman  
1408#041

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Public Safety and Corrections Gaming Control Board

#### Disallowed Deductions—Landbased Casino Gaming (LAC 42:III.4733)

The Louisiana Gaming Control Board hereby gives notice that pursuant to R.S. 27:15 and R.S. 27:24 it intends to amend LAC 42:III.4733.C.

#### Title 42

#### LOUISIANA GAMING

#### Part III. Gaming Control Board

#### Chapter 47. Landbased Casino Gaming

#### §4733. Disallowed Deductions

A. - B. ...

C. The casino operator or casino manager shall not knowingly compromise any credit collection amount with any person that has an outstanding debt with any affiliate or subsidiary of the casino operator or casino manager without the approval of the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1692 (July 2012), amended LR 40:

#### Family Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:III.4733.C. It is accordingly concluded that amending LAC 42:III.4733.C would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;

6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### Poverty Impact Statement

Pursuant to the provisions of R.S. 49:973, the Louisiana Gaming Control Board, through its chairman, has considered the potential poverty impact of amending LAC 42:III.4733. It is accordingly concluded that amending LAC 42:III.4733.C would appear to have no impact on the following:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### Small Business Statement

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small business if LAC 42:III.4733.C is amended as the change will not apply to small businesses.

#### Provider Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential provider impact of amending LAC 42:III.4733.C. It is accordingly concluded that amending LAC 42:III.4733.C would appear to have no impact on the following:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the costs to the provider to provide the same level of service;
3. the overall effect on the ability of the provider to provide the same level of service.

#### Public Comments

All interested persons may contact Earl Pitre, Jr., Attorney General's Gaming Division, telephone (225) 326-6500, and may submit comments relative to these proposed rules through September 10, 2014, to 1885 North Third Street, Suite 500, Baton Rouge, LA 70802.

Ronnie Jones  
Chairman

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Disallowed Deductions Landbased Casino Gaming

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

The proposed rule change will have no effect on state or local governmental expenditures. This proposed rule change is intended to correct a grammatical error that occurred in 2012 during the reorganization/consolidation of Parts VII, IX and XIII into Part III by replacing the word "and" located between compromise and credit with the word "any" in Subsection C.

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

The proposed rule change 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)

The proposed rule change will have no effect on costs or economic benefits to directly affected persons or nongovernmental units.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Ronnie Jones  
Chairman  
1408#040

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Gaming Control Board**

Electronic Gaming Devices (LAC 42:III.4212)

The Louisiana Gaming Control Board hereby gives notice that pursuant to R.S. 27:15 and R.S. 27:24 it intends to amend LAC 42:III.4212.A.3.

**Title 42**

**LOUISIANA GAMING**

**Part III. GAMING CONTROL BOARD**

**Chapter 42. Electronic Gaming Devices**

**§4212. Marking, Registration, and Distribution of Gaming Devices**

A. - A.2. ...

3. a per device registration fee is paid by company check, money order, or certified check made payable to: State of Louisiana, Department of Public Safety and Corrections. The per device registration fee is required for all gaming devices destined for use in Louisiana by riverboat licensees or the casino operator. This fee is not required on devices which are currently registered with the board or division and display a valid registration certificate. The amount of the device registration fee is \$100 per device for riverboat licensees and \$10 per device for the casino operator; and

A.4. - D. ...

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 38:1681 (July 2012), amended LR 40:

**Family Impact Statement**

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:III.4212.A.3. It is accordingly concluded that amending LAC 42:III.4212.A.3 would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;

5. the effect on the behavior and personal responsibility of children;

6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

**Poverty Impact Statement**

Pursuant to the provisions of R.S. 49:973, the Louisiana Gaming Control Board, through its chairman, has considered the potential poverty impact of amending LAC 42:III.4212.A.3. It is accordingly concluded that amending LAC 42:III.4212.A.3 would appear to have no impact on the following:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

**Small Business Statement**

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small business if LAC 42:III.4212.A.3 is amended as the change will not apply to small businesses.

**Provider Impact Statement**

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential provider impact of amending LAC 42:III.4212.A.3. It is accordingly concluded that amending LAC 42:III.4212.A.3 would appear to have no impact on the following:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the costs to the provider to provide the same level of service;
3. the overall effect on the ability of the provider to provide the same level of service.

**Public Comments**

All interested persons may contact Earl Pitre, Jr., Attorney General's Gaming Division, telephone (225) 326-6500, and may submit comments relative to these proposed rules through September 10, 2014, to 1885 North Third Street, Suite 500, Baton Rouge, LA 70802.

Ronnie Jones  
Chairman

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

**RULE TITLE: Electronic Gaming Devices**

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

The proposed rule change will have no effect on state or local governmental expenditures. The rule change defines how the fees are charged and corrects the error of deleting the \$10 per device fee that was removed by mistake in 2012.

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

The proposed rule change will have no effect on revenue collections of state or local governmental units. The \$10 per

device fee has always been charged on devices destined for use by the casino operator even after the consolidation/reorganization inadvertently deleted the \$10 fee in 2012.

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

The proposed rule change will have no effect on costs or economic benefits to directly affected persons or non-governmental units. The proposed rule change corrects the error of repealing the \$10 per device fee for devices destined for use by the casino operator that occurred during the 2012 consolidation/reorganization of the rules from Parts VII, IX and XIII into Part III. The \$10 fee has always been charged on devices destined for use by the casino operator even after the consolidation/reorganization.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Ronnie Jones  
Chairman  
1408#042

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Transportation and Development  
Office of Operations**

Ferry Operations (LAC 70:XXV.Chapter 1)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and through the authority granted in R.S. 48.25 et seq., R.S. 17:157, R.S. 29:27, R.S. 33:1975, R.S. 40:1392, R.S. 48:999, R.S. 48:1000, and R.S. 17:158, that the Department of Transportation and Development, Office of Operations, proposes to repeal Chapter 1 of Part XXV, and replace it with a new Chapter 1. The Rule is being replaced to reflect the expiration of tolls on the Crescent City Connection bridge, and the legislative transfer of ferry operations from the Crescent City Connection Division to the Department of Transportation and Development, Office of Operations. The proposed Rule replacement also addresses the legislative authority to contract with political subdivisions relative the Chalmette ferry and renames Part XXV "Ferry Operations."

**Title 70**

**TRANSPORTATION**

**Part XXV. Ferry Operations**

**Chapter 1. Toll Collections**

**§101. Applicability**

A. This Part shall apply to all ferries owned and operated by the Department of Transportation and Development (DOTD) within the state of Louisiana, including but not limited to, ferries operating in the metropolitan New Orleans area. The metropolitan New Orleans area ferries currently consist of those ferries, when in operation, that cross at the following locations:

1. Lower Algiers/Chalmette (Chalmette ferry);
2. Algiers Point/Canal Street ferry;
3. Gretna/Canal Street ferry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:25 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Operations, LR 40:

**§103. Ferry Toll Charges**

A. Tolls will be collected from only one side of the ferry landings.

B. Except as provided in Subsection D of this Section, the following toll charges shall apply to all ferries operated by DOTD.

Ferry Toll Classification Rate Schedule	
	Toll
Each Pedestrian	\$ 0.50
Each Vehicle	\$ 1.00

C. Each vehicle, its owner or operator, and all occupants of such vehicle shall be jointly and solidarily liable for the payment of the ferry tolls.

D. Notwithstanding any other provision to the contrary, if DOTD enters into a cooperative endeavor agreement with a political subdivision of the state for the continued operation of the Chalmette ferry, the political subdivision and its ferry service contractor shall use best practices to operate and manage ferry service and to establish and collect ferry fares.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48.25 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Operations, LR 40:

**§105. Exemptions**

A. Unless otherwise indicated, the following exemptions from payments of tolls shall be applicable to ferry passengers using DOTD ferries, including ferries operating in the metropolitan New Orleans area.

1. Students. Students attending a school, including universities, colleges, and secondary schools, shall have free passage during the hours of 6 a.m.-9:30 a.m., and 2:30 p.m.-9:30 p.m., for the purpose of traveling to and from school.

a. Procedures for Students

i. For all DOTD operated ferries, the appropriate school official, the registrar of the college or university attended by the student, or the principal, headmaster, or administrator of the school attended by the student, shall provide DOTD with a letter certifying that the student is enrolled at the school and the length of the school year and mail same to the DOTD annex building located at 1212 E. Highway Drive, Baton Rouge, LA 70802, certifying that the student is enrolled at the school and the length of the school year.

ii. Upon approval, the student will receive a student pass for free passage.

iii. Lost, stolen, or damaged vehicle passes will not be replaced.

iv. Loss of Privilege. Any prohibited use of student vehicle passes will result in the loss of the privilege to obtain and use passes and toll tags and any other remedy provided by law.

v. Student exemptions shall expire with each school year.

2. School Buses. All easily identified and clearly marked school buses shall be exempt from the payment of tolls. This exemption shall include publicly-owned school buses, school buses carrying public students under contract,

parochial school buses, and private school buses funded in a fashion that allows them to publicly display "school bus" thereon or identified in a like fashion.

3. Militia. Any person belonging to the organized militia of the state who is in uniform or presents an order for duty shall be allowed free passage for himself, his conveyance, and the military property of the state in his charge, on ferries while going to, engaged in, or returning from any parade, drill, or meeting which he is required to attend, or upon being called to, engaging in, or returning from any active state duty ordered by the governor.

4. Disabled Veterans. A disabled American veteran who provides proper identification shall be allowed free passage for himself, his conveyance, and his passengers. This exemption shall not apply to the Algiers Point/Canal Street ferry.

5. Firemen/Volunteer Firemen. Firemen as defined in R.S. 33:1991(A) shall have free and unhampered passage on and over toll bridges and ferries in this state, regardless of whether the firemen are in uniform or in civilian clothes, when the firemen are performing firefighting or related duties. For purposes of this Rule, "related duties" shall include traversing to and from their place of employment. Volunteer firemen as defined in R.S. 33:1975(B) shall have free and unhampered passage on and over toll bridges and ferries in this state only when such firemen are performing official firefighting or fire prevention services.

a. Procedures

i. Firemen and volunteer firemen wishing to obtain free passage over any ferry shall present a picture identification card for inspection by the toll collector. The identification card must be issued by the municipality, parish or district as referred to in R.S. 33:1991(A).

ii. Fireman and volunteer fireman shall be required to sign a register at the ferry station and shall provide the name of the agency, municipality, parish or district for which they are employed or engaged.

iii. Off-duty firemen are not exempt unless, as part of the off duty employee's official duties, he or she is on call for immediate duty.

6. Law Enforcement Personnel. Free passage shall be granted to all law enforcement personnel employed by a law enforcement agency on a full-time basis when operating law enforcement agency equipment.

a. Law enforcement agency means any agency of the state or its political subdivisions and the federal government, responsible for the prevention and detection of crime and the enforcement of the criminal, traffic, or highway laws of this state or similar federal laws and who are employed in this state. This exemption does not apply to officers who serve in a voluntary capacity or as honorary officers.

b. Agencies eligible for this exemption shall include the Louisiana State Police, enforcement division agents of the Louisiana Department of Wildlife and Fisheries, sheriff departments of the parishes of this state, municipal police departments, levee board police departments, port police departments, and United States law enforcement agencies such as United States Secret Service, the United States Marshal Service, United States Customs and Border Protection, and the Federal Bureau of Investigation if employed within Louisiana.

c. Law enforcement personnel wishing to gain free passage on ferries must sign a register at the toll collections site and must produce picture identification.

7. All emergency vehicles performing a public service that permits them, under existing laws and regulations, to display emergency vehicle lights in order to carry out police, fire and ambulance functions in accordance with the laws relative thereto, when such lights are in actual use. This exemption shall also apply to emergency vehicles privately owned but entitled to such public emergency usage. This exemption shall not apply to those vehicles operated by off duty personnel unless, as part of the off duty employee's official duties, he or she is on call for immediate duty.

8. Youth Groups. In accordance with R.S. 48:999, members of the Boy Scouts of America, the Girls Scouts of America, and Camp Fire Girls, when assembled in uniform in a parade or group consisting of not less than fifteen and under the supervision of a scout master or other responsible person, shall have free and unhampered passage at all times. This exemption shall not apply to ferries operating under contract with the Department of Transportation and Development.

9. Parish Employees. In accordance with R.S. 48:1000, all employees of parish governing authorities in official parish governing authority vehicles in their passage to and from work, or on an official project of the parish governing authority, shall be exempt from the payment of ferry tolls provided the ferry landings are located in the same parish and leased or controlled by the state. This exemption shall not apply to ferries operating under contract with the Department of Transportation and Development.

10. DOTD official vehicles displaying the DOTD logo.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:157, R.S. 17:158, R.S. 29:27, R.S. 33:1975, R.S. 40:1392, R.S. 48:999, and R.S. 48:1000.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Operations, LR 40:

**Family Impact Statement**

Implementation of this proposed 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 the 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 local government to perform this function.



### Poverty Impact Statement

The implementation of this proposed Rule should not have any known or foreseeable impact on child, individual, or family poverty in relation to individual or community asset development as defined by R.S. 49:973. Specifically:

1. the implementation of this proposed Rule will have no known or foreseeable effect on household income, assets, and financial security;
2. the implementation of this proposed Rule will have no known or foreseeable effect on early childhood development and preschool through postsecondary education development;
3. the implementation of this proposed Rule will have no known or foreseeable effect on employment and workforce development;
4. the implementation of this proposed Rule will have no known or foreseeable effect on taxes and tax credits;
5. the implementation of this proposed Rule will have no known or foreseeable effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

### Small Business Statement

The implementation of this proposed Rule on small businesses, as defined in the Regulatory Flexibility Act, has been considered. The proposed Rule is not expected to have a significant adverse impact on small businesses. The department, consistent with health, safety, environmental and economic welfare factors, has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of the proposed statutes while minimizing the adverse impact of the Rule on small businesses.

### Provider Impact Statement

The implementation of this proposed Rule change does not have any known or foreseeable impact on a provider as defined by House Concurrent Resolution No. 170 of the 2014 Regular Session of the Louisiana State Legislature. Specifically:

1. the implementation of this proposed Rule change does not have any known or foreseeable impact on the staffing level requirements or qualifications required to provide the same level of service;
2. the implementation of this proposed Rule change does not have any known or foreseeable impact on the total direct and indirect effect on the cost to a provider to provide the same levels of service;
3. the implementation of this proposed Rule change does not have any known or foreseeable impact on the overall effect on the ability of a provider to provide the same level of service.

### Public Comments

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 this Notice of Intent to Kevin Reed, Ferry Administrator, Office of Operations, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, LA 70804-9245, telephone (225) 379-1916.

Sherri H. LeBas  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Ferry Operations

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

There will be no costs or savings to state or local governmental units as a result of the proposed rule change. The proposed changes amend and codify rules associated with statewide ferry operations by the Department of Transportation and Development (DOTD) as per statutory requirements enacted in Acts 865 and 866 of the 2012 Regular Session of the Louisiana Legislature. Implementation of these rules will not require additional expenditures or result in additional savings, beyond those which would have been incurred or received pursuant to statutory requirements and previously-existing rules.

Act 865 required the governor to call an election to determine, by referendum of the voters, whether tolls should continue to be collected on the Crescent City Connection Bridge beginning January 1, 2013, through December 31, 2033. The outcome of the election was decided against extension of the tolls and the proposed rule change repeals all rules related to toll collection on the bridge.

Act 866 amended R.S. 36:5082, transferring all operations formerly conducted by the Crescent City Connection Division to the DOTD Office of Operations. The Act further authorizes the department to prescribe and collect such fees, tolls, fares, or ferry charges as it deems necessary to operate, maintain, and replace such ferry services and expressly authorizes the privatization of ferry services. Additionally, Act 866 enacted R.S. 48:1161.1, abolished the Mississippi River Bridge Authority and merged and consolidated bridge and ferry functions within DOTD.

### 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 as a result of the proposed rule change beyond those incurred or received pursuant to the statutory provision related to the expiration of tolls on the Crescent City Connection Bridge, effective January 1, 2013. All ferry tolls specified in these rules are at rates previously established by statute and the prior version of these rules.

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

Implementation of these rules will not impact costs or economic benefits to directly affected persons or nongovernmental groups, beyond those incurred or received pursuant to the statutory provision related to the expiration of tolls on the Crescent City Connection Bridge, effective January 1, 2013. All ferry tolls specified in these rules are at rates previously established by statute and the prior version of these rules.

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

There will be no anticipated effect on competition and employment as a result of the adoption of this proposed rule.

Eric Kalivoda  
Deputy Secretary  
1408#049

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**  
**Department of Treasury**  
**Board of Trustees of the Teachers'**  
**Retirement System of Louisiana**

Optional Retirement Plan (LAC 58:III.Chapter 15)

Notice is hereby given in accordance with R.S. 49:950 et seq., of the Administrative Procedure Act, and through the authority granted in R.S. 11:826 that the Board of Trustees of the Teachers' Retirement System of Louisiana has approved for advertisement the repeal of LAC 58:III.1501, Marketing Guidelines, and the adoption of LAC 58:III.1501 through 1531 in order to provide within the optional retirement plan document certain federal tax provisions governing qualified governmental retirement plans. A preamble to this proposed action has not been prepared.

**Title 58**

**RETIREMENT**

**Part III. Teachers' Retirement System of Louisiana**

**Chapter 15. Optional Retirement Plan (ORP)**

**§1501. Definitions**

A. Terms not otherwise defined in this Chapter shall have the meaning given by the *Internal Revenue Code*.

B. Whenever used in the plan, each of the following terms has the meaning stated below.

*Account*—the total of the individual sub-account(s) maintained on behalf of each participant, beneficiary, or alternate payee under the investment option(s) held pursuant to the plan. The following sub-accounts shall be maintained by the ORP providers: an employer *account* to which employer contributions shall be credited; and an employee *account* to which employee contributions shall be credited. The ORP provider shall maintain such other accounts as determined by the ORP provider and the plan administrator.

*Alternate Payee*—a person who is an *alternate payee* under an order directed to the plan that the plan administrator or ORP provider has determined to be a domestic relations order.

*Applicable Form*—a form prescribed by the plan administrator or an ORP provider.

*Applicable Law*—the law of the state of Louisiana or, where required, federal law, including the *Internal Revenue Code*.

*Beneficiary*—the eligible recipient of an annuity or other benefit provided by the plan. A *beneficiary* shall be a natural person or the succession of a natural person.

*Board of Trustees*—the board provided for by retirement system law to administer the plan.

*Contributions*—*contributions* under the provisions of this plan, including employee *contributions* and employer *contributions*.

*Distributee*—any participant or beneficiary who receives, or but for his/her instruction to the plan administrator or ORP provider is entitled to receive, a distribution. A *distributee* includes an alternate payee to whom the plan administrator or ORP provider is directed to make a payment under a domestic relations order.

*Distribution*—as appropriate in the context, any kind of *distribution* or the particular kind of *distribution* provided by the plan.

*Distribution Commencement Date*—the first date on which a distribution (or any payment under a distribution) is paid or becomes payable.

*Domestic Relations Order* or *DRO*—a *domestic relations order* directed to the plan that creates or recognizes the existence of the right of an alternate payee to receive all or a portion of any benefit payable to a participant under the plan and that further meets all requirements for a *domestic relations order* as applied to a governmental plan.

*DRO Distribution*—a distribution to an alternate payee required or permitted following a DRO.

*Earnable Compensation*—the compensation earned by an employee during the full normal working time as a teacher as defined in R.S. 11:701. *Earnable compensation* shall include any differential wage payment as defined by 26 U.S.C. §3401(h)(2) that is made by an employer to any individual performing qualified military service. *Earnable compensation* shall not include per diem, post allowances, payment in kind, hazardous duty pay, or any other allowance for expense authorized and incurred as an incident to employment, nor payments in lieu of unused sick or annual leave, nor retroactive salary increases unless such an increase was granted by legislative Act or by a city or parish system wide salary increase, nor payment for discontinuation of contractual services, unless the payment is made on a monthly basis. If an employee is granted an official leave and he or she makes contributions for the period of leave, *earnable compensation* shall not include compensation paid for other employment which would not have been possible without the leave. The board of trustees shall determine whether or not any other payments are to be classified as *earnable compensation*.

*Effective Date*—July 1, 1990, which is the *effective date* of the plan. The implementation of the plan for academic and administrative employees of public institutions of higher education occurred on July 1, 1990. The implementation of the plan for employees of constitutionally established higher education boards occurred on July 1, 1998.

*Eligible Employee*—has the meaning provided in R.S. 11:921 and 11:928.

*Employee Contribution*—contributions required from the participant under R.S. 11:927.

*Employer*—any *employer* of an employee who makes irrevocable election to be in the plan which includes employees of the Board of Regents, Board of Supervisors of the University of Louisiana System, Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, and Board of Supervisors of Southern University and Agricultural and Mechanical College, or their successors, any other constitutionally established board which manages institutions of higher education, public institutions of higher education, or any other TRSL-covered *employer* with an employee required to continue participation in the ORP as provided in R.S. 11:928.

*Employer Contributions*—contributions made by the employer under R.S. 11:927.

*Enabling Statute*—R.S. 11:921 et seq.

*Internal Revenue Code* or *IRC*—the *Internal Revenue Code* of 1986, as amended, and including any regulations and rulings (or other guidance of general applicability) under the *IRC*, as applicable to a governmental plan as defined by *IRC* §414(d).

*Investment Option*—any investment option offered by the ORP provider.

*ORP Provider*—a company designated by the Board of Trustees of the Teachers' Retirement System of Louisiana under R.S. 11:924.

*Participant*—the eligible employee who has irrevocably elected to participate in the plan.

*Payout Option*—any of the annuity options or other options for payment that is provided in R.S. 11:929. A *payout option* must satisfy all applicable provisions of the plan.

*Personal Representative*—the person duly appointed by an order of the court (or of a registrar or administrator under the court's supervision) having jurisdiction over the estate of the participant that grants the person the authority to receive the property of the deceased participant and to act as the *personal representative* of the participant's probate estate.

*Plan* or *ORP*—the Louisiana optional retirement *plan* provided by R.S. 11:921 et seq., and applicable regulations.

*Plan Administrator*—consistent with R.S. 11:923 and R.S. 11:924, the Teachers' Retirement System of Louisiana Board of Trustees or any successor.

*Plan Sponsor*—the state of Louisiana.

*Regular Retirement Plan*—the defined benefit pension plan administered by the Teachers' Retirement System of Louisiana.

*Retirement System Law*—those provisions of title 11 of the *Revised Statutes* of Louisiana that apply generally to the management or administration of this plan or the regular retirement plan of the Teachers' Retirement System of Louisiana.

*Rollover Distribution*—any eligible *rollover distribution* that is to be paid directly into an eligible retirement plan as a rollover under IRC §§401(a)(31) and 402.

*R.S.*—*Louisiana Revised Statutes*.

*SEC*—the Securities and Exchange Commission, an agency of the government of the United States of America, established by §4(a) of the federal Securities Exchange Act of 1934.

*Severance from Employment*—the date the participant terminates employment with an employer with no obligation for future services to be performed for an employer in the plan by the participant.

*Spouse*—except for the purposes of IRC §§401(a)(9) and 401(a)(31), the individual that is the participant's *spouse* under applicable law.

*State*—the *state* of Louisiana unless the context clearly indicates otherwise.

*TRSL*—Teachers' Retirement System of Louisiana.

*Trust*—the legal entity and the legal relationship created by state law. Consistent with IRC §401(a)(2), the *trust* must be solely for the purposes of the plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:

### §1503. Plan Year

A. The plan year for the plan shall be the fiscal year commencing July 1 through June 30. The limitation year is the calendar year.

B. The plan administrator and ORP provider shall be entitled to rely on the assumption that a participant's taxable year is the calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:

### §1505. Establishment of Plan

A. The plan sponsor and plan administrator intend that the plan conform to the *Internal Revenue Code* of 1986 requirements for favorable federal tax treatment under IRC §401(a) and is a governmental plan within the meaning of IRC §414(d), with employee contributions picked up under an arrangement consistent with IRC §414(h)(2). Therefore, the plan administrator will construe and interpret the plan to state provisions that conform to the requirements of IRC §401, as applicable to a governmental plan under IRC §414(d). When the *Internal Revenue Code* is amended through subsequent legislation, or interpreted through revenue rulings, the plan administrator will construe and interpret the plan as stating provisions consistent with such amendment of relevant law.

B. To the extent required for this plan to qualify under IRC §401(a), the provisions of this plan shall be construed, consistent with treasury reg. §1.401-1(b)(1)(i), to provide:

1. a definite pre-determined formula for allocating contributions and a definite pre-determined formula for allocating investment earnings (and losses) among accounts;
2. periodic valuation of plan assets (including investment options) and trust assets at least once each year;
3. periodic valuation of accounts at least once each year; and
4. distribution of plan accounts after severance from employment or the occurrence of some event.

C. This Chapter states the provisions of an optional retirement plan for the classes of employees covered by R.S. 11:921 et seq. The purpose of the optional retirement plan is set out by R.S. 11:922. The provisions of R.S. 11:921 et seq., are incorporated as if fully set out in this *Louisiana Administrative Code*.

D. The plan is established and maintained with the intent that the plan conforms to the applicable requirements of the retirement system law. The provisions of the plan shall be interpreted whenever possible to state provisions that conform to the applicable requirements of the enabling statute. When the enabling statute is amended or interpreted through subsequent legislation or regulations or an attorney general opinion, the plan should be construed as stating provisions consistent with such amendment or interpretation of the applicable law. In the event of a conflict between the *Louisiana Administrative Code* and the enabling statute, the enabling statute will supersede.

E. Subject only to the Constitution of Louisiana, the Louisiana legislature has the right to amend the plan at any time. To the extent consistent with the retirement system law, the plan administrator has the right to amend the plan to implement applicable federal and state law at any time. Any amendment of the plan and trust shall not be effective to the extent that the amendment has the effect of causing any plan assets to be diverted to or inure to the benefit of the plan

administrator, ORP provider, or any employer, or to be used for any purpose other than providing benefits to participants and beneficiaries and defraying reasonable expenses of administering the plan and trust.

F. The plan is established for the exclusive benefit of participants and their beneficiaries. Consistent with IRC §401(a)(2), no amount held under the plan will ever inure to the benefit of the plan sponsor, any employer, the plan administrator, the ORP provider or any successor of any of them, and all plan investments and amounts will be held for the exclusive purpose of providing benefits to the plan's participants and their beneficiaries. Notwithstanding anything in the plan to the contrary, plan assets shall not be used for or diverted to purposes other than for the exclusive benefit of participants, beneficiaries, and alternate payees before the satisfaction of all liabilities to participants, beneficiaries, and alternate payees, except that payment of taxes and administration expenses may be made from the plan assets as provided by the plan or permitted by applicable law.

G. Plan contributions are invested, at the direction of each participant, in one or more funding vehicles provided by ORP providers to participants under the plan. Required participant plan contributions are designated picked up so as not to be included in participants' gross income for federal income tax purposes as provided by IRC §414(h)(2).

H. At no time shall the plan assets be used for, or diverted to, any person other than for the exclusive benefit of the employees and their beneficiaries and defraying reasonable expenses of administering the plan, except that contributions made by the employer may be returned to the employer if the contribution was made due to a mistake of fact.

I. The plan, and all acts and decisions taken under it, is binding and conclusive, for all purposes, upon every participant, beneficiary, alternate payee, any person claiming through a participant or beneficiary or alternate payee, all other interested persons, and upon the personal representatives, executors, administrators, heirs, successors and assigns of any and all such persons. The plan shall not affect contracts or other dealings with a person who is not an interested person, unless a written agreement executed by that person expressly so provides.

J. For purposes of the IRC, the plan is a defined contribution money purchase retirement plan under IRC §401(a).

K. The plan is an individual account plan which provides for an individual account for each participant and for benefits based solely upon the amount of contributions, investment gains and losses, fees, and expenses allocated to the participant's account.

L. The *United States Code* provisions created by title I of the Employee Retirement Income Security Act of 1974 ("ERISA") do not apply to this plan.

M. The plan is a governmental plan within the meaning of 29 USC 1002(32) and IRC §414(d).

N. The Teachers' Retirement System of Louisiana as the plan administrator provides for the administration and maintenance of the ORP pursuant to R.S. 11:921 et seq. The plan administrator may delegate duties to ORP providers to the extent permitted by applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:

#### **§1507. Eligibility and Election to Participate**

A. Academic and administrative employees of public institutions of higher education and employees of the Board of Regents, Board of Supervisors for the University of Louisiana System, Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, and Board of Supervisors of Southern University and Agricultural and Mechanical College, or their successors, and any other constitutionally established board which manages institutions of higher education who are current employees in the regular retirement plan of the TRSL may make an irrevocable election to participate in the ORP within 180 days after the implementation date of the ORP at their employer institution or board.

B. Academic and administrative employees of public institutions of higher education and employees of the Board of Regents, Board of Supervisors for the University of Louisiana System, Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, and Board of Supervisors of Southern University and Agricultural and Mechanical College, or their successors, and any other constitutionally established board which manages institutions of higher education who are initially employed on or after the implementation date at their employer institution or board may make an irrevocable election to participate in the ORP within 60 days after their employment date.

C. Any academic or administrative employee of a public institution of higher education or employee of the Board of Regents, Board of Supervisors for the University of Louisiana System, Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, or Board of Supervisors of Southern University and Agricultural and Mechanical College, or their successors, and any other constitutionally established board which manages institutions of higher education who is a part-time, seasonal, or temporary employee as defined in 26 CFR 31:3121(b)(7)-2, or in any successor regulation shall be eligible to participate in the ORP upon election by such employee.

D. Notwithstanding the provisions of Subsections A and B of this Section, any academic or administrative employee of a public institution of higher education and any employee of the Board of Regents, Board of Supervisors for the University of Louisiana System, Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, and Board of Supervisors of Southern University and Agricultural and Mechanical College, or their successors, and any other constitutionally established board which manages institutions of higher education who is an active contributing member in the regular retirement plan of the TRSL and who has less than five years of creditable service in the TRSL, may make an irrevocable election to participate in the ORP and transfer his accumulated employee contributions to the ORP under the provisions of R.S. 11:926(A). This election can only be made by a

member prior to attainment of five years of creditable service in the TRSL.

E. Elections must be made in writing and filed with the appropriate officer of the employer institution or board, who shall forward a copy of the completed election to the TRSL.

F. The election of employees making an election to participate in ORP as provided in Subsection A of this Section will be effective as of the date they are filed. Elections of eligible employees hired on or after the implementation date of the optional retirement plan at their institution or board as provided in Subsection B of this Section will be effective as of the date of their employment. If an eligible employee fails to make the election provided for in this Section, he shall become a member of the regular retirement plan of the TRSL in accordance with R.S. 11:721.

G. Any person electing to participate in the ORP shall always be ineligible for membership in the regular retirement plan of the TRSL even if he is employed in a position covered by the TRSL, as prescribed by R.S. 11:928.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:

#### **§1509. Employee Contributions**

A. Each participant shall contribute a mandatory monthly employee contribution percentage into the plan, as provided by law. Each employer shall pick-up employee contributions for all earnable compensation paid after the effective date. The employee contributions so picked up shall be treated as employer contributions pursuant to IRC §414(h)(2). The employer shall remit the picked up contributions to the TRSL for direct transfer to the ORP provider, instead of paying such amounts to the participants, and such contributions shall be paid from the same funds that are used in paying salaries to participants. Such contributions, although designated as employee contributions, shall be paid by the employer in lieu of contributions by participants. Participants may not elect to receive such contributions directly instead of having them paid by the employer to the plan. Employer contributions so picked up shall be treated for all purposes of the plan and state law, other than federal tax law, in the same manner as employee contributions made without a pick-up. See PLR 8633052.

B. The entirety of each participant's contribution, less any monthly fee established by the board of trustees to cover the cost of administration and maintenance of the plan, will be remitted to the ORP provider for application to the participant's account.

C. If a participant first became eligible for membership in the TRSL, or the plan, on or after July 1, 1996, the employee contributions remitted by the TRSL to any ORP provider shall not be based on compensation in excess of the annual limit of IRC §401(a)(17) as amended and revised pursuant to IRC §401(a)(17)(B).

D. A participant who attains his or her eligibility for a distribution and continues to be an employee will continue to make employee contributions, and will continue to participate under the plan until his or her severance from employment or the occurrence of some other event. Further, a participant's and spouse's right to his/her account is non-forfeitable as of his/her eligibility for a distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:

#### **§1511. Employer Contributions**

A. Each employer shall contribute a mandatory monthly employer contribution percentage into the plan, as provided by law. Upon receipt of the employer contribution, the TRSL will promptly forward the amount established in compliance with law to the ORP provider. Such amount paid over to the ORP provider shall be credited to the participant's account. The TRSL shall retain the balance of the employer contribution for application to the unfunded accrued liability of the TRSL.

B. If a participant first became eligible for membership in the Teachers' Retirement System of Louisiana, or the ORP, on or after July 1, 1996, the employer contributions remitted by the Teachers' Retirement System of Louisiana to any ORP provider shall not be based on compensation in excess of the annual limit of IRC §401(a)(17) as amended and revised pursuant to IRC §401(a)(17)(B).

C. A participant who attains his eligibility for a distribution and continues to be an employee will continue to receive employer contributions, and will continue to participate under the plan until his or her severance from employment or the occurrence of some other event. Further, a participant's and spouse's right to his/her account is non-forfeitable as of his/her eligibility for a distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:

#### **§1513. Distributions**

A. Retirement benefits shall be payable to plan participants or their beneficiaries by the ORP providers. Subject to the provisions of the contract, retirement benefits shall be paid in the form of a lifetime income, unless the participant or beneficiary requests a trustee-to-trustee single-sum cash rollover payment between qualified plans, or payment made directly to an individual retirement account, but death benefits may be paid in the form of a single-sum cash payment paid directly to the beneficiary or estate, whichever is applicable.

B. The ORP provider shall offer ORP participants the following single-sum cash payments:

1. direct transfers by and between OPR providers;
2. death benefits.
3. an initial benefit payable upon retirement, provided such benefit is approved by the ORP provider. The initial benefit shall not exceed an amount equal to the participant's monthly benefit, payable as a single-life annuity with no guarantees, times 36.

C. Minimum Distribution

1. For purposes of this Section, the following definitions shall apply.

*Designated Beneficiary*—the individual who is designated as the beneficiary under the plan and is the designated beneficiary under IRC §401(a)(9) and treasury regulations section 1.401(a)(9)-1, Q&A-4.

*Required Beginning Date*—the April 1 of the calendar year following the later of:

i. the calendar year in which the participant attains age 70 1/2 ; or

ii. the calendar year in which the participant retires.

(a). The participant, alternate payee, or beneficiary may elect on the applicable form whether to recalculate life expectancy (or any element of it) to the fullest extent permitted by IRC §401(a)(9)(D). If the participant, alternate payee, or beneficiary does not timely make this election, the participant, alternate payee, or beneficiary is deemed to have elected the "default" method specified by the applicable investment option(s), or to the extent that no method is so specified, that no recalculation shall apply with respect to any individual's life expectancy.

2. The requirements of this Section will take precedence over any inconsistent provisions of the plan. All distributions required under this Section will be determined and made in accordance with IRC §401(a)(9) and the treasury regulations under IRC §401(a)(9). Distributions to a participant and his/her beneficiaries shall only be made in accordance with the incidental death benefit requirements of IRC §401(a)(9)(G) and the treasury regulations thereunder.

3. The participant's entire interest will be distributed, or begin to be distributed, to the participant no later than the participant's required beginning date. If the participant dies before distributions begin, the participant's entire interest will be distributed, or begin to be distributed, no later than as follows.

a. If the participant's surviving spouse is the participant's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the participant died, or by December 31 of the calendar year in which the participant would have attained age 70 1/2, if later.

b. If the participant's surviving spouse is not the participant's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the participant died.

c. If there is no designated beneficiary as of September 30 of the year following the year of the participant's death, the participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the participant's death.

d. If the participant's surviving spouse is the participant's sole designated beneficiary and the surviving spouse dies after the participant but before distributions to the surviving spouse begin, this Subparagraph, rather than Subparagraph 3.a, will apply as if the surviving spouse were the participant.

4. For purposes of this Section, unless Subparagraph 3.a applies, distributions are considered to begin on the participant's required beginning date. If Subparagraph 3.a applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Subparagraph 3.a. If distributions under an annuity purchased from an insurance company irrevocably commence to the participant before the participant's required beginning date (or to the participant's surviving spouse) before the date distributions are required to begin to the surviving spouse under Subparagraph 3.a, the date

distributions are considered to begin is the date distributions actually commence.

5. If the participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of IRC §401(a)(9) and the treasury regulations thereunder.

6. If a distribution is required to begin to a beneficiary and the beneficiary has not filed a claim by the date that is 90 days before the date required by IRC §401(a)(9) (or if the ORP provider has denied a claim and an acceptable claim has not been filed before the applicable date), the ORP provider shall direct payment (or, if provided by the investment option, the ORP provider may without instruction make payment) according to the automatic payout option provided by the applicable investment option(s), or, to the extent not so provided, as a lump sum distribution.

7. If a participant has not furnished evidence of his or her spouse's date of birth, the ORP provider will use the employee's age in determining the minimum distribution period according to treasury reg. §1.401(a)(9)-5/Q&A-4(a) without regard to treasury reg. §1.401(a)(9)-5/Q&A-4(b).

#### D. Required Minimum Distribution Waiver of 2009

1. Notwithstanding any other provisions of this Section, a participant or beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of IRC §401(a)(9)(H) ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are: equal to the 2009 RMDs; or one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the participant's designated beneficiary, or for a period of at least 10 years ("extended 2009 RMDs"), will not receive those 2009 distributions unless the participant or beneficiary elects to receive such distribution. Participants and beneficiaries described in the preceding sentence will be given the opportunity to elect to receive the distributions described in the preceding sentence. However, those participants and beneficiaries who receive required minimum distributions through the automatic payment system will continue to receive 2009 RMDs unless he or she elects not to receive the 2009 RMDs.

2. Notwithstanding any other provisions of the plan, and solely for purposes of applying the rollover provisions of the plan, 2009 RMDs [amounts that would have been required minimum distributions for 2009 but for the enactment of IRC §401(a)(9)(H)] and extended 2009 RMDs (one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the participant's designated beneficiary, or for a period of at least 10 years), will be treated as eligible rollover distributions.

#### E. Claim for Distribution

1. Any distribution shall be paid only upon a claim made on the applicable form, and submission of additional information requested by the ORP provider, including but not limited to:

a. if the distribution is made, appropriate evidence that the participant has a severance from employment;

b. if the distribution is an eligible rollover distribution, the distributee's instruction as to whether the distribution (or a portion of the distribution) is to be paid directly to an eligible retirement plan, and if any amount is to be paid directly to an eligible retirement plan, the name and address of the trustee or administrator of that eligible retirement plan together with any other information that the plan administrator, ORP provider, or the eligible retirement plan administrator reasonably requests pursuant to treas. reg. §1.401(a)(31)-1;

c. if the distribution is made on account of the participant's death, appropriate evidence of the participant's death;

d. whenever required by the ORP provider, the date-of-birth of any distributee as relevant to the distribution;

e. if the account consists of more than one investment option, the order in which any investment options are to be charged or redeemed to pay the distribution; and

f. any other evidence or information that the ORP provider finds is relevant to administer a provision of the plan in the participant's or beneficiary's and the distributee's circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:

#### §1515. Rollover Distribution

A. For purposes of this Section, the following definitions shall apply.

*Direct Rollover*—a payment by the plan to the eligible retirement plan specified by the distributee.

*Distributee*—includes a participant or former participant. It also includes the participant's or former participant's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a domestic relations order. It also includes the participant's or former participant's nonspouse beneficiary who is a designated beneficiary as defined by IRC §401(a)(9)(E). Effective January 1, 2007, and notwithstanding anything in the plan to the contrary that otherwise would limit a *distributee's* election under this Section, and to the extent allowed under the applicable provisions of the IRC and the treasury regulations, a *distributee* who is a designated beneficiary, but not a surviving spouse, spouse or former spouse alternate payee may elect, at the time and in the manner prescribed by the plan administrator, to have all or any part of the account that qualifies as an eligible rollover distribution paid in a direct trustee-to-trustee transfer to an eligible retirement plan that is an individual retirement plan described in Clause (i) or (ii) of the IRC §402(c)(8)(B). If such a transfer is made:

a. the transfer shall be treated as an eligible rollover distribution;

b. the individual retirement plan shall be treated as an inherited individual retirement account or individual retirement annuity (within the meaning of IRC §408(d)(3)(C)); and

c. IRC §401(a)(9)(B) (other than clause (iv) thereof) shall apply to such individual retirement plans.

*Eligible Retirement Plan*—any program defined in IRC §§401(a)(31) and 402(c)(8)(B), that accepts the distributee's eligible rollover distribution, and any of the following:

a. an individual retirement account under IRC §408(a);

b. an individual retirement annuity under IRC §408(b);

c. a qualified trust as described in IRC §401(a), provided that such trust accepts the employee's eligible rollover distribution;

d. an annuity plan as described in IRC §403(a);

e. an eligible deferred compensation plan described in IRC §457(b) which is maintained by an eligible governmental employer under IRC §457(e)(1)(A) (provided the plan contains provisions to account separately for amounts transferred into such plan);

f. an annuity contract under IRC §403(b); or

g. a Roth IRA as described under IRC §408A.

*Eligible Rollover Distribution*—

a. the distribution of all or any portion of the balance to the credit of an employee from a qualified plan, except that an *eligible rollover distribution* does not include:

i. any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the participant and the participant's designated beneficiary, or for a specified period of 10 years or more;

ii. any distribution to the extent such distribution is required under IRC §401(a)(9); or

iii. the portion of any distribution that is not includible in gross income, provided that any portion of any distribution that is not includible in gross income may be an *eligible rollover distribution* for purposes of a rollover to either:

(a). a traditional individual retirement account or individual retirement annuity under IRC §§408(a) or 408(b); or

(b). a qualified trust which is part of a plan which is a defined contribution plan or a defined benefit under IRC §§401(a) or 403(a) or to an annuity contract described in IRC §403(b), and such trust or annuity contract separately accounts for amounts so transferred, including separate accounting for the portion of such distribution that is includible in gross income and the portion of such distribution that is not includible.

b. a qualified rollover contribution to a Roth IRA within the meaning of IRC §408A.

B. Consistent with IRC §401(a)(31), for any distribution that is an eligible rollover distribution, the distributee may elect, at the time and in the manner prescribed by the ORP provider, to instruct the ORP provider to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee. The ORP provider shall provide written information to the distributee regarding eligible rollover distributions no more than 180 days prior to payment of the eligible rollover distribution, to the extent required by IRC §402(f).

C. A current employee in the TRSL who elects participation in the plan shall have the right to have his or her accumulated employee contributions transferred to the

plan to purchase benefits thereunder in accordance with R.S. 11:926. A current vested employee in the TRSL or an employee with sufficient years of service credit but who is not old enough to receive a benefit and who elects participation in the plan will have the same rights and privileges accorded by R.S. 11:726.

D. The ORP provider may (but is not required to) commence the distribution less than 30 days after giving an eligible rollover distribution notice only if the following requirements are met. To the extent required by IRC §402(f) and treasury reg. §1.402(c)-2, the ORP provider must inform the distributee in an eligible rollover distribution notice or otherwise that the distributee has a right to a period of at least 30 days after receiving the eligible rollover distribution notice to consider the decision of whether to elect a distribution and any available payout option, and the distributee after receiving the eligible rollover distribution notice must affirmatively elect a distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:

### **§1517. Benefit Limitation**

A. Annual additions with respect to a member shall not exceed the lesser of \$40,000 (as adjusted pursuant to IRC §415(d) or 100 percent of the member's compensation.

1. For purposes of this Section, the following definition shall apply.

*Annual Additions*—the sum (for any year) of employer contributions to a defined contribution plan, member contributions, and forfeitures credited to a member's individual account. Member contributions are determined without regard to rollover contributions and to picked-up employee contributions that are paid to a defined benefit plan.

2. For purposes of applying IRC §415(c) and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a limitation year, except as noted below and as permitted by treasury regulation §1.415(c)-2, or successor regulation; provided, however, that member contributions picked up under IRC §414(h) shall not be treated as compensation.

3. Compensation will be defined as wages within the meaning of IRC §3401(a) and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under IRC §§6041(d), 6051(a)(3) and 6052 and will be determined without regard to any rules under IRC §3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed [such as the exception for agricultural labor in IRC §3401(a)(2)].

a. However, for limitation years beginning after December 31, 1997, compensation will also include amounts that would otherwise be included in compensation but for an election under IRC §§125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b).

b. For limitation years beginning after December 31, 2000, compensation shall also include any elective

amounts that are not includible in the gross income of the member by reason of IRC §132(f)(4).

B. For limitation years beginning on and after January 1, 2009, compensation for the limitation year shall also include compensation paid by the later of two and one-half months after a member's severance from employment or the end of the limitation year that includes the date of the member's severance from employment if the payment is regular compensation for services during the member's regular working hours, or compensation for services outside the member's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the member while the member continued in employment with the employer.

C. Any payments not described in Subsection B of this Section are not considered compensation if paid after severance from employment, even if they are paid within two and one-half months following severance from employment, except for payments to the individual who does not currently perform services for the employer by reason of qualified military service [within the meaning of IRC §414(u)(1)] to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service.

D. An employee who is in qualified military service [within the meaning of IRC §414(u)(1)] shall be treated as receiving compensation from the employer during such period of qualified military service equal to:

1. the compensation the employee would have received during such period if the employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for the absence during the period of qualified military service; or

2. if the compensation the employee would have received during such period was not reasonably certain, the employee's average compensation from the employer during the twelve month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

E. Back pay, within the meaning of treasury regulation §1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

F. If the annual additions for any member for a plan year exceed the limitation under IRC §415(c), the excess annual addition will be corrected as permitted under the employee plans compliance resolution system (or similar IRS correction program).

G. For limitation years beginning on or after January 1, 2009, a member's compensation for purposes of this Paragraph shall not exceed the annual limit under IRC §401(a)(17).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:



### **§1519. Annual Compensation Limitation**

A. In addition to other applicable limits stated by the plan and notwithstanding any other provision of the plan to the contrary, the amount of earnable compensation determined for the purposes of the contributions to the plan shall not exceed the limit prescribed by IRC §401(a)(17) as adjusted each year according to IRC §401(a)(17)(B).

B. For purposes of this Section, the following definition shall apply.

*Annual Compensation*—earnable compensation during the plan year or such other consecutive 12-month period over which compensation is otherwise determined under the plan (the determination period). The cost-of-living-adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

C. If the plan year or applicable period for determining *annual compensation* contains fewer than 12 calendar months, then this compensation limit is the amount equal to the annual IRC §401(a)(17) limit for the applicable calendar year during which the compensation period begins multiplied by the ratio that is obtained by dividing the number of full months in the period by 12.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:

### **§1521. Fiduciary Responsibility**

A. Any person electing to participate in the plan shall agree to the provisions of the plan in accordance with R.S. 11:929.

B. The ORP providers may not engage in any prohibited transactions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:

### **§1523. Plan Assets**

A. Except as provided in Subsection B of this Section, plan assets shall be held by the ORP providers in an individual or group annuity contract, or custodial account which meets the requirements of IRC §401(f) in order to be treated as a qualified trust.

B. A separate trust is hereby established under state law for the purpose of segregating fees to be used for the payment of reasonable plan expenses. This trust shall be administered by the board of trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:

### **§1525. Vesting**

A. A participant's interest in his/her account shall immediately become and shall at all times remain fully vested and non-forfeitable.

B. The plan shall be construed consistently with IRC §§401(a)(4) and 401(a)(7) as in effect on September 1, 1974.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:

### **§1527. Governing Law**

A. The plan, and actions under or relating to the plan, and the statute of limitations for such actions shall be governed by and enforced by the laws of the state of Louisiana and shall be construed, to the extent that any construction beyond the written plan is necessary, according to the laws of the state of Louisiana or the *Internal Revenue Code* or other federal law, where applicable.

B. If, under any application filed by or on behalf of the plan, the IRS determines that the plan as amended and restated does not qualify under IRC §401(a), and the determination is not contested, or if contested, is finally upheld (or otherwise finally determined), the plan administrator may retroactively amend the plan to the earliest date permitted by treasury regulations to the fullest extent that the plan administrator considers necessary to obtain an IRS determination that the plan qualifies under IRC §401(a). Such actions may be taken without further authorization or consent from the plan sponsor, provided amendments are not contrary to state law.

C. If any contribution (or any portion of a contribution) is made by the employer by a good faith mistake of fact, upon receipt in good order of a proper request, the plan administrator or the ORP provider shall return the amount of the mistaken contribution(s), except as limited below, to the employer in accordance with rev. rul. 91-4. The amount of any contribution returned may not exceed the difference between the amount actually contributed and the amount which would have been contributed had there been no mistake of fact and may not include the earnings attributable to such contribution. The amount of the contributions returned must be reduced by any losses attributable to the contribution, and no participant may have his benefit payable hereunder reduced by the return of the contribution to less than such benefit would have been had the returned contribution never been made. The amount of the erroneous contributions will be corrected and returned no later than 30 days after notification of the error if such correction and return can be completed within one year of the erroneous contributions.

D. In any event, any correction under this section shall be made in accordance with the Internal Revenue Service employee plans compliance resolution system (or similar IRS correction program).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:

### **§1529. USERRA**

A. Notwithstanding any provisions of this plan to the contrary, contributions, benefits, and service credits with respect to qualified military service shall be provided in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA") and the Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART"), IRC §401(a)(37), and IRC §414(u).

B. For purposes of this Section, the following definition shall apply.

*Qualified Military Service* (as defined by in chapter 43, title 38, *United States Code*)—the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a position of employment for the purposes of an examination to determine the fitness of the person to perform any such duty, and a period for which a person is absent from employment for the purposes of performing funeral honors duty as authorized by 10 U.S.C. §12503 or 32 U.S.C. §115 if such individual is entitled to reemployment rights under USERRA with respect to such service.

*Uniformed Service*—the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of Public Health Service, and any other category of persons designated by the President of the U.S. in the time of war or national emergency.

C. An eligible employee whose employment is interrupted by qualified military service under IRC §414(u) or who is on a leave of absence for qualified military service under IRC §414(u) shall be entitled to receive any employer contributions that he failed to receive under the plan as a result of his military service, provided he returns to employment with the employer upon receiving an honorable discharge from military service and there is no intervening employment outside of the employment with the employer.

D. Effective January 1, 2009, an eligible employee whose employment is interrupted by qualified military service or who is on a leave of absence for qualified military service and who receives a differential wage payment within the meaning of IRC §414(u)(12)(D) from the employer will be treated as an eligible employee of the employer and the differential wage payment will be treated as compensation for purposes of applying the limits on annual additions under IRC §415(c).

E. Effective January 1, 2007, death benefits payable under the plan shall be paid in accordance with IRC §401(a)(37), which provides that in the case of an eligible employee who dies while performing qualified military service (as defined in IRC §414(u)), the survivors of the eligible employee are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the plan had the eligible employee resumed and then terminated employment with the employer on account of death.

F. Notwithstanding anything in the plan to the contrary, a participant who is a reservist or national guardsman (as defined in 37 U.S.C. §101(24), and who was ordered or called to active duty, after September 11, 2001, for a period in excess of 179 days or for an indefinite period may request, during the period beginning on the date of the order or call to duty and ending at the close of the active duty period, a distribution of all or part of his or her account attributable to salary deferral contributions. The distribution shall be paid to the participant as promptly as practicable after the plan administrator or ORP provider receives the

participant's request. If the participant's interest in the plan is invested in more than one of the separate investment options maintained under the plan, a withdrawal of less than the complete balance of the interest shall be withdrawn pro rata from each applicable investment option.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:

#### **§1531. ORP Providers**

A. In the selection of ORP provider(s) as required by law, the board of trustees will, at a minimum, consider the following criteria in the selection process:

1. portability of the contracts offered or to be offered by the company, based on the number of states in which the designated company provides contracts under similar plans;
2. efficacy of the contracts in the recruitment and retention of employees for the various state public institutions of higher education and higher education boards;
3. nature and extent of the rights and benefits to be provided by the contracts for participating employees and their beneficiaries;
4. relation of the rights and benefits to the amount of the contributions to be made pursuant to the provisions of the Plan;
5. suitability of the rights and benefits to the needs and interests of participating employees and employers; and
6. ability of the designated company or companies to provide the rights and benefits under such contracts.

B. The TRSL will enter into a contract with each ORP provider. Effective July 1, 2015, each ORP provider contract shall include the "operational guide for ORP providers" developed by the TRSL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:

#### **Family Impact Statement**

The proposed adoption of LAC 58:III.1501 through 1531 regarding the TRSL optional retirement plan and applicable *Internal Revenue Code* provisions should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

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

#### **Poverty Impact Statement**

The proposed adoption of LAC 58:III.1501 through 1531 regarding the TRSL Optional Retirement Plan and applicable *Internal Revenue Code* provisions should not have any known or foreseeable impact on any child, individual or family poverty as defined in R.S. 49:973(D). Specifically, there should be no known or foreseeable effect on:

1. household income, assets, and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;
4. taxes and tax credits; and
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

**Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact on small businesses.

**Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Per HCR 170, "provider" means an organization that provides services for individuals with developmental disabilities. In particular, it is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

**Public Comments**

Interested persons may submit written comments on the proposed changes until 4:30 p.m., September 22, 2014, to Katherine Whitney, Deputy General Counsel, Board of Trustees for the Teachers' Retirement System of Louisiana, P.O. Box 94123, Baton Rouge, LA 70804-9123.

Maureen H. Westgard  
Director

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

**RULE TITLE: Optional Retirement Plan**

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

The proposed rule changes will have no impact on state or local government expenditures. The rule change codifies certain plan provisions of the TRSL Optional Retirement Plan (ORP) and adds the federal mandate regarding the TRSL ORP as a qualified governmental plan under Section 401(a) of the Internal Revenue Code. Rule changes include plan provisions consistent with state law including the establishment of the plan, governing law, eligibility to participate, contributions, fiduciary responsibilities, vesting, and selection of providers. In addition, the proposed rule change provisions are consistent with federal law and regulations including distributions, rollovers, benefit limitations, annual compensation limitations, separate trust for administrative fees and the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA").

**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 as a result of the proposed rule changes.

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

There will be no cost or economic benefit to any directly affected persons or non-governmental groups as a result of the proposed rule changes.

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

The proposed rule change will have no effect on competition or employment.

Maureen H. Westgard  
Director  
1408#027

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Treasury  
Deferred Compensation Commission**

**Public Employees Deferred Compensation Plan  
(LAC 32:VII.101, 505, and 721)**

The Louisiana Deferred Compensation Commission ("LDCC"), in accordance with R.S. §49:950 et seq., of the Louisiana Administrative Procedure Act, intends to adopt rules necessary to allow participants of the Louisiana Public Employees Deferred Compensation Plan to have the option to designate their elective deferrals as Roth contributions in accordance with IRC 457. This proposed Rule would apply to deferrals made on or after January 1, 2015. The Louisiana Deferred Compensation Commission also intends to amend Chapter 7 relative to transfers into the plan.

**Title 32**

**EMPLOYEE BENEFITS**

**Part VII. Public Employee Deferred Compensation**

**Subpart 1. Deferred Compensation Plan**

**Chapter 1. Administration**

**§101. Definitions**

\*\*\*

*Designated Roth Account*—a separate account maintained by the plan in accordance with IRC §402A and the regulations thereunder for accepting designated Roth contributions. A designated Roth contribution is an elective deferral that would otherwise be excludable from gross income but that has been designated by the participant who elects the deferral as not being so excludable, or an existing account which is converted to a *designated Roth account* in compliance with the *Internal Revenue Code*.

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**AUTHORITY NOTE:** Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

**HISTORICAL NOTE:** Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1962 (October 1998), amended LR 28:1494 (June 2002), LR 32:118 (January 2006), LR 37:1617 (June 2011), LR 40:

## Chapter 5. Investments

### §505. Participant Accounts

A. - B. ...

C. Beginning on January 1, 2011, the commission may maintain or cause to be maintained (for individual participants) designated Roth accounts.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:1497 (June 2002), LR 40:

## Chapter 7. Distributions

### §721. Transfers and Rollovers

A. Transfers Into the Plan. At the direction of the employer, the administrator may permit a class of participants who are participants in another eligible governmental plan under Code §457(b) to transfer assets to the plan. Such a transfer is permitted only if the other plan provides for the direct transfer of each Participant's interest therein to the plan. The administrator may require in its sole discretion that the transfer be in cash. The administrator may require such documentation from the other plan as it deems necessary to effectuate the transfer in accordance with Code §457(e)(10) and Treasury Regulation §1.457-10(b) and to confirm that the other plan is an eligible governmental plan as defined in Treasury Regulation §1.457-2(f). The amount so transferred shall be credited to the participant's account balance and shall be held, accounted for, administered and otherwise treated in the same manner as an annual deferral by the participant under the plan, except that the transferred amount shall not be considered an annual deferral under the plan in determining the maximum deferral under article III.

B. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998), amended LR 28:1499 (June 2002), LR 37:1621 (June 2011), LR 40:

### Family Impact Statement

In accordance with section 953 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.

1. What effect will this Rule have on the stability of the family? The proposed Rule will not affect the stability of the family.

2. What effect will this have on the authority and rights of person regarding the education and supervision of their children? The proposed Rule will not affect the authority or rights of persons regarding the education and supervision of their children

3. What effect will this have on the functioning of the family? This Rule will not affect the functioning of the family.

4. What effect will this have on family earnings and family budget? This Rule will not affect the family earnings or family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? This Rule

does not require the family or local government to perform any functions.

### Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, repeal, or amendment:

1. the effect on household income, assets, and financial security. We anticipate no impact on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development. We anticipate no impact early childhood development or preschool through postsecondary education development;

3. the effect on employment and workforce development. We anticipate no impact on employment and workforce development;

4. the effect on taxes and tax credits. We anticipate no impact on taxes or tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance. We anticipate no impact on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

### Small Business Statement

In accordance with section 965.3 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. the establishment of less stringent compliance or reporting requirements for small businesses. There are no reporting requirements in the proposed Rule;

2. the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses. There are no schedules or deadlines or reporting requirements in the proposed Rule;

3. the consolidation or simplification of compliance or reporting requirements for small businesses. There are no reporting requirements in the proposed Rule;

4. the establishment of performance standards for small businesses to replace design or operational standards required in the proposed Rule. There are no design standards in the proposed Rule;

5. the exemption of small businesses from all or any part of the requirements contained in the proposed Rule.

### Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a Provider Impact Statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed Rule will not affect staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the provider to provide the same level of service. We do not anticipate a cost, directly or indirectly, in connection with the proposed Rule;

3. the overall effect on the ability of the provider to provide the same level of service. We anticipate no effect on the ability of the provider to provide the same level of service.

**Public Comments**

Interested persons may submit written comments to Emery Bares, Chairman, Louisiana Public Employees Deferred Compensation Commission, 2237 South Acadian Thruway, Baton Rouge, LA 70808. He is responsible for responding to inquiries regarding this proposed Rule.

**Public Hearing**

A public hearing on this proposed Rule is scheduled for Tuesday, September 23, 2014 at 9 a.m. in the commission office, located at 2237 South Acadian Thruway, Suite 702, Baton Rouge, LA 70808. 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 comments is 12 noon that same day.

Emery Bares  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Public Employees  
Deferred Compensation Plan**

**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 as a result of the proposed rule changes. Pursuant to the Federal Small Business Jobs Act of 2010, the proposed rule change allows participants of the LA Public Employees Deferred Compensation Plan to have the option to designate their elective deferrals as Roth contributions. In addition, the proposed rule change allows participants in another governmental plan (457(b)) to transfer assets into the LA Public Employees Deferred Compensation Plan without having to separate from governmental service.

Pursuant to current rule, an employee cannot transfer assets into the LA Public Employees Deferred Compensation Plan unless that employee has separated from service with the former employer. This proposed rule change eliminates this stipulation.

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

The proposed rule changes will not result in any increase in revenue collections of state or local governmental units.

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

The proposed rule changes are anticipated to result in a benefit to those plan participants who choose to contribute after-tax deferrals to a Designated Roth Account within the 457(b) plan.

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

The proposed rule change will have no anticipated effect on competition or employment.

Lindsey Hunter  
Designee  
1408#030

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Wildlife and Fisheries  
Office of Fisheries**

**Reef Fish—Harvest (LAC 76:VII.335)**

The Department of Wildlife and Fisheries does hereby give notice of its intent to amend a Rule, LAC 76:VII.335, modifying existing reef fish harvest regulations. Proposed changes remove closed seasons and bag limits on rock and red hind. Authority for amendment of this Rule is included in the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:6(25)(a), 56:320.2, 56:326.1, and 56:326.3 to the Department of Wildlife and Fisheries.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 3. Saltwater Sport and Commercial Fishery  
§335. Reef Fish—Harvest Regulations**

A. Recreational bag limits regarding the harvest of reef fish: triggerfishes, amberjacks, grunts, wrasses, snappers, groupers, sea basses, tilefishes, and porgies, within and without Louisiana's territorial waters.

Species	Recreational Bag Limits
1. Red Snapper	2 fish per person per day
2. Queen, mutton, blackfin, cubera, gray, silk, yellowtail snappers, and wenchman	10 fish per person per day (in aggregate)
3. Vermilion snapper, lane snapper, gray triggerfish, almaco jack, goldface tilefish, tilefish, and blueline tilefish	20 per person per day (in aggregate) with not more than 2 gray triggerfish and not more than 10 vermilion snapper per person included in the bag limit.
4. Speckled hind, black grouper, red grouper, snowy grouper, yellowedge grouper, yellowfin grouper, yellowmouth grouper, warsaw grouper, gag grouper, scamp	4 fish per person per day (in aggregate) with not more than 1 speckled hind and 1 warsaw grouper per vessel and with not more than 4 red grouper per person and not more than 2 gag grouper per person included in the bag limit

Species	Recreational Bag Limits
5. Greater amberjack	1 fish per person per day
6. Banded rudderfish and lesser amberjack	5 fish per person per day (in aggregate)
7. Hogfish	5 fish per person per day
8. No person shall possess goliath grouper or Nassau grouper whether taken from within or without Louisiana territorial waters per LAC 76:VII.337.	

B. - B.5. ...

6. For-hire vessels operated by a legally licensed Louisiana guide having a valid recreational offshore landing permit in possession and fishing the waters of the state during an open season can harvest and possess a recreational limit of reef fish.

C. - D.8. ...

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E. Recreational and commercial minimum and maximum size limits, unless otherwise noted.

Species	Minimum Size Limits
1. Red snapper	16 inches total length (Recreational) 13 inches total length (Commercial)
2. Gray, yellowtail, and cubera snapper	12 inches total length
3. Lane snapper	8 inches total length
4. Mutton snapper	16 inches total length
5. Vermilion snapper	10 inches total length
6. Red grouper	20 inches total length (Recreational) 18 inches total length (Commercial)
7. Yellowfin grouper	20 inches total length
8. Gag grouper	22 inches total length
9. Black grouper	22 inches total length (Recreational) 24 inches total length (Commercial)
10. Scamp	16 inches total length
11. Greater amberjack	30 inches fork length (Recreational) 36 inches fork length (Commercial)
12. Hogfish	12 inches fork length
13. Banded rudderfish and lesser amberjack	14 inches fork length (minimum size) 22 inches fork length (maximum size)
14. Gray triggerfish	14 inches fork length

F. - G.1. ...

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2. Seasons for the recreational harvest of reef fish species or groups listed below shall be closed during the periods listed below.

Species or Group	Closed Season
a. Gag	January 1-June 30 of each year
b. Black, red, yellowfin, and yellowmouth groupers, and scamp	February 1-March 31 of each year in waters seaward of the 20 fathom boundary

Species or Group	Closed Season
c. Red Snapper	October 1 through the Friday before Palm Sunday of the following year. The open season shall be for weekends only. A <i>weekend</i> is defined as Friday, Saturday and Sunday, with the exception of Memorial Day and Labor Day, when Monday would be classified as a weekend as well.
d. Greater Amberjack	June 1-July 31 of each year.
e. Gray Triggerfish	June 1-July 31 of each year.

G.3. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.56:6(25)(a), R.S. 56:320.2(C), R.S. 56:326.1 and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1138, 1139 (June 1998), LR 24:1972 (October 1998), LR 26:793 (April 2000), LR 26:1505 (July 2000), LR 26:2833 (December 2000), LR 31:3166 (December 2005), LR 33:1156 (June 2007), repromulgated LR 33:1397 (July 2007), amended LR 34:2209 (October 2008), LR 34:2682 (December 2008), LR 36:1791 (August 2010), LR 38:2383 (September 2012), LR 39:330 (February 2013), LR 40:95 (January 2014), repromulgated LR 40:1116 (June 2014), LR 40:

#### Family Impact Statement

In accordance with Act No. 1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

#### Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B).

#### Provider Impact Statement

The proposed Rule change is not anticipated to have any known impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

#### Public Comments

Interested persons may submit comments relative to the proposed Rule to Jason Adriance, Fisheries Division, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000, or via e-mail to jadriance@wlf.la.gov prior to Tuesday, September 9, 2014.

Billy Broussard  
Chairman

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Reef Fish—Harvest

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

The proposed Rule change is expected to have no effect on implementation costs to state or local governmental units. At one time, federal regulations were put in place to protect the

stock of certain species of reef fish. In order to remain compliant, the Louisiana Department of Wildlife and Fisheries (LDWF) created regulations that aligned with the federal standards; however, after a federal study found no significant damage to the species' stock, the regulations were removed. In order to again stay compliant with federal regulations, LDWF is removing the state regulations.

The proposed Rule removes dog snapper, mahogany snapper, and schoolmaster from the 10 fish per person recreational creel limit for reef fish. The daily aggregate creel limit will still be in place for queen snapper, mutton snapper, blackfin snapper, cubera snapper, gray (mangrove) snapper, silk snapper, yellowtail snappers and wenchman.

The proposed Rule also removes the 12-inch minimum size limit for dog snapper, mahogany snapper, and schoolmaster and the 8-inch minimum size for black seabass for both commercial and recreational harvesters.

The proposed Rule removes blackline tilefish and anchor tilefish from the 20 fish per person aggregate recreational creel limit for reef fish. The daily aggregate creel limit will still be in place for Vermilion snapper, lane snapper, gray triggerfish, almaco jack, goldface tilefish, tilefish, and blueline tilefish.

The proposed Rule removes red hind, rock hind and misty grouper from the four fish per person aggregate creel limit for reef fish. The daily aggregate creel limit will still be in place for speckled hind (limit one per vessel), black grouper, red grouper, snowy grouper, yellowedge grouper, yellowfin grouper, yellowmouth grouper, Warsaw grouper (limit one per vessel), gag grouper, and scamp. In addition, the proposed Rule also eliminates the current recreational closed season for rock and red hind, which is currently February 1st through March 31st of each year.

In addition, the proposed Rule clarifies an earlier rule change allowing for-hire vessels with a valid recreational offshore landing permit to harvest and possess a recreational

limit of reef fish when fishing in the waters of the state during an open season.

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

The proposed Rule change is expected to 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)

The proposed rules changes are expected to benefit anglers who harvest dog snapper, mahogany snapper, schoolmaster, or any of the other eight species of fish currently within the ten fish aggregate category; anglers who harvest blackline tilefish, anchor tilefish, or any of the other seven species of fish within the 20 fish aggregate category; and anglers who harvest red hind, rock hind, misty grouper, or any of the other 10 species of fish currently listed in the four fish aggregate category under the reef fish harvest regulations. The removal of 12-inch minimum size limit for dog snapper, mahogany snapper, and schoolmaster and the 8-inch minimum size for black seabass may benefit recreational and commercial fishermen who harvest that species. Because dog snapper, mahogany snapper, schoolmaster, blackline tilefish, anchor tilefish, red hind, rock hind, and black seabass are harvested relatively infrequently, the benefits of removing these regulations are expected to be minor.

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

The proposed rule change is expected to have no effect on competition or employment.

Robert J. Barham  
Secretary  
1408#088

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

# Potpourri

## POTPOURRI

### Department of Health and Hospitals Board of Pharmacy

Substantive Changes Public Hearing—Pharmacy Records  
(LAC 46:LIII.Chapters 11, 12, and 15)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Board of Pharmacy published its Notice of Intent in the March 2014 edition of the *Louisiana Register*, specifying its proposal to amend several Sections within Chapter 11, Pharmacies, as well as Section 1213 in Chapter 12, Automated Medication Systems, and Sections 1503 and 1509 in Chapter 15, Hospital Pharmacy, to update the rules relative to pharmacy records and recordkeeping requirements. As indicated in the notice, the board conducted a public hearing on April 29 to receive comments and testimony on the proposal.

During the board's consideration of those comments and testimony during its subsequent meeting on May 7, they agreed with a request to revise the original proposal by deleting the requirement for positive identification in favor of simple identification for two specific types of records maintained by pharmacies. In particular, the board has agreed to revise the original proposal by deleting the word "positive" in the following four locations in the original proposal:

- §1124.B.3.c.vii;
- §1124.B.3.d.iv;
- §1509.A.3.c.vii; and
- §1509.A.3.d.iv.

The Legislative Fiscal Office has evaluated the impact of the proposed revisions of the original proposal and has opined the suggested revisions would not adversely increase any cost to the stakeholders, and may very well lower any costs associated with implementation of positive identification.

#### Public Comments

Interested persons may submit written comments to Malcolm J. Broussard, Executive Director, Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding this proposed Rule as well as these proposed revisions to the original proposal.

#### Public Hearing

A public hearing on these proposed revisions to the original proposal is scheduled for Tuesday, September 30, 2014 at 9 a.m. in the board office. 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 comments is 12 noon that same day.

## Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LIII. Pharmacists

#### Chapter 11. Pharmacies

##### Subchapter B. Pharmacy Records

#### §1124. Records of Pharmacy Services for Patients in Licensed Healthcare Facilities Other than Hospitals

\* \* \*

##### B. Drug Distribution and Control

\* \* \*

3. Records. The pharmacist-in-charge shall be responsible for maintaining the following records:

\* \* \*

c. A record of all drugs compounded or prepackaged for use only within that facility, which shall include at least the following:

\* \* \*

vii. Identification of the licensed person responsible for the compounding or prepackaging of the drug.

d. A record of the distribution of drugs to patient care areas and other areas of the facility held for administration, which shall include at least the following:

\* \* \*

iv. Identification of the individual receiving the drug if it is a controlled dangerous substance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 40:

#### Chapter 15. Hospital Pharmacy

##### §1509. Drug Distribution and Control

A. The hospital pharmacist-in-charge shall be responsible for the safe and efficient procurement, receipt, distribution, control, accountability, and patient administration and management of drugs. The staff of the hospital pharmacy shall cooperate with the pharmacist-in-charge in meeting drug control requirements in ordering, administering, and accounting for pharmaceuticals.

\* \* \*

3. Records. The pharmacist-in-charge shall be responsible for maintaining the following records:

\* \* \*

c. A record of all drugs compounded or prepackaged for use only within that hospital, which shall include at least the following:

\* \* \*

vii. Identification of the licensed person responsible for the compounding or prepackaging of the drug.



d. A record of the distribution of drugs to patient care areas and other areas of the hospital held for administration, which shall include at least the following:

\*\*\*

iv. Identification of the individual receiving the drug if it is a controlled dangerous substance.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2903 (October 2003), effective January 1, 2004, amended LR 40:

Malcolm J. Broussard  
Executive Director

1408#051

**POTPOURRI**

**Department of Health and Hospitals  
Office of Public Health**

Special Supplemental Nutrition Program for  
Women, Infants and Children (WIC)

The Office of Public Health (OPH), in accordance with federal regulations at 7 CFR 246.4(a)(28)(b), gives notice that the annual Louisiana WIC state plan is now available to the public for review and comment. The plan is available for download by visiting the OPH website at <http://www.dhh.la.gov/wic> under WIC Resources, or may be obtained by contacting:

- Karen A. Chustz, MSW  
Director of Nutrition Services  
Office of Public Health  
P.O. Box 60630  
New Orleans, LA 70160;
- by telephone: (504) 568-8229; or
- by email at: [Karen.Chustz@la.gov](mailto:Karen.Chustz@la.gov)

Written comments regarding the plan should also be directed to Ms. Chustz. Written comments concerning the WIC state plan are due no later than 4:30 p.m., September 30, 2014 and should be submitted to Karen Chustz at the above address or by fax to (504) 568-8232.

J.T. Lane  
Assistant Secretary

1408#006

**POTPOURRI**

**Department of Natural Resources  
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the oilfield sites listed in the table below have met the requirements as set forth by section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared orphaned oilfield sites.

Operator	Field	District	Well Name	Well Number	Serial Number
B. E. Wilburn	Brushy Bayou	S	BE Wilburn	001	156624
D. C. Carnes	Caddo Pine Island	S	Crystal Oil & Ref Co	004	39347
International Paper Co.	Wildcat-NO LA Shreveport Dist	S	Olin Unit	F-1	117841
Jerry R. Craig	Pendleton-Many	S	WH Gandy	001	164825
Jerry R. Craig	Pendleton-Many	S	LH Murdock	003	174993
Jerry R. Craig	San Miguel Creek	S	Michael Bruce	001	226260

James H. Welsh  
Commissioner

1408#031

**POTPOURRI**

**Department of Natural Resources  
Office of the Secretary**

Underwater Obstruction—Latitude/Longitude Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 0 claims in the amount of \$0.00 were received for payment during the period July 1, 2014-July 31, 2014.

There were 0 paid and 0 denied.

A list of claimants and amounts paid can be obtained from Gwendolyn Thomas, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225) 342-9388.

Stephen Chustz  
Secretary

1408#022

**POTPOURRI**

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

Substantive Changes Hearing—Port Eads Possession Limit  
(LAC 76:VII.381)

The Wildlife and Fisheries Commission published a Notice of Intent to promulgate rules increasing the possession limit on the water for recreational saltwater finfish landed by individuals lodging at the Port Eads Marina facility in the June 20, 2014 edition of the *Louisiana Register* (LR Vol. 40, No. 06). After a thorough review of the public comments, the Wildlife and Fisheries Commission proposes three substantive changes to the initial Notice of

Intent. First, it extends the expanded possession limit for saltwater finfish to those individuals who dock at the Port Eads Marina and lodge on their vessels. It also removes the requirement that Wildlife and Fisheries personnel maintain a perpetual presence at the Port Eads Marina and establishes a protocol by which Port Eads Marina operators may request the attendance of Wildlife and Fisheries personnel at the facility. Finally, it requires the department to provide an annual review of the program to the commission.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 3. Saltwater Sport and Commercial Fishery**

**§381. Possession Limits for Saltwater Recreational Finfish Landed at Port Eads Marina**

A. Purpose. The Wildlife and Fisheries Commission recognizes that the Port Eads Marina in Plaquemines Parish is a remote fishing destination, only accessible by water, and that recreational fishermen may fish out of that facility for several consecutive days. In order to transport fish from the remote Port Eads Marina facility back to a location accessible by land, a recreational fisherman may have a need to possess a limit on the water greater than what is allowed by general statewide possession limits for saltwater recreational finfish.

B. Possession Limit. Notwithstanding possession limits established elsewhere in this Chapter, for the purpose of transporting fish to a land based facility the possession limit for saltwater finfish caught recreationally in Louisiana territorial waters or in the adjacent federal exclusive economic zone and landed at Port Eads Marina shall be equal to the daily take limit for the number of consecutive days, up to three times the daily creel limit, that a fisherman has been lodging at the Port Eads Marina facility, provided the fisherman is in compliance with the following requirements.

1. The fisherman holds and is in possession of all current recreational fishing licenses required.

2. The fisherman is in possession of and can provide a lodge receipt or slip rental receipt issued by the Port Eads Marina facility that demonstrates, to the satisfaction of the department, the number of consecutive days that the fisherman has been lodging or docking at the Port Eads Marina facility.

3. Upon landing his or her daily catch at the Port Eads Marina, the fisherman shall notify the Wildlife and Fisheries employee, agent, or designated person on duty at the facility, and provide his or her catch for inspection and certification that the species, size and daily creel are within legal limits.

a. To maximize the efficiency and productivity of Wildlife and Fisheries staff, the secretary may, at his discretion, or upon request of the operator of the Port Eads Marina facility provide or designate on-duty personnel at the facility. The request for LDWF personnel to be made available shall be made no later than 72 hours in advance of when their presence is requested at the facility.

4. The fish are kept in separate bags for each daily take limit. The bags are marked with the date fish were taken, the species and number of fish contained in the bag, and the name and recreational fishing license number of the

person taking the fish. The contents of the bags have been certified by the Wildlife and Fisheries employee, agent, or designated person on duty at the facility.

5. The fisherman is only in possession of his or her fish and shall not transport fish taken by another person back to the boat landing.

6. No person aboard the vessel may be engaged in or actively fishing.

C. The commission shall review the efficacy of the possession limit on an annual basis beginning one year from the date the rule becomes final.

AUTHORITY NOTE: Promulgated in accordance R.S. 56:6(25)(a), R.S. 56:325.1, and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 40:

**Public Hearing**

A public hearing will be held on October 2, 2014, at 9:30 a.m. at the regular Wildlife and Fisheries Commission Meeting, at the Department of Wildlife and Fisheries Headquarters Bldg., 2000 Quail Dr., Baton Rouge, LA 70808.

Billy Broussard  
Chairman

1408#087

**POTPOURRI**

**Workforce Commission  
Office of Workers' Compensation Administration**

**Average Weekly Wage Rate**

Pursuant to Act 583 of the Regular Session of the 1975 Louisiana Legislature, this state's average weekly wage upon which the maximum workers' compensation weekly benefit amount will be based, effective September 1, 2014 has been determined by the Louisiana Workforce Commission to be \$839.76.

Wes Hataway  
Director

1408#024

**POTPOURRI**

**Workforce Commission  
Office of Workers' Compensation Administration**

**Weekly Compensation Benefits Limits**

Pursuant to R.S. 23:1202 and based on the statewide average weekly wage as determined by the Louisiana Workforce Commission, the following limits shall apply to weekly compensation benefits for claimants injured during the period September 1, 2014 through August 31, 2015.

Average Weekly Wage	Maximum Compensation	Minimum Compensation	Mileage Reimbursement
\$839.76	\$630.00	\$168.00	*.51 cents per mile

\*Effective July 1, 2014 the mileage reimbursement is .51 cents per mile pursuant to R.S. 23:1203(D).

This information updates R.S. 23:1202 of the Louisiana Workers Compensation Act.

	Average Weekly Wage	Maximum Comp	Minimum Comp
Sept 1, 1999-Aug 31, 2000	512.47	384.00	102.00
Sept 1, 2000-Aug 31, 2001	517.93	388.00	104.00
Sept 1, 2001-Aug 31, 2002	530.43	398.00	106.00
Sept 1, 2002-Aug 31, 2003	554.31	416.00	111.00
Sept 1, 2003-Aug 31, 2004	572.53	429.00	114.00
Sept 1, 2004-Aug 31, 2005	584.40	438.00	117.00
Sept 1, 2005-Aug 31, 2006	605.46	454.00	121.00
Sept 1, 2006-Aug 31, 2007	637.19	478.00	127.00
Sept.1, 2007-Aug 31, 2008	696.00	522.00	139.00
Sept. 1, 2008-Aug. 31, 2009	728.10	546.00	146.00
Sept. 1, 2009-Aug. 31, 2010	768.83	577.00	154.00
Sept. 1, 2010-Aug. 31, 2011	772.18	579.00	154.00

	Average Weekly Wage	Maximum Comp	Minimum Comp
Sept. 1, 2011-Aug. 31, 2012	789.00	592.00	158.00
Sept. 1, 2012-Aug. 31, 2013	807.07	605.00	161.00
Sept. 1, 2013-Aug. 31, 2014	825.54	619.00	165.00
<b>*Sept. 1, 2014-Aug. 31, 2015</b>	<b>839.76</b>	<b>630.00</b>	<b>168.00*</b>

Actual wages are to be paid if the wages are less than the minimum.

Approved mileage rate as of July 1, 2014 is \$0.51 per mile.

Wes Hataway  
Director

1408#023

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