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# Executive Orders

## EXECUTIVE ORDER JBE 18-18

Flags at Half-Staff—Immanuel James Washington

WHEREAS, on July 19, 2018, Immanuel James Washington passed away at the age of 38;

WHEREAS, a native of Franklin, Louisiana, Mr. Washington attended Willow Street Elementary, Hanson Memorial High and Centerville High Schools;

WHEREAS, Mr. Washington attended Jones Junior College, the University of Southwestern Louisiana (now the University of Louisiana at Lafayette), where he played on the university's basketball team, and the University of Phoenix, where he obtained his degree in Criminal Justice;

WHEREAS, Mr. Washington's legacy is one of service, as his career led him to serve his community through his work with the New Iberia Sheriff's Department, Broussard Police Department, St. Mary Parish Sheriff's DEA, Youngsville Police Department, and most recently the Louisiana Department of Wildlife and Fisheries, where he was an agent cadet;

WHEREAS, Agent Cadet Washington is survived by his wife, Lakesha Cole Washington and their two children, Immanuel James Washington, II and Koryn Marie Washington, as well as his parents, siblings, and numerous nieces, nephews, aunts, uncles, and god-children; and

WHEREAS, Immanuel James Washington's life of dedication and service to his community will leave a significant impact on the people of Louisiana for generations to come.

NOW THEREFORE, I, JOHN BEL EDWARDS, 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: As an expression of respect and to honor the life of Immanuel James Washington, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol and all public buildings and institutions of the State of Louisiana until sunset on Tuesday, July 31, 2018.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Tuesday, July 31, 2018, unless amended, modified, terminated, or rescinded prior to that date.

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 31st day of July, 2018.

John Bel Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Tom Schedler  
Secretary of State  
1808#024

## EXECUTIVE ORDER JBE 18-19

Flags at Half-Staff—John "Johnny" Clinton McFerren, Jr.

WHEREAS, on August 1, 2018, John "Johnny" Clinton McFerren, Jr. passed away at the age of 84;

WHEREAS, Johnny was born in Marthaville, Louisiana on October 29, 1933 to John Clinton and Mae Donaho McFerren;

WHEREAS, he received a Master of Science degree in Education from Northwestern State University in Natchitoches and was a classroom teacher before being elected to serve on the Caddo Parish School Board for twelve years;

WHEREAS, Johnny was first elected to represent Louisiana House District 7 as a state representative in 1980, where he served four terms and was the Chairman of the House Education Committee from 1992 to 1996;

WHEREAS, Johnny was a successful businessman, as the owner of McFerren Real Estate for 60 years and founder of Johnny's Catfish and Seafood more than 15 years ago;

WHEREAS, he was a founding member and deacon of Brookwood Baptist Church for more than 50 years;

WHEREAS, he was appointed to the Board of Supervisors of the University of Louisiana System in 2017;

WHEREAS, Johnny was preceded in death by his wife, Patsy, and brothers, Wayne and Norman, and he is survived by his daughter, Karen; son, Scott and wife Lori; grandsons Justin Penn and wife Heather, Clinton McFerren and wife Lauren, Beau McFerren and wife Gabby; great-grandchildren, Cora, Michael Reid, and John-Hardin Penn; and numerous nieces, nephews, and cousins; and

WHEREAS, Johnny McFerren lived his life as a man of faith and devoted to his family and community and leaves a legacy in Louisiana for generations to come.

NOW THEREFORE, I, JOHN BEL EDWARDS, 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: As an expression of respect and to honor the life of John "Johnny" Clinton McFerren, Jr., the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol until sunset on Friday, August 3, 2018.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Friday, August 3, 2018, unless amended, modified, terminated, or rescinded prior to that date.

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 2nd day of August, 2018.

John Bel Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Tom Schedler  
Secretary of State  
1808#056



# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

#### Roseau Cane Scale Quarantine (LAC 7:XV.169)

In accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953 (B), and the authority of the state entomologist under the provisions of R.S. 3:1652, and in order to avoid a lapse in coverage until the Permanent Rule is in effect, notice is hereby given that Department of Agriculture and Forestry is adopting these emergency regulations establishing a quarantine for the following pest: Roseau Cane Scale, *Nipponaclerda biwakoensis*. The state entomologist has determined that Roseau Cane Scale has been found in this state and may be prevented, controlled, or eradicated by quarantine. The effective date of this Rule is July 24, 2018.

Roseau Cane Scale (RCS) poses an imminent threat to the health and welfare of Louisiana's wetlands, and possibly the sorghum, sugarcane and rice industries. In 2016, the gross farm value of sorghum in the state was \$15,100,000 (Louisiana State University AgCenter 2016 Louisiana Summary, Agriculture and Natural Resources). Sugarcane is also a possible host for RCS. The gross farm value for sugarcane in Louisiana was \$496,000,000 and the total value of the sugarcane crop to producers, processors, etc. at the first processing level was \$834,000,000 (LSU AgCenter 2016 Louisiana Summary, Agriculture and Natural Resources). The gross farm value for rice in Louisiana was \$305,000,000 (LSU AgCenter 2016 Louisiana Summary, Agriculture and Natural Resources). The potential of rice as a host for RCS also is being evaluated in laboratory and greenhouse tests. Acreage for one or more of these crops exists in parishes where RCS infestations have been documented on Roseau cane. LSU AgCenter is currently proceeding with trials to determine if sorghum, sugarcane and rice are hosts for RCS. In addition to the agronomic impact, hundreds of thousands of acres of wetlands may be adversely affected by RCS. RCS is implicated in the Roseau Cane die-offs which could greatly accelerate coastal erosion. Roseau Cane is a unique plant that has the ability to thrive in tidal estuaries with salinity levels that would prohibit growth of most other aquatic plants.

Natural dispersal of RCS is believed to be limited to relatively short distances. However, without restriction, RCS could spread through human-assisted means over long distances via RCS-infested Roseau Cane. Recent observations of Roseau Cane die-offs from the scale, have resulted in areas converting to open water, or colonization by exotic invasive vegetative species. As Roseau Cane is considered one of the best aquatic plants to assist in slowing coastal erosion, it is imperative to eliminate the movement of Roseau Cane Scale to areas in the state where it currently has not been detected.

For these reasons the presence of RCS in Louisiana presents a peril to the integrity and stability of Louisiana's coastal wetlands. 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 imposing the quarantines set out in these emergency regulations.

This Rule shall have the force and effect of law upon signature and will remain in effect 120 days, unless renewed by the commissioner of agriculture and forestry or until permanent rules are promulgated in accordance with law.

## Title 7

### AGRICULTURE AND ANIMALS

#### Part XV. Plant Protection and Quarantine

##### Chapter 1. Crop Pests and Diseases

##### Chapter G. Roseau Cane Scale Quarantine

##### §169. Roseau Cane Scale Quarantine

A. The department issues the following quarantine because the state entomologist has determined that the insect Roseau Cane Scale ("RCS"), *Nipponaclerda biwakoensis*, has been found in this state and may be prevented, controlled, or eradicated by quarantine.

B. Regulated articles, defined in this Section, are not allowed to move within or outside of the quarantine area.

C. The quarantine area encompasses all areas south of Louisiana Highway 10 beginning at the Mississippi state line (near Bogalusa) and moving west until intersecting Highway 171 in Vernon Parish; then, moving south on Highway 171 continuing to Highway 190 in DeRidder and turning west on Highway 190; continuing on Highway 190 until reaching the Sabine River. Quarantine areas in this state include:

1. Portions of the following parishes that are south of Louisiana Highway 10:

- a. Allen;
- b. East Feliciana;
- c. Evangeline;
- d. Pointe Coupee;
- e. St. Landry;
- f. St. Helena;
- g. Tangipahoa;
- h. Vernon;
- i. Washington;
- j. and West Feliciana.

2. The entire parishes of:

- a. Acadia;
- b. Ascension;
- c. Assumption;
- d. Beauregard;
- e. Calcasieu;
- f. Cameron;
- g. East Baton Rouge;
- h. Iberia;
- i. Iberville;
- j. Jefferson;
- k. Jefferson Davis;

- l. Lafayette;
- m. Lafourche;
- n. Livingston;
- o. Orleans;
- p. Plaquemines;
- q. St. Bernard;
- r. St. Charles;
- s. St. James;
- t. St. John;
- u. St. Martin;
- v. St. Mary;
- w. St. Tammany;
- x. Terrebonne;
- y. Vermillion; and
- z. West Baton Rouge.

D. Clean nursery stock of the genus *Phragmites* may be moved within the quarantine area under a Special Permit issued by Louisiana Department of Agriculture & Forestry.

E. Limited movement of Roseau cane by boat only is allowed for waterfowl hunters as long as the Roseau cane material is moved no more than one-quarter mile from its original location and remains within the quarantine area.

F. The following articles are deemed to be regulated articles for purposes of this subsection.

1. The Roseau cane scale in all of its life stages.
2. Roseau cane or any species or variety of the genus *Phragmites*.
3. Any other article, product, or means of conveyance not listed in this Subsection may be designated as a regulated article if an inspector determines that it presents a risk of spreading Roseau cane scale and notifies the person in possession of the article, product, or means of conveyance that it is subject to the restrictions of the regulations.

G. Any person violating this quarantine shall be subject to imposition of the remedies and penalties set forth in R.S. 3:1653.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652, 3:1653.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 44:

Mike Strain DVM  
Commissioner

1807#015

## DECLARATION OF EMERGENCY

### Department of Agriculture and Forestry Office of Animal Health and Food Safety

#### Turtles (LAC 7:XXI.1909)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority set forth in R.S. 3:2358.2 and 3:2358.10, notice is hereby given that the Department of Agriculture and Forestry is, by Emergency Rule, amending LAC 7:XXI.1909 regarding requirements for international shipments of turtles. The Emergency Rule was initially published at LR 42:512 and was last published at LR 43:2459 (December 20, 2017).

Currently, LAC 7:XXI.1909 requires a health certificate and certified laboratory report accompany all international shipments, irrespective of whether the country of destination requires the same. Louisiana is the only state in the nation with these exit requirements in lieu of following the entry requirements for the country of destination. The current regulation is overly burdensome and adds additional cost to Louisiana turtle farmers attempting to ship their commodities internationally. By amending LAC 7:XXI.1909 to require a health certificate and certified laboratory report when required by the country of destination, instead of for every international shipment, Louisiana turtle farmers will no longer be subject to an unfair trade disadvantage.

This Rule shall have the force and effect of law on the date of signature, August 8, 2018 and will remain in effect 120 days, unless renewed by the Commissioner of Agriculture and Forestry, or until permanent rules are promulgated in accordance with law.

## Title 7

### AGRICULTURE AND ANIMALS

#### Part XXI. Animals and Animal Health

#### Chapter 19. Turtles (Formerly Chapter 23)

#### §1909. Movement of Turtle Eggs and Turtles (Formerly §2307)

A. The department shall regulate the movement of turtles or turtle eggs by licensed pet turtle farmers and procedures shall include, but not be limited to, shipment into local and international commerce, as well as shipment to certified laboratories.

1. All turtles or eggs leaving a licensed turtle farm bound for a certified laboratory shall be accompanied by a certificate of inspection. A health certificate from a Louisiana licensed veterinarian stating that the turtles and/or eggs originated from a Louisiana licensed pet turtle farm shall accompany all shipments into international commerce if required by the country of destination. Each health certificate shall identify the final destination of the turtles or eggs they accompany.

2. - 6. ...

7. Turtles or eggs intended for international commerce shall be conspicuously marked "For Export Only" on the outside of the shipping package. Turtles or eggs intended for international commerce shall be accompanied by a health certificate and/or a certified laboratory report if either is required by the country of destination.

8. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.10.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:351 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1569 (August 2000), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:980 (May 2014); LR 44:

Mike Strain, DVM  
Commissioner

1808#022

## DECLARATION OF EMERGENCY

### Department of Children and Family Services Child Welfare

Extended Foster Care Services (LAC 67:V.3903)

The Department of Children and Family Services (DCFS) has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953 (B) to promulgate LAC 67:V, Subpart 5, Foster Care, Chapter 39, Chafee Foster Care Independence Program and Extended Foster Care, Section 3903. This emergency rule shall be effective August 1, 2018, and shall remain in effect for a period of 120 days.

The department considers emergency action necessary to facilitate the expenditure of IV-E funds for extended foster care services to the estimated 146 children who are currently eligible for these foster care services as specified in Act 649 of the Regular Session of the Louisiana Legislature.

#### **Title 67**

#### **SOCIAL SERVICES**

#### **Part V. Child Welfare**

#### **Subpart 5. Foster Care**

#### **Chapter 39. Chafee Foster Care Independence Program and Extended Foster Care**

#### **§3903. Extended Foster Care Services**

A. The DCFS will continue to provide foster care services to young adults age 18 to 21 who are a full-time high school student or in the process of receiving an equivalent credential. They shall be eligible for foster care services until their high school graduation; completion of their equivalent credential or, their twenty-first birthday, whichever comes first. The young adult in foster care shall be eligible for all foster care services in accordance with their case plan; and, their foster parents, custodian or other placement provider continued services and benefits for the period of time the young adult is eligible and participating in the extended foster care program. The DCFS will notify all foster children and their foster parents/custodians/placement provider in writing of the availability of extended foster care services; eligibility for the services; and, the benefits at the foster child's seventeenth birthday. The written notifications will continue every 90 days unless the foster child and foster parents/custodian/placement provider consent to participate in extended foster care, or the child becomes ineligible for participation in the program.

**AUTHORITY NOTE:** Promulgated in accordance with Act 649 of the 2018 Regular Session and R.S. 46:286.24.

**HISTORICAL NOTE:** Promulgated by the Department of Children and Family Services, Child Welfare, LR 44:

Marketa Garner Walters  
Secretary

1808#009

## DECLARATION OF EMERGENCY

### Department of Health Licensed Professional Counselors Board of Examiners

Diagnosing for Serious Mental Illnesses  
(LAC 46:LX.505 and 3107)

The Louisiana Department of Health, Louisiana Licensed Professional Counselors Board of Examiners has exercised the emergency provisions of the Administrative Procedures Act, specifically R.S. 49:953(B), to rescind rules relative to the Practice of Mental Health Counseling, designated as §§505 and 3107 of board rules. Previously, §§505 and 3107 of board rules was promulgated due to Act 736/636 which limited the scope of practice by requiring consultation and collaboration regarding certain identified "serious mental illnesses". On June 14, 2017 Act 235 repealed this portion of Act 736/636 and now enables LPCs and LMFTs to practice without required consultation and collaboration. This Emergency Rule to rescind §§505 and 3107 is effective September 1, 2018, and shall remain in effect for 120 days, unless renewed or until the permanent rules and regulations become effective

This action is necessary due to the immediate effect of Act 235 on June 14, 2017, which redefines duties for Louisiana Professional Counselors who treat "serious mental illnesses". Because Act 235 was effective on June 14, 2017 upon the governor's signature, and because of the substantive changes made, there is insufficient time to promulgate these rules under the usual Administrative Procedure Act rulemaking process. However, the Louisiana Licensed Professional Counselors Board of Examiners plans to submit a Notice of Intent for publication in the August 20, 2018 edition of the *Louisiana Register*.

#### **Title 46**

#### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LX. Licensed Professional Counselors Board of Examiners**

#### **Subpart 1. Licensed Professional Counselors**

#### **Chapter 5. License and Practice of Counseling §505. Serious Mental Illnesses**

Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1105(D).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 39:1784 (July 2013), amended LR 41:711 (April 2015), repealed by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 44:



**Subpart 2. Professional Standards for Licensed Marriage and Family Therapists and Provisional Licensed Marriage and Family Therapists**  
**Chapter 31. License of Title for Marriage and Family Therapy**

**§3107. Serious Mental Illness**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 43:1981 (October 2017), repealed by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 44:

Jamie S. Doming  
Executive Director

1805#004

**DECLARATION OF EMERGENCY**

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

2018 Fall Inshore Shrimp Season Opening Dates

The Department of Wildlife and Fisheries (LDWF) provided the Wildlife and Fisheries Commission (commission) with information on the numbers and sizes of white shrimp available in Louisiana estuaries. After considering biological information and public input, the Commission took action to set the fall shrimp season within state inshore waters.

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 2018 Fall 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 6:00 p.m., August 13, 2018; 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 western shore of Freshwater Bayou to open at 6:00 a.m., August 13, 2018; and,

That portion of state inside waters from the western shore of Freshwater Bayou westward to the Louisiana/Texas state line to open at 6:00 a.m., August 27, 2018.

The commission also hereby grants authority to the secretary of LDWF to delay or advance these opening dates if biological and/or technical data indicate the need to do so, and, to close any portion of Louisiana's inside or outside 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.

Notice of any opening, delaying or closing of a season by the Secretary will be made by public notice at least 72 hours prior to such action.

Robert J. Samanie, III  
Chairman

1807#012

**DECLARATION OF EMERGENCY**

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

2018-2019 Public Oyster Seasons

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 notice is hereby given that the Wildlife and Fisheries Commission declare the 2018/2019 oyster season as follows.

The public oyster seed grounds and reservations, as described in R.S. 56:434, Louisiana Administrative Code (LAC) 76:VII.507, LAC 76:VII.509, LAC 76:VII.511 and LAC 76:VII.513, including east of the Mississippi River and north of the Mississippi River Gulf Outlet (Louisiana Department of Health (LDH) Shellfish Harvest Areas 1,2,3,4), and the Vermilion/East and West Cote Blanche Bay/Atchafalaya Bay Public Oyster Seed Grounds shall open at one-half hour before sunrise on Monday, October 29, 2018.

The Little Lake Public Oyster Seed Grounds as described in LAC 76:VII.521, Hackberry Bay Public Oyster Seed Reservations as described in R.S. 56:434, shall open at one-half hour before sunrise on Monday, October 29, 2018.

Bay Junop Public Oyster Seed Reservation and Lake Mechant Public Oyster Seed ground as described in R.S. 56:434, shall open at one-half hour before sunrise on Monday, October 29, 2018.

Calcasieu Lake Public Oyster Area as described in R.S. 56:435.1.1 shall open one-half hour before sunrise on Monday, October 29, 2018.

Bay Junop Public Oyster Seed Reservation and Lake Mechant Public Oyster Seed ground shall close to the harvest of seed oysters for bedding purposes at one-half hour after sunset on Monday, October 29, 2018.

The public oyster seed grounds east of the Mississippi River and north of the Mississippi River Gulf Outlet, Little Lake, Hackberry Bay Public Oyster Seed Reservations shall close to the harvest of seed oysters for bedding purposes at one-half hour after sunset on Monday, October 29, 2018. The Vermilion/East and West Cote Blanche Bay/Atchafalaya Bay Public Oyster Seed Grounds shall close to harvest of seed oysters for bedding purposes at one-half hour after sunset on Monday, October 29, 2018.

These actions shall not supersede public health closures.

During the 2018/2019 open oyster season, the following provisions shall be in effect:

1. Any vessel from which any person(s) takes or attempts to take oysters from the public oyster seed grounds and reservations described above shall be limited to 25 sacks of oysters per vessel per day with a 50 sack possession limit if fishing multiple days, except for Calcasieu Lake where the daily and possession limits shall not exceed 10 sacks of oysters per vessel. A sack of oysters for the purposes of this Declaration of Emergency shall be defined as the size described in R.S. 56:440. If sacks smaller than the size described in R.S. 56:440 are used, the daily harvest and possession limit shall be based on the number of sacks used, not the size of the sack or other measures. 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, and these vessels shall not harvest oysters.

2. A vessel is 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.

4. The harvest of seed oysters from a public oyster seed ground or reservation shall be for the purpose of moving the live oyster resource. The removal of more than 15% of non-living reef material in bedding loads is prohibited. All vessels shall allow on-board inspection and sampling of seed oyster loads by LDWF biologists and/or agents.

5. All oysters harvested from public seed grounds or reservations for the purpose of market shall be uncontaminated, sealed and not gaping.

6. All oysters harvested from public seed grounds or reservations for the purpose of market sales shall measure a minimum of 3 inches from hinge to bill.

7. Prior to leaving public seed grounds or reservations with oysters harvested from said seed ground or reservation: all oysters must be sacked, the number of sacks shall be recorded in a log book, and each sack shall be properly tagged.

8. Oyster sacks held on board overnight must be tagged before being put under refrigeration, and no later than one-half hour after sunset. Refrigeration rules as described in the Public Health Sanitary Code LAC 51:IX.327, LAC 51:IX.329, LAC 51:IX.331 and LAC 51:IX.333 must be adhered to.

9. All vessels located in public seed grounds or reservations during those times between one-half hour after sunset and one-half hour before sunrise shall have all oyster scrapers unshackled.

10. In Calcasieu Lake, oyster scrapers are prohibited on vessels harvesting oysters.

The following areas shall remain closed for the entire 2018/2019 oyster season:

1. The Sister Lake Oyster Seed Reservation as described in

R.S. 56:434.

2. The area east of the Mississippi River as described in LAC 76:VII.511, south of the Mississippi River Gulf Outlet (LDH Shellfish Harvest Areas 5,6,7,8).

3. Lake Tambour, Lake Chien, Lake Felicity, Deep Lake and Barataria Bay Public Oyster Seed Grounds as described in LAC 76:VII.517.

4. The Sabine Lake Public Oyster Area as described in R.S. 56:435.1.

5. The cultch plant located on the east side of Calcasieu Lake near Long Point (2017), Cameron Parish within the following coordinates:

- a. 29 degrees 55 minutes 03.45 seconds N  
93 degrees 19 minutes 20.26 seconds W
- b. 29 degrees 54 minutes 55.75 seconds N  
93 degrees 19 minutes 01.32 seconds W
- c. 29 degrees 54 minutes 14.64 seconds N  
93 degrees 19 minutes 22.67 seconds W
- d. 29 degrees 54 minutes 21.22 seconds N  
93 degrees 19 minutes 40.43 seconds W
- e. 29 degrees 54 minutes 31.41 seconds N  
93 degrees 19 minutes 12.81 seconds W
- f. 29 degrees 54 minutes 45.8388 seconds N  
93 degrees 19 minutes 27.6384 seconds W

The Secretary of the Department of Wildlife and Fisheries is authorized to take emergency action as necessary to:

1. 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.

2. Adjust daily take and/or possession limits as biological or enforcement data indicate a need.

3. Adjust sacking-only areas and/or restrict the taking of seed oysters as biological or enforcement data indicate a need.

4. Reopen an area previously closed if the threat to the resource has ended, or may open areas if substantial oyster resources are located.

Prior to any action, the Secretary shall notify the Chairman of the Wildlife and Fisheries Commission of his intention to make any or all of the changes indicated above.

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 for public health concerns.

Robert J. Samanie, III  
Chairman

1807#013

# Rules

## RULE

**Department of Agriculture and Forestry  
Office of Agricultural and Environmental Sciences  
and  
Office of Agro-Consumer Services  
Division of Weights and Measures**

Crawfish—Live, Boiled, and Peeled (LAC 7:XXXV.107)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry (“department”) has amended LAC 7:XXXV.107 regarding crawfish, live, boiled, and peeled. The Rule regarding the sale and labeling of crawfish had not been amended since it was promulgated in 1993. It is the intent of these amendments to make the Rule easier to read and to remove redundancies. The Rule also adds a definition for “sack” and requires live crawfish to be sold by sack, recognizing in law what is already standard to the practice. This Rule is hereby adopted on the day of promulgation.

### Title 7

#### AGRICULTURE AND ANIMALS

##### Part XXXV. Agro-Consumer Services

##### Chapter 1. Weights and Measures

##### §107. Crawfish—Live, Boiled, Peeled

###### A. Definitions

*Boiled Crawfish*—any crawfish, still in the shell, which have been processed by boiling or steaming.

*Crawfish*—freshwater crustaceans of the genera *Cambarus* or *Astacus* common to Louisiana.

*Live Crawfish*—any crawfish which are live at the time of purchase.

*Peeled Crawfish*—any crawfish which have been processed to remove the shells.

*Sack*—a mesh bag commonly used in the sale of crawfish.

###### B. Live Crawfish

1. Live crawfish shall be sold in sacks by net weight.

2. The net weight of live crawfish in sacks must be clearly labeled in indelible ink or otherwise waterproof lettering and in accordance with all other provisions of the Louisiana weights and measures law and of these regulations. The labels must remain on all sacks of live crawfish once they leave the possession of the farmer or fisherman.

###### C. Boiled Crawfish

1. Boiled crawfish shall be sold by net weight. The net weight of boiled crawfish shall be the net weight after boiling.

2. Boiled crawfish when sold for immediate consumption on the premises are exempt from this Section.

###### D. Peeled Crawfish

###### 1. Peeled Crawfish Sold Washed or Cleaned

a. Peeled crawfish which have been washed or cleaned of naturally adhering fat shall be labeled “cleaned” or “washed.”

b. The net weight of the washed crawfish shall be the drained weight.

###### 2. Peeled Crawfish Sold with Naturally Adhering Fat

a. Peeled crawfish may be packaged washed.

b. Naturally adhering fat content of packages of peeled crawfish shall not exceed 10 percent of the net weight of the crawfish in the package.

c. Testing for compliance with the fat content provisions shall be done in accordance with procedures outlined by the division.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:4608.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1532 (December 1993), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences and Office of Agro-Consumer Services, Division of Weights and Measures, LR 44:1417 (August 2018).

Mike Strain, DVM  
Commissioner

1808#057

## RULE

### Department of Economic Development Office of Business Development

Industrial Ad Valorem Tax Exemption Program  
(LAC 13:I.Chapter 5)

The Louisiana Department of Economic Development, Office of Business Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 36:104 has amended the rules of the Industrial Tax Exemption Program in LAC 13:I.Chapter 5 to implement further programmatic changes in alignment with Executive Order 16-73 and the rules effective on June 20, 2017. This Rule is hereby adopted on the day of promulgation.

### Title 13

#### ECONOMIC DEVELOPMENT

##### Part I. Financial Incentive Programs

##### Chapter 5. Industrial Ad Valorem Tax Exemption Program

##### §501. Statement of Purpose

###### A. New Rules

1. These rules amend and restate prior rules and upon adoption are to implement two important policies for the

industrial property tax exemption. The first is as a competitive incentive for job creation and under compelling circumstances, job retention. The second is to provide for input from local parish and municipal governments, school boards and sheriffs as to the extent of, and other terms and conditions for the industrial tax exemption.

2. On all projects, applicant manufacturers are to demonstrate a genuine commitment to investing in the communities in which they operate, and a genuine commitment to creating and retaining jobs in those communities. These are the expectations for the program's future, and the board will continue to operate it in a way that makes Louisiana competitive with other states in securing good jobs for our citizens while giving local governments a voice in their taxation. These rules are to be interpreted in a manner so as to promote these goals.

B. Applicability of rules in effect prior to June 24, 2016. Just as the board is promoting job growth and economic development and extending fairness to communities, the board is promoting fairness to manufacturers who have acted in accordance with prior rules. Contracts for the industrial property tax exemption and the renewal of the exemption and projects found to be pending as defined by Executive Orders JBE 16-26 and JBE 16-73 are to be treated fairly under the rules that were in place at the time of the contracts and prior to the new rules. Louisiana honors its commitments and the rules governing existing contracts and applications not subject to the new rules are to be interpreted in order to promote fairness and commitment. Therefore, only those applications with an advance notification form filed after June 24, 2016, are subject to the 2017 and 2018 rules changes.

#### C. Going Forward

1. Louisiana values its manufacturers and their contributions to its economy. The board's policies going forward are to provide all a seat at the table to determine the best investment outcome for our industries and our communities.

2. All rules in this chapter are intended to align with the above purpose while providing a process that balances accountability with reasonable administrative burden for state and local government and applicants.

3. For those applications with an advance notification form filed after June 24, 2016, but before July 1, 2018, the applicant has the option of choosing whether to proceed under the rules effective June 20, 2017, or the rules effectuated in 2018. Applications with an advance notification form filed after June 24, 2016, but before October 21, 2016, shall be subject to the rules effectuated on June 20, 2017, except that the industrial property tax exemption granted may be up to 100 percent for an initial contract term of no more than 5 years and may be renewed for no more than an additional 5 year contract term at up to a 100 percent exemption based upon performance of the applicant's obligations as delineated in exhibit A.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Business Development, LR 43:1132 (June 2017), amended LR 44:1417 (August 2018).

## §502. Definitions

*Addition to a Manufacturing Establishment*—

1.a. a capital expenditure for property that would meet the standard of a new manufacturing establishment if the addition were treated as a stand-alone establishment;

b. a capital expenditure for property that is directly related to the manufacturing operations of an existing manufacturing establishment; or

c. an installation or physical change made to a manufacturing establishment that increases its value, utility or competitiveness;

2. maintenance capital, required environmental capital upgrades, and replacement parts, except those replacements required in the rehabilitation or restoration of an establishment, to conserve as nearly, and as long as possible, original condition, shall not qualify as an addition to a manufacturing establishment;

3. expenses associated with the rehabilitation or restoration of an establishment as provided for in §511 shall be included as an addition to a manufacturing establishment.

*Beginning of Construction*—the first day on which foundations are started or, where foundations are unnecessary, the first day on which installations of the manufacturing establishment begins.

*Board*—Board of Commerce and Industry.

*Capital Expenditure*—the cost associated with a new manufacturing establishment or an addition to an existing manufacturing establishment, including purchasing or improving real property and tangible personal property, whose useful life exceeds one year and which is used in the conduct of business.

*Department*—Louisiana Department of Economic Development.

*Establishment*—an economic unit at a single physical location.

*Exhibit A*—a fully executed agreement between the department and the applicant specifying the terms and conditions of the granting of the exemption contract.

*Integral*—required to make whole the product being produced.

*Job*—positions of employment that are:

1. new (not previously existing in the state) or retained;

2. permanent (without specific term);

3. full-time (working 30 or more hours per week);

4. employed directly, by an affiliate or through contract labor;

5. based at the manufacturing establishment;

6. filled by a United States citizen who is domiciled in Louisiana or who becomes domiciled in Louisiana within 60 days of employment; and

7. any other terms of employment as negotiated in the exhibit A, including a requirement that in order to qualify as a job, a basic health benefits plan is or has been offered in conjunction with the position of employment.

*Local Governmental Entity*—the parish governing authority, school board, sheriff, and any municipality in which the manufacturing establishment is or will be located.

*Maintenance Capital*—costs incurred to conserve as nearly as possible the original condition.

*Manufacturer*—a person or business who engages in manufacturing at a manufacturing establishment.

*Manufacturing*—working raw materials by means of mass or custom production, including fabrication, applying manual labor or machinery into wares suitable for use or which gives new shapes, qualities or combinations to matter which already has gone through some artificial process. The resulting products must be “suitable for use” as manufactured products that are placed into commerce for sale or sold for use as a component of another product to be placed, and placed into commerce for sale.

*Mega-Project*—a manufacturing establishment that provides all of the following:

1. 500 jobs, employed directly, only, and otherwise meeting the definition of jobs, which shall generate a minimum of \$20,000,000 in net new payroll within three years of the beginning of operations; and

2. a minimum of \$100,000,000 in capital expenditures.

*Obsolescence*—the inadequacy, disuse, outdated or non-functionality of facilities, infrastructure, equipment or product technologies due to the effects of time, decay, changing market conditions, invention and adoption of new product technologies or changing consumer demands.

*Qualified Disaster*—

1. a disaster which results from:
  - a. an act of terror directed against the United States or any of its allies; or

- b. any military action involving the Armed Forces of the United States and resulting from violence or aggression against the United States or any of its allies (or threat thereof), but not including training exercises;

2. any disaster which, with respect to the area in which the manufacturing establishment is located, resulted in a subsequent determination by the president of the United States that such area warrants assistance by the federal government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act;

3. a disaster which is determined by an applicable federal, state, or local authority (as determined by the secretary) to warrant assistance from the federal state or local government or agency of instrumentality thereof; or

4. any other extraordinary event that destroys or renders all or a portion of the manufacturing establishment inoperable.

*Rehabilitation*—the extensive renovation of a building or project that is intended to cure obsolescence or to repurpose a facility.

*Required Environmental Capital Upgrades*—upgrades required by any state or federal governmental agency in order to avoid fines, closures or other penalty. Environmental upgrades demonstrated to be in excess of state and federal governmental agency requirements shall not be considered required environmental capital upgrades.

*Restoration*—repairs to bring a building or structure to at least its original form or an improved condition.

*Secretary*—secretary of the Louisiana Department of Economic Development.

*Site*—one or more contiguous parcels of land which are under the control of the manufacturing establishment or which contains certain assets of the manufacturing establishment.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Business Development, LR 43:1132 (June 2017), amended LR 44:1418 (August 2018).

### **§503. Advance Notification; Application**

A. An advance notification of intent to apply for tax exemption shall be filed with the department on the prescribed form prior to the beginning of construction or installation of facilities on all projects for tax exemption except as provided in §505.A and B of these rules. An advance notification fee of \$250 shall be submitted with the form. The advance notification will expire and become void if no application is filed within 12 months of the estimated project ending date stated in the advance notification. The estimated project ending date as stated on the advance notification may be amended by the applicant if the amendment is made prior to the estimated project ending date.

B. All financial incentive programs for a given project shall be filed at the same time and on the same advance notification. The applicable advance notification fee for each program for which the applicant anticipates applying shall be submitted with the advance notification.

C. An application for tax exemption may be filed with the department on the prescribed form, subject to the following conditions:

1. the filing may be either concurrent with or after filing the advance notification, but no later than 90 days after the beginning of operations or end of construction, whichever occurs first;

2. the deadline for filing the application may be extended pursuant to §523;

3. an applicant filing an application prior to the beginning of operations or end of construction of the project shall file an annual status report with the department on the prescribed form by December 31, until the project completion report and affidavit of final cost are filed. If the applicant fails to timely file a status report the board may, after notice to the applicant, terminate the contract;

4. an application fee shall be submitted with the application in the amount equal to 0.5 percent of the estimated total amount of taxes to be exempted. In no case shall an application fee be smaller than \$500 and in no case shall a fee exceed \$15,000 per project;

5. The department reserves the right to return the advance notification, application, or affidavit of final cost to the applicant if the form is incomplete or incorrect, or the correct fee is not submitted. The document may be resubmitted with the correct information and fee.

6. If the application is submitted after the filing deadline, the term of exemption available under an initial contract and renewal thereof shall be reduced by one year for each year or portion thereof that the application is late, up to a maximum reduction up to the maximum remaining term. The board may impose any other penalty for late filing that it deems appropriate.

D. The department will provide a copy of the application and all relative information to the Louisiana Department of Revenue (LDR) for review. LDR may require additional information from the applicant. The department must receive a letter-of-no-objection or a letter-of-approval from the

LDR, prior to submitting the application to the board for action.

E. In order to receive the board's approval, applications with advance notifications filed after June 24, 2016, shall include an exhibit A containing the following terms and conditions:

1. either the number of jobs and payroll to be created at the project site or the number of jobs and payroll to be retained at the project site where applicable;

2. that the initial exemption contract shall be for a term of no more than five years and may provide for an ad valorem exemption of 80 percent, except that the initial exemption contract for mega projects shall be for a term of no more than five years and may provide for an ad valorem exemption of up to 93 percent;

3. that the applicant can apply for a renewal exemption contract, the consideration of which will be based upon the applicant's performance during the initial term of the contract and that the renewal exemption contract shall be for a term of no more than five years and may provide for an ad valorem exemption of 80 percent, except that the renewal exemption contract for mega projects shall be for a term of no more than five years and may provide for an ad valorem exemption of up to 93 percent;

4. that the department, on behalf of the board, will notify the local governmental entities and the assessor when jobs and/or payroll requirements are not met in accordance with the exhibit A;

5. a provision addressing the penalty for failure to create the requisite number of jobs and/or payroll at the manufacturing establishment, including but not limited to, payment of stipulated sums to the taxing authorities, a reduction in term, reduction in percentage of exemption, or termination of the exemption; and

6. a statement of return on investment (ROI) as determined by the secretary.

F.1. Applications which provide for a new manufacturing establishment or which provide for an addition to a manufacturing establishment with the creation of new jobs or a compelling reason for the retention of existing jobs shall be favored by the board.

2. In determining whether a company has presented a compelling reason for the retention of existing jobs, the following non-exclusive situations may be considered:

a. to prevent relocation to another state or country;

b. to provide an advantage for investment from a company with multi-state operations with an established competitive capital project program;

c. to employ best practice or innovative, state of the art technology for the establishment's industry which shall be deemed to extend the life of the manufacturing establishment;

d. to increase maximum capacity or efficiency;

e. to provide the state a competitive advantage as determined by the secretary or by the board; or

f. upon the sharing of financial information as to the profit/loss of the facility accompanied by evidence that the exemption will prolong the life of, and employment at, the manufacturing establishment.

G. Eligibility of the applicant and the property for the exemption, including whether the activities at the site meet the definition of manufacturing, will be reviewed by the

board based upon the facts and circumstances existing at the time the application is considered by the board. The property exempted may be increased or decreased based upon review of the application, project completion report or affidavit of final cost. An application filed prior to completion of construction may be considered by the board and a contract may be executed based upon the best available estimates, subject to adjustments, as necessary, upon review and approval of the project completion report and affidavit of final cost. If the applicant fails to timely file the project completion report or affidavit of final cost the board may, after notice to the applicant, terminate the contract.

H. Upon the board's approval of an application, the department, on behalf of the board, shall, within three business days, transmit a copy of the approval and Exhibit A by mail or electronic mail to each local governmental authority and the assessor and the department shall post notice of the board's approval of an application on the department's website within three business days of approval, upon which date shall begin a notice period of 30 days for the parish governing authority (speaking on behalf of the parish and all parish bodies who are located outside the boundary of any affected municipality who receive a millage), the school board, any applicable municipality (speaking on behalf of the municipality and all municipal bodies who receive a millage) and the sheriff to initiate action to approve or reject the board's action as provided hereinafter.

1. Within the 30-day notice period, the parish governing authority, the school board, or any affected municipality may identify the application on the agenda of a public meeting notice and the sheriff may issue a letter approving or denying the application, and notice of these actions shall be given to the department within 3 business days. A local governmental entity that places the application on the agenda for a public meeting will have an additional 30 days (for a total of 60 days from the start of the notice period) to conduct a public meeting issuing a resolution approving or rejecting the board approved application, and notice of the issuance shall be given to the department within 3 business days. If a local governmental entity does not take action or provide notice as required herein, then the application will be deemed approved by each such entity.

2. Within 60 days of the promulgation of these rules, the local governmental entities for each parish (in consultation with the parish assessor and, upon request, with guidance from the department), shall make best efforts to develop reasonable guidelines for application approval and/or denial and if so desired, penalty guidelines for failure to achieve and maintain jobs and/or payroll as required by the exhibit A.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by Department of Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:864 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2376 (August 2011), LR 41:2318 (November 2015), LR 43:1133 (June 2017), LR 44:1419 (August 2018).

### **§505. Miscellaneous Capital Additions**

A. The renewal of miscellaneous capital addition contracts approved in accordance with JBE 16-26 and 16-73 shall be treated in accordance with prior rules.

B. Miscellaneous capital additions which had pending contractual applications on June 24, 2016, and which provide for new jobs at the completed manufacturing establishment shall be considered by the board.

C. Miscellaneous capital additions which did not have a pending contractual application as of June 24, 2016 or those with pending applications as of June 24, 2016, but do not provide for new jobs, are not eligible for the property tax exemption.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), amended LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:865 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2377 (August 2011), LR 41:2318 (November 2015), LR 43:1135 (June 2017), LR 44:1421 (August 2018).

### **§507. Eligible Property—Buildings and Facilities Used in Manufacturing; Leased Property; Capitalized Materials**

A. The board shall consider for tax exemption buildings and facilities used in the operation of new manufacturing establishments located within the state of Louisiana (subject to the limitations stated in §§517 and 519) and additions to manufacturing establishments within the state of Louisiana. Exemptions are granted to the owners of buildings that house a manufacturing establishment and facilities that are operated specifically in the manufacturing of a product. The board recognizes two categories of ownership:

1. owners who engage in manufacturing at said facilities; and

2. owners who are not engaged in manufacturing at said manufacturing establishment, but who have provided either or both of the following for a predetermined manufacturing establishment:

a. buildings to house a manufacturing establishment;

b. facilities that consist of manufacturing equipment operated specifically in the manufacturing process;

3. owners who are not engaged in manufacturing at the manufacturing establishment are eligible for the exemption only if the manufacturer at the site is obligated to pay the property taxes if the exemption were not granted.

B. Leased property is eligible for the exemption, if the property is used in the manufacturing process, is and remains on the plant site, and the manufacturer is obligated under the lease agreement to pay the property taxes if the exemption were not granted.

C. Capitalized materials which are an essential and integral part of a manufacturing process, but do not form part of the finished product, may be exempted along with the manufacturing establishment. Some examples of these are:

1. ammonia in a freezing plant;
2. solvent in an extraction plant; and
3. catalyst in a manufacturing process.

D. To be eligible for exemption, a manufacturing establishment must be in an operational status and engaged in manufacturing. An owner of a new manufacturing establishment under construction may apply for an exemption with the expectation that the manufacturing establishment will become operational. If the manufacturing establishment fails to become operational or ceases operations without a reasonable expectation of recommencing operations, the facility shall no longer be eligible for exemption and its contract shall be subject to termination under §531.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:865 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2377 (August 2011), LR 43:1135 (June 2017), LR 44:1421 (August 2018).

### **§509. Integral Parts of the Manufacturing Operation**

A. Property that is an integral part of the manufacturing operation is eligible for the tax exemption.

B. The following activities are considered to be integral to the manufacturing process:

1. quality control/quality assurance;
2. packaging;
3. transportation of goods on the site during the manufacturing process;
4. other on site essential activities as approved by the secretary and the board.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2378 (August 2011), LR 43:1135 (June 2017), LR 44:1421 (August 2018).

### **§511. Rehabilitation and Restoration of Property**

A. Capital expenditures for the rehabilitation or restoration of an existing establishment may be exempted if it is not maintenance. If replacements or upgrades are made as part of a rehabilitation or restoration to an establishment, only the capital expenditures in excess of original cost shall be eligible for tax exemption. A deduction for the original cost of property to be replaced shall not be made if the project will result in capital additions that exceed \$50,000,000.

B. Exemption may be granted on the costs of rehabilitation or restoration of a partially or completely damaged facility, but only on the amount in excess of the original cost.

C. Original costs deducted from rehabilitation or restoration made or rebuilding shall be clearly documented.

D. A deduction for the original cost of property to be replaced as part of a rehabilitation or restoration, as provided by Subsections A or B, shall not be made if the project is related to the replacement or reconstruction of property after the destruction of or damage to such property, as a result of a qualified disaster.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2378 (August 2011), LR 43:1135 (June 2017), LR 44:1421 (August 2018).

#### **§513. Relocations**

A. A manufacturing establishment moved from one location in the state to another place within the state shall be eligible for the unexpired consecutive years, if any, of the tax exemption contract granted at the original location.

B. If a manufacturing establishment moves from one location in the state to another location within the state, the company shall be required to seek approval of the parish governing authority, the school board, the sheriff, and any municipality in which the manufacturing establishment will be located if these local governing authorities are different than those that approved the exemption at the original site.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 29:2633 (December 2003), LR 37:2378 (August 2011), LR 43:1136 (June 2017), LR 44:1422 (August 2018).

#### **§515. Used Equipment**

A. Used equipment is eligible for tax exemption provided no ad valorem property taxes have been paid in Louisiana on said property.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:886 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2378 (August 2011), LR 43:1136 (June 2017), LR 44:1422 (August 2018).

#### **§517. Ineligible Property**

A. Maintenance capital, required environmental capital upgrades and new replacements to existing machinery and equipment, except those replacements required in the rehabilitation or restoration of a facility, are not eligible for the tax exemption.

B. If the establishment or addition is on the taxable rolls and property taxes have not been paid, the establishment or addition is not eligible for the exemption unless the assessor and local governmental entity agree in writing to remove the establishment or addition from the taxable rolls should the tax exemption be granted.

C. The board shall not consider for tax exemption any property previously subject to an ad valorem tax exemption that has expired or otherwise been terminated.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2378 (August 2011), LR 43:1136 (June 2017), LR 44:1422 (August 2018).

#### **§519. Land**

A. The land on which a manufacturing establishment is located is not eligible for tax exemption.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 43:1136 (June 2017), LR 44:1422 (August 2018).

#### **§521. Inventories**

A. The following are not eligible for tax exemption:

1. inventories of raw materials used in the course of manufacturing;

2. inventories of work-in-progress or finished products;

3. any other consumable items.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 43:1136 (June 2017), LR 44:1422 (August 2018).

#### **§523. Extension of Time**

A. The department may grant an extension of up to six months for the filing of an application (§503.B), a project completion report (§525), or an affidavit of final cost (§527), provided the request for extension is received prior to the filing deadline.

B. Additional extensions of time may be granted for good cause.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 43:1136 (June 2017), LR 44:1422 (August 2018).

#### **§525. Effective Date of Contract; Project Completion Report**

A. The owner of a new manufacturing establishment or addition shall document the beginning date of operations and the date that construction is substantially complete. The owner must file that information with the department on the prescribed project completion report form not later than 90 days after the beginning of operations, completion of construction, or receipt of the fully executed contract, whichever occurs last. A project completion report fee of \$250 shall be submitted with the form. The deadline for filing the project completion report may be extended pursuant to §523.

B. The effective date of tax exemption contracts for property located in parishes other than Orleans Parish shall be December 31 of the year in which effective operation began or construction was essentially completed, whichever occurs first. The effective date of tax exemption contracts for property located in Orleans Parish shall be July 31 of the applicable year.



**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development LR 37:2379 (August 2011), LR 41:2318 (November 2015), LR 43:1136 (June 2017), LR 44:1422 (August 2018).

#### **§527. Affidavit of Final Cost**

A. Within six months of the beginning of operations, completion of construction, or receipt of the executed contract, whichever occurs last, the owner of a manufacturing establishment or addition shall file on the prescribed form an affidavit of final cost showing complete cost of the exempted project. A fee of \$250 shall be filed with the affidavit of final cost or any amendment to the affidavit of final cost. Upon request by the department, a map showing the location of all facilities exempted in the project shall be submitted in order that the exempted property may be clearly identifiable. The deadline for filing the affidavit of final cost may be extended pursuant to §523.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Commerce, Office of Commerce and Industry, LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 41:2319 (November 2015), LR 43:1137 (June 2017), LR 44:1423 (August 2018).

#### **§529. Renewal of Tax Exemption Contract**

A. Application for renewal of the exemption must be filed with the department on the prescribed form not more than six months before, and not later than, the expiration of the initial contract. A fee of \$250 shall be filed with the renewal application. The document shall not be considered officially received and accepted until the appropriate fee is submitted. Upon proper showing of compliance with the initial contract of exemption, a renewal contract of exemption may be approved by the board for an additional period of no more than five years and provide for an ad valorem exemption of up to 80 percent.

B. Eligibility of the applicant and the property for renewal of the exemption will be reviewed by the board using the same criteria that was used for the initial contract, and based upon the facts and circumstances existing at the time the renewal application is considered.

C. The board shall have the option of submitting a board approved renewal application to the local governmental entities for approval in accordance with the procedures for approval of the initial exemption contract.

D. The term of the renewal contract shall be reduced by one year for each calendar month, or portion thereof, that the renewal application is filed late. The board may impose any other penalty for late renewal submission that it deems appropriate.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by

the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 41:2319 (November 2015), LR 43:1137 (June 2017), LR 44:1423 (August 2018).

#### **§531. Violation of Rules or Documents; Inspection**

A. The board reserves the right, on its own initiative or upon written complaint of an alleged violation of terms of tax exemption rules or documents, to conduct an inspection. During the inspection, the department may cause to be made a full investigation on behalf of the board and shall have full authority for such investigation including authority to demand reports or pertinent records and information from the applicant and complainants. Results of the investigation will be presented to the board.

B. All contracts of exemption shall be subject to inspection. If an inspection indicates that the applicant has violated any terms of the contract or rules, or that the exempt facility is not engaged in manufacturing, the board may conduct a hearing to reconsider the contract of exemption, after giving the applicant not less than 60 days' notice.

C. If the board determines that there has been a violation of the terms of the contract or the rules, that the property exempted by the contract is not eligible because it is not used in a manufacturing process, or that the facility has not commenced or has ceased manufacturing operations, the board may terminate or otherwise modify the contract.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011), LR 43:1137 (June 2017), LR 44:1423 (August 2018).

#### **§533. Reporting Requirements for Changes in Operations**

A. The department is to be notified immediately of any change which affects the tax exemption contract. This includes, but is not limited to, any changes in the ownership or operational name of a firm holding a tax exemption contract. A fee of \$250 shall be filed with a request for any contract amendment, including but not limited to, a change of ownership, change in name, or change in location. The board may consider restrictions or cancellation of a contract for cessation of the manufacturing operation, or retirement of any portion of the exempted equipment. Failure to report any material changes constitutes a breach of contract and, with approval by the board, shall result in restriction or termination.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011), LR 41:2319 (November 2015), LR 43:1137 (June 2017), LR 44:1423 (August 2018).

#### **§535. Sale or Transfer of Exempted Manufacturing Establishment**

A. In the event an applicant should sell or otherwise dispose of property covered by a contract of exemption, the purchaser of the said plant or property may, within three months of the date of such act of sale, apply to the board for a transfer of the contract. A fee of \$250 shall be filed with a

request to transfer the contract. The board shall consider all such applications for transfer of contracts of exemption strictly on the merits of the application for such transfer. No such transfer shall in any way impair or amend any of the provisions of the contract so transferred other than to change the name of the contracting applicant. Failure to request or apply for a transfer within the stipulated time period shall constitute a violation of the contract.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:868 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011), LR 41:2319 (November 2015), LR 43:1137 (June 2017), LR 44:1423 (August 2018).

### **§537. Reporting to the Parish Assessor**

A. The applicant shall file annually with the assessor of the parish in which the manufacturing establishment is located, a complete taxpayer's report on forms approved by the Tax Commission, in order that the exempted property may be separately listed on the assessment rolls.

B. All property exempted shall be listed on the assessment rolls and submitted to the Tax Commission or its successor, and up to 80 percent of the taxes shall be collected thereon during the period of exemption.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the Department of Commerce, Office of Commerce and Industry, Division of Financial Programs Administration, September 1974, amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011), LR 43:1138 (June 2017), LR 44:1424 (August 2018).

Anne G. Villa  
Undersecretary

1808#032

## **RULE**

### **Board of Elementary and Secondary Education**

#### **Bulletin 118—Statewide Assessment Standards and Practices (LAC 28:XI.6115)**

Editor's Note: Section 6115 is being repromulgated to correct citation errors. The original Rule can be viewed in its entirety on pages 461-479 of the March 20, 2018 *Louisiana Register*.

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education (BESE) has amended *Bulletin 118—Statewide Assessment Standards and Practices*: §5105, Testing and Accountability; §5107, Assessment Programs; §5109, Assessment Populations; §5305, Test Security Policy; §5307, Change of District Test Coordinator Notification; §5309, Erasure Analysis and Online Answer Changes; §5311, Addressing Suspected Violations of Test Security and Troubling Content in Written Responses; §5312, Administrative Error; §5315, Emergencies during Testing; §5501, District Test Coordinator Role; §5511, School Test Coordinator Role; §5701, Overview of Assessment Programs in Louisiana; §5901, Statement of Purpose; §5903,

Definitions; §5905, Target Population; §5907, Agency Administrative Participation; §6101, Introduction; §6113, Achievement Levels; §6115, Performance Standards; §6155, Student Membership Determination; §6301, Introduction; §6311, Achievement Levels; §6313, Performance Standards; §6323, Introduction; §6325, Grade 10 Achievement Level Descriptors; §6327, Grade 11 Achievement Level Descriptors; §6345, Double Jeopardy Rule; §6347, First and Second Cohorts; §6348, Last Cohorts; §6501, Description; §6700, Sunset Provision; §6701, Introduction; §6705, Introduction; §6707, Performance Standards; §6801, Overview; §6803, Introduction; §6804, EOCT Development and Implementation Plan; §6811, LEAP 2025 for High School Achievement Levels; §6813, Performance Standards; §6819, Double Jeopardy Rule; §6821, High School Test Cohorts; §6825, LEAP 2025 for High School Administration Rules; §6827, LEAP 2025 Retest Administration; §6829, LEAP 2025 Transfer Rules; §6831, College and Career Diploma; §6900, Sunset Provision; §6903, Introduction; §6911, LEAP Connect Achievement Levels; §6913, Performance Standards; §7000, Sunset Provision; §7001, Introduction; §7005, Achievement Levels; §7007, Performance Standards; §7009, Introduction; §7017, Grade 10 Achievement Level Descriptors; §7019, Grade 11 Achievement Level Descriptors; §7021, Content Standards; §7023, English Language Arts Tests Structure; §7025, Mathematics Test Structure; §7027, Science Tests Structure; §7029, Social Studies Tests Structure; §7031, Double Jeopardy Rule; §7033, Rescores; §7035, LAA 2 High School Assessment Administration Rules; §7037, Summer Retest Administration; §7041, Student Membership Determination; §7101, General Provisions; §7203, EXPLORE; §7205, PLAN; §7209, WorkKeys; §7301, Overview; §7303, Introduction; §7307, Participation Criteria; §7309, Proficiency Levels; §7311, Proficiency Standards; §7400, Sunset Provision; §7501, General Provisions; §7503, Field Test Administration; §7901, General Provisions; §7903, Performance Standards; §7905, Transfer Students; §7907, Student Membership Determination; §8101, Special Education Needs; §8301, Participation; §8303, Students with Disabilities; §8305, Students with One or More Disabilities According to Section 504; §8306, Approved Accommodations for Students with IEPs or 504 Plans; §8307, English Language Learners; §8503, Homebound Students; and §8507, Office of Juvenile Justice. This Rule is hereby adopted on the day of promulgation.

### **Title 28**

### **EDUCATION**

#### **Part XI. Accountability/Testing**

#### **Subpart 3. Bulletin 118—Statewide Assessment Standards and Practices**

#### **Chapter 61. Louisiana Educational Assessment Program 2025 (LEAP 2025)**

#### **Subchapter B. Achievement Levels and Performance Standards**

#### **§6115. Performance Standards**

#### **[Formerly LAC 28:CXL1115]**

A. Performance standards for LEAP English language arts, mathematics, science, and social studies tests are finalized in scaled-score form. The scaled scores range between 100 and 500 for science and between 650 and 850 for English language arts, mathematics, and social studies.

English Language Arts						
Achievement Level	Grade 3	Grade 4	Grade 5	Grade 6	Grade 7	Grade 8
Advanced	810 - 850	790 - 850	799 - 850	790 - 850	785 - 850	794 - 850
Mastery	750 - 809	750 - 789	750 - 798	750 - 789	750 - 784	750 - 793
Basic	725 - 749					
Approaching Basic	700 - 724					
Unsatisfactory	650 - 699					
Mathematics						
Achievement Level	Grade 3	Grade 4	Grade 5	Grade 6	Grade 7	Grade 8
Advanced	790 - 850	796 - 850	790 - 850	788 - 850	786 - 850	801 - 850
Mastery	750 - 789	750 - 795	750 - 789	750 - 787	750 - 785	750 - 800
Basic	725 - 749					
Approaching Basic	700 - 724					
Unsatisfactory	650 - 699					
Science (to be updated in 2019)						
Achievement Level	iLEAP Grade 3	iLEAP Grade 4	iLEAP Grade 5	iLEAP Grade 6	iLEAP Grade 7	iLEAP Grade 8
Advanced	382 - 500	405 - 500	378 - 500	380 - 500	388 - 500	400 - 500
Mastery	342 - 381	360 - 404	341 - 377	343 - 379	348 - 387	345 - 399
Basic	292 - 341	306 - 359	292 - 340	295 - 342	302 - 347	305 - 344
Approaching Basic	249 - 291	263 - 305	248 - 291	251 - 294	259 - 301	267 - 304
Unsatisfactory	100 - 248	100 - 262	100 - 247	100 - 250	100 - 258	100 - 266

B. - C. ...

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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1536 (July 2005), amended LR 32:235 (February 2006), LR 42:225 (February 2016), LR 44:468 (March 2018), repromulgated LR 44:1424 (August 2018).

Shan N. Davis  
Executive Director

1808#041

## RULE

### Board of Elementary and Secondary Education

Bulletin 127—LEAP Connect Assessment, Louisiana Connectors for Students with Significant Cognitive Disabilities (LAC 28:XI.Chapter 97)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 127—LEAP Connect Assessment, Louisiana Connectors for Students with Significant Cognitive Disabilities*.

The science connectors are pathways for the academic achievement of students with significant cognitive disabilities. The science connectors, which are found in *Bulletin 127—LEAP Connect Assessment, Louisiana Connectors for Students with Significant Cognitive Disabilities*, are fully aligned to the Louisiana student standards, and ensure equal access to learning is provided to students with disabilities to the extent possible. This alignment is also required by federal law in the Elementary and Secondary Education Act, known as the Every Student Succeeds Act (ESSA). This Rule is hereby adopted on the day of promulgation.

## Title 28

### EDUCATION

#### Part XI. Accountability/Testing

#### Subpart 5. Bulletin 127—LEAP Connect Assessment, Louisiana Connectors for Students with Significant Cognitive Disabilities

#### Chapter 97. Science

#### Subchapter A. Kindergarten

#### §9701. Motion and Stability: Forces and Interactions

A. Identify the effect caused by different strengths or directions of pushes and pulls on the motion of an object.

B. Explain the effect of pushes and pulls on the motion of an object.

C. Identify the effect of different strengths and directions of pushes and pulls on the motion of an object.

D. Compare different strengths or different directions of pushes and pulls on an object.

E. Identify if something designed to push or pull an object makes it move the way it is intended.

F. Identify if something designed to change the speed of an object makes it move the way it is intended.

G. Identify if something designed to change the direction of an object makes it move the way it is intended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1425 (August 2018).

#### §9702. Energy

A. Identify examples of sunlight heating different surfaces on Earth.

B. Identify a design structure (e.g., umbrella, canopy, tent) that will reduce the warming caused by the sun.

C. Identify tools and materials that can be used to build a structure that will reduce the warming effect of sunlight on an area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1425 (August 2018).

#### §9703. From Molecules to Organisms: Structures and Processes

A. Identify that animals need water and food to live and grow.

B. Identify that plants need water and light to live and grow.

C. Identify patterns of what living things need to survive.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1425 (August 2018).

#### §9704. Earth's Systems

A. Identify patterns in weather conditions using observations of local weather.

B. Identify examples of how animals change their environments to meet their needs.

C. Identify examples of how plants change their environments to meet their needs.

D. Identify ways that humans can affect the environment in which they live.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1425 (August 2018).

## **§9705. Earth and Human Activity**

A. Given a model (e.g., representation, diagram, drawing), describe the relationship between the needs of different animals and the places they live (e.g., deer eat buds and leaves and live in forests).

B. Identify how weather forecasting can help people avoid the most serious impacts of severe weather events.

C. Identify different solutions that people can apply to the way they live to reduce the impact on the land, water, air, and other living things.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1426 (August 2018).

### **Subchapter B. First Grade**

#### **§9706. Waves and Their Applications**

A. Through collaborative investigations, recognize that sounds can cause materials to vibrate.

B. Through collaborative investigations, recognize that vibrating materials can make sound.

C. Use evidence to describe that vibrating materials can make sound.

D. Use evidence to describe that sound can make matter vibrate.

E. Through observations, recognize that objects can be seen only when illuminated by an external light source or when they give off their own light.

F. Through collaborative investigations, recognize that some materials allow light to pass through them.

G. Through collaborative investigations, recognize that some materials allow only some light to pass through them.

H. Through collaborative investigations, recognize that some materials block all the light.

I. When using tools and materials to design and build a device, identify features of devices that people use to send and receive information over long distances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1426 (August 2018).

#### **§9707. From Molecules to Organisms: Structures and Processes**

A. Identify how animals use their external parts to help them survive, grow, and meet their needs.

B. Identify how plants use their external parts to help them survive, grow, and meet their needs.

C. Identify a design solution to a human problem which is similar to how a plant or animal uses its external parts to help it survive, grow, and meet its needs.

D. Use texts or media to identify behaviors of offspring that help them survive.

E. Use texts or media to identify behaviors between parents and offspring that help the offspring survive.

F. Use texts or media to identify patterns in behavior between parents and offspring that help the offspring survive.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1426 (August 2018).

## **§9708. Inheritance and Variation of Traits**

A. Make observations to identify a similarity or a difference in an external feature (e.g., shape of ears) between young animals and their parents.

B. Make observations to identify a similarity or a difference in an external feature (e.g., shape of leaves) between young plants and their parents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1426 (August 2018).

### **§9709. Earth's Place in the Universe**

A. Use observations to describe patterns of movement of the sun, moon, and stars as seen from Earth.

B. Use observations of patterns of movement to predict appearances of the sun or moon.

C. Use observations to make relative comparisons between the amount of daylight in the winter to the amount of daylight in the spring or fall.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1426 (August 2018).

### **Subchapter C. Second Grade**

#### **§9710. Matter and Its Interactions**

A. Use data to describe different kinds of materials by their observable properties (e.g., color, texture).

B. Use data to classify different kinds of materials by their observable properties (e.g., color, texture).

C. Match a property of a material (e.g., hard, flexible, absorbent) to a potential purpose (e.g., hardness of a wooden shelf results in it being better suited for supporting materials than a soft sponge).

D. Identify how a variety of objects can be built up from a small set of pieces.

E. Identify examples of heating substances which cause changes that are sometimes reversible and sometimes not.

F. Identify examples of cooling substances which cause changes that are sometimes reversible and sometimes not.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1426 (August 2018).

#### **§9711. Ecosystems: Interactions, Energy, and Dynamics**

A. Use data to describe that plants need water and light to grow.

B. Identify that plants need animals to move their seeds around.

C. Identify a simple model that mimics the function of an animal in dispersing seeds or pollinating plants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1426 (August 2018).

#### **§9712. Biological Evolution: Unity and Diversity**

A. Make observations to explain that different kinds of living things live in different habitats on land and in water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1426 (August 2018).

### **§9713. Earth's Place in the Universe**

A. Use evidence to understand that some Earth events happen quickly and can be observed (e.g., flood, volcano eruption, earthquake, or erosion of soil).

B. Use evidence to understand that some Earth events happen slowly (e.g., erosion or weathering of rocks).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1427 (August 2018).

### **§9714. Earth's Systems**

A. Identify a solution (e.g., using shrubs, grass, or trees) to slow or prevent wind from changing the shape of the land.

B. Identify a solution (e.g., using shrubs, grass, or trees) to slow or prevent water from changing the shape of the land.

C. Use a model to identify land features and bodies of water (e.g., hill, lake) in an area using a model.

D. Use information to identify that water is found in many types of places.

E. Use information to identify that that water exists as solid ice and in liquid form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1427 (August 2018).

### **Subchapter D. Third Grade**

#### **§9715. Motion and Stability: Forces and Interactions**

A. Identify ways to change the motion of an object (e.g., number, size, or direction of forces).

B. Describe how objects in contact exert forces on each other.

C. Describe the patterns of an object's motion in various situations (e.g., a pendulum swinging, a ball moving on a curved track, a magnet repelling another magnet).

D. Predict future motion of an object given its pattern of motion.

E. Ask questions to identify cause and effect relationships of magnetic interactions between two objects not in contact with each other (e.g., how the orientation of magnets affects the direction of the magnetic force).

F. Ask questions to identify cause and effect relationships of electric interactions (e.g., the force on hair from an electrically charged balloon) between two objects not in contact with each other (e.g., how the distance between objects affects the strength of the force).

G. Identify and describe the scientific ideas necessary for solving a given problem about magnets (e.g., size of the force depends on the properties of objects, distance between the objects, and orientation of magnetic objects relative to one another).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1427 (August 2018).

#### **§9716. From Molecules to Organisms: Structures and Processes**

A. Identify that organisms have unique and diverse life cycles.

B. Identify a common pattern between models of different life cycles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1427 (August 2018).

#### **§9717. Ecosystems: Interactions, Energy, and Dynamics**

A. Describe that animals within a group help the group obtain food for survival, defend themselves, and survive changes in their ecosystem.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1427 (August 2018).

#### **§9718. Heredity: Inheritance and Variation of Traits**

A. Identify similarities in the traits of a parent and the traits of an offspring.

B. Identify that characteristics of organisms are inherited from their parents.

C. Identify variations in similar traits in a group of similar organisms.

D. Identify examples of inherited traits that vary between organisms of the same type.

E. Identify a cause and effect relationship between an environmental factor and its effect on a given variation in a trait (e.g., not enough water produces plants that have fewer flowers than plants that had more water available).

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#### **§9719. Biological Evolution: Unity and Diversity**

A. Identify that fossils represent plants and animals that lived long ago.

B. Identify that fossils provide evidence about the environments in which organisms lived long ago (e.g., fossilized seashells indicate shelled organisms that lived in aquatic environments).

C. Identify features and characteristics that enable an organism to survive in a particular environment.

D. Identify features and characteristics that increase an organism's chances of finding mates.

E. Identify features and characteristics that increase an organism's chances of reproducing.

F. Identify changes in a habitat that would cause some organisms to move to new locations.

G. Identify changes in a habitat that would cause some organisms to die.

H. Identify evidence that supports a claim that changes in habitats affect the organisms living there.

I. Identify a solution to a problem that is caused when the environment changes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1427 (August 2018).

#### **§9720. Earth's Systems**

A. Use data to describe observed weather conditions (e.g., temperature, precipitation, wind direction) during a season.

B. Use data to predict weather conditions (e.g., temperature, precipitation, wind direction) during a season.

C. Identify and describe climates in different regions of the world (e.g., equatorial, polar).

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### **§9721. Earth and Human Activity**

A. Identify the positive impact of a solution humans can take to reduce the impact of weather-related hazards (e.g., barriers to prevent flooding).

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### **Subchapter E. Fourth Grade**

#### **§9722. Energy**

A. Identify that moving objects contain energy.

B. Demonstrate that objects moving faster possess more energy than objects moving slower.

C. Identify examples of how energy can be moved from place to place (i.e., through sound or light traveling; by electrical currents; heat passing from one object to another).

D. Identify the change in energy or the change in objects' motions when objects collide (e.g., speeds as objects interact, direction).

E. Relate an example that demonstrates that energy can be converted from one form to another form (e.g., electric circuits that convert electrical energy into light, motion, sound or heat).

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#### **§9723. Waves and Their Applications in Technologies for Information Transfer**

A. Describe the properties of waves using a model (e.g., drawings, diagrams) to show amplitude (height) and wavelength.

B. Identify relationships involving wave amplitude, wavelength, and the motion of an object (e.g., when the amplitude increases, the object moves more).

C. Identify amplitude as a measure of energy in a wave.

D. Identify wavelength as the distance between a point on one wave and the identical point on the next wave.

E. Arrange a model to show that light can be seen when light reflected from its surface enters the eye.

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#### **§9724. From Molecules to Organisms: Structure and Processes**

A. Identify external macroscopic structures (e.g., bird beaks, eyes, feathers, roots, needles on a pine tree) that support growth, survival, behavior, and reproduction of organisms.

B. Identify internal structures (e.g., heart, muscles, bones) that support growth, survival, behavior, and reproduction of organisms.

C. Identify that sense receptors provide different kinds of information, which is processed by the brain.

D. Identify how animals use their sense receptors to respond to different types of information (e.g., sound, light, odor, temperature) in their surroundings with behaviors that help them survive.

E. Identify how animals use their memories to help them survive.

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#### **§9725. Earth's Place in the Universe**

A. Identify rock formations that show how the Earth's surface has changed over time (e.g., change following earthquakes).

B. Identify older fossils as being found in deeper, older rock layers.

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#### **§9726. Earth's System**

A. Use data to compare differences in the shape of the land due to the effects of weathering or erosion.

B. Identify how living things affect the shape of the land.

C. Use maps to locate different land and water features of Earth.

D. Use maps to determine that earthquakes and volcanoes often occur along the boundaries between continents.

E. Identify how plants affect the environment (e.g., some have roots that can stabilize or destabilize the soil).

F. Identify how animals affect the environment (e.g., they disturb rocks, soil, and sediment; some build dams or nests).

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1428 (August 2018).

#### **§9727. Earth and Human Activity**

A. Identify the origins of the natural sources humans use for energy and fuel.

B. Identify environmental effects associated with the use of a given energy resource.

C. Describe solutions to reduce the impact of a natural Earth process (e.g., earthquake, flood, volcanic activity) on humans.

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### **Subchapter F. Fifth Grade**

#### **§9728. Matter and Its Interactions**

A. Identify in a model (e.g., picture, diagram) which shows that all matter can be broken down into smaller and smaller pieces until they are too small to be seen by human eyes.

B. Identify using measurements that the total weight of matter is conserved when it changes form.

C. Identify using measurements that the total weight of matter is conserved before and after they are heated, cooled, or mixed.

D. Identify that materials can be classified based on a variety of observable physical properties (e.g., shape, texture, buoyancy, color, magnetism, solubility).

E. Classify materials (e.g., shape, texture, buoyancy, color, magnetism, solubility) by measurable physical properties.

F. Identify that when two or more different substances are mixed, a new substance with different properties may be formed.

G. Identify the changes that occur when two or more substances are mixed using evidence provided from data.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1428 (August 2018).

### **§9729. Motion and Stability: Forces and Interactions**

A. Identify that the gravitational force exerted by Earth on objects is directed down.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1429 (August 2018).

### **§9730. Matter and Energy in Organisms and**

#### **Ecosystems**

A. Identify that the energy in animals' food was once energy from the sun.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1429 (August 2018).

### **§9731. From Molecules to Organisms: Structures and Processes**

A. Identify that plants acquire material for growth chiefly from air and water, not from soil.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1429 (August 2018).

### **§9732. Ecosystems**

A. Identify a model that shows the movement of matter (e.g., plant growth, eating, composting) through living things.

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### **§9733. Earth's Place in the Universe**

A. Identify that the sun appears larger and brighter than other stars because the sun is much closer to Earth than other stars.

B. Describe similarities and differences in the timing of observable changes in shadows.

C. Describe similarities and differences in the timing of observable changes in day and night.

D. Describe similarities and differences in the timing of observable changes in the appearance of stars that are visible only in particular months

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### **§9734. Earth's Systems**

A. Describe that the Earth's major systems interact and affect Earth's surface materials and processes.

B. Determine that the majority of water on Earth is found in the oceans as salt water and most of the Earth's fresh water is stored in glaciers.

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### **§9735. Earth and Human Activity**

A. Identify ways people can help protect the Earth's resources and environment.

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### **Subchapter G. Sixth Grade**

#### **§9736. Matter and Its Interactions**

A. Identify a model that shows an atom's nucleus is made of protons and neutrons, and is surrounded by electrons.

B. Identify a model that shows individual atoms of the same or different types that repeat to form compounds (e.g., sodium chloride).

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#### **§9737. Motion and Stability: Forces and Interactions**

A. Describe the motion of two colliding objects in terms of the strength of the force and the relationship of action and reaction forces given a model or scenario.

B. Develop a solution to a problem involving the motion of two colliding objects.

C. Identify using provided data, that a change in an object's motion is due to the mass of an object and the forces acting on that object.

D. Identify that electricity can be used to produce magnetism, or magnetism can be used to make electricity.

E. Examine data of objects (e.g., a model that demonstrates that a piece of metal, when magnetized by electricity, can pick up many times its own weight) to identify cause and effect relationships that affect electromagnetic forces.

F. Using a chart displaying the mass of those objects and the strength of interaction, compare the magnitude of gravitational force on interacting objects of different mass (e.g., the Earth and the sun)

G. Evaluate a change in the strength of a force (i.e., electric and magnetic) using data.

H. Identify evidence that fields exist between objects exerting forces on each other even though the objects are not in contact.

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#### **§9738. Energy**

A. Use graphical displays of data to describe the relationship of kinetic energy to the mass of an object and to the speed of an object.

B. Describe, using models, how changing distance changes the amount of potential energy stored in the system (e.g., carts at varying positions on a hill).

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#### **§9739. Waves and Their Applications in Technologies for Information Transfer**

A. Identify how the amplitude of a wave is related to the energy in a wave using a mathematical or graphical representation.

B. Describe, using a model, how sound waves are reflected, absorbed, or transmitted through various materials (e.g., water, air, glass).

C. Describe, using a model, how light waves are reflected, absorbed, or transmitted through various materials (e.g., water, air, glass).

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#### **§9740. Earth's Place in the Universe**

A. Use an Earth-sun-moon model to show that the Earth-moon system orbits the sun once an Earth year and the orbit of the moon around Earth corresponds to a month.

B. Use an Earth-sun-moon model to explain eclipses of the sun and the moon.

C. Use an Earth-sun-moon model to explain how variations in the amount of the sun's energy hitting Earth's surface results in seasons.

D. Use a model to identify the solar system as one of many systems orbiting the center of the larger system of the Milky Way galaxy, which is one of many galaxy systems in the universe.

E. Use a model to describe the relationships and interactions between components of the solar system as a collection of many varied objects held together by gravity.

F. Use data (e.g., statistical information, drawings and photographs, and models) to determine similarities and differences among solar system objects.

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#### **§9741. Earth and Human Activity**

A. Identify changes that human populations have made to Earth's natural systems using a variety of resources.

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#### **§9742. From Molecules to Organisms: Structures and Processes**

A. Identify that living things may be made of one cell or many different numbers and types of cells.

B. Using a model(s), identify the function of a cell as a whole.

C. Using a model(s), identify special structures within cells are responsible for particular functions.

D. Using a model(s), identify the components of a cell.

E. Using a model(s), identify the functions of components of a cell.

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#### **§9743. Ecosystems: Interactions, Energy, and Dynamics**

A. Recognize data that shows growth of organisms and population increases are limited by access to resources.

B. Identify factors (e.g., resources, climate or competition) in an ecosystem that influence growth in populations of organisms.

C. Use an explanation of interactions between organisms in an ecosystem to identify examples of competitive, predatory, or symbiotic relationships.

D. Using a model(s), describe energy transfer between producers and consumers in an ecosystem using a model (e.g., producers provide energy for consumers).

E. Using a model(s), describe energy transfer between producers and consumers in an ecosystem using a model (e.g., producers provide energy for consumers).

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#### **Subchapter H. Seventh Grade**

#### **§9744. Matter and Its Interactions**

A. Using data, identify changes that occur after a chemical reaction has taken place (e.g., change in color occurs, gas is created, heat or light is given off or taken in).

B. Use drawings and diagrams to Identify that adding or removing thermal energy increases or decreases particle motion until a change of state occurs.

C. Use a model to identify a chemical reaction in which the mass of the reactants is shown to be equal to the mass of the products.

D. Use a model to show how the total number of atoms does not change in a chemical reaction and thus mass is conserved.

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#### **§9745. Energy**

A. Using examples and data measurements, describe the relationship between different masses of the same substance and the change in average kinetic energy when thermal energy is added to or removed from the system.

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#### **§9747. Earth's Systems**

A. Using a model(s), identify components in a model of water cycling among land, ocean, and atmosphere, and recognize how it is propelled by sunlight and gravity.

B. Using data, identify how water influences weather and weather patterns through atmospheric, land, and oceanic circulation.

C. Using data, identify examples of how the sun drives all weather patterns on Earth (e.g., flow of energy that moves through Earth's land, air, and water).

D. Using a model(s), identify that as the sun's energy warms the air over the land (expands and rises), the air over the ocean (cooler air) rushes in to take its place and is called wind (sea breeze).

E. Using a model(s), identify that weather and climate vary with latitude, altitude, and regional geography.

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#### **§9748. Earth and Human Activity**

A. Identify evidence of the effects of human activities on changes in global temperatures over the past century using a variety of resources (e.g., tables, graphs, and maps of global and regional temperatures; atmospheric levels of gases, such as carbon dioxide and methane; and rates of human activities).

B. Using a variety of resources, ask questions or make observations about how the effects of human activities have changed global temperatures.



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**§9749. From Molecules to Organisms: Structures and Processes**

A. Identify that the body is a system of multiple interacting subsystems.

B. Identify evidence which supports a claim about how the body is composed of various levels of organization for structure and function which includes cells, tissues, organs, organ systems, and organisms using models or diagrams.

C. Use a scientific explanation about photosynthesis to identify the movement of matter and flow of energy as plants use the energy from light to make sugars.

D. Use a model to identify the outcome of the process of breaking down food molecules (e.g., sugar) as the release of energy, which can be used to support other processes within the organism.

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**§9750. Ecosystems: Interactions, Energy, and Dynamics**

A. Identify a design project that shows the stability of an ecosystem's biodiversity is the foundation of a healthy, functioning ecosystem.

B. Using evidence, identify the outcome of changes in physical or biological components of an ecosystem to populations of organisms in that ecosystem.

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**§9751. Heredity: Inheritance and Variation of Traits**

A. Using a model(s), identify that in asexual reproduction identical inherited traits are passed from parents to offspring.

B. Using a model(s), identify that in sexual reproduction a variety of inherited traits are passed from parents to offspring and lead to differences in offspring (e.g., eye color).

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**§9752. Heredity: Biological Evolution: Unity and Diversity**

A. Identify a similarity or difference in an external feature (e.g., shape of ears on animals or shape of leaves on plants) between young plants and animals and their parents.

B. Describe the relationship between genetic variation and the success of organisms in a specific environment (e.g., individual organisms that have genetic variations and traits that are disadvantageous in a particular environment will be less likely to survive, and those traits will decrease from generation to generation due to natural selection).

C. Identify ways in which technologies (e.g., artificial selection for breeding of certain plants and animals) have changed the way humans influence the inheritance of desired traits in plants and animals.

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**Subchapter I. Eighth Grade**

**§9753. Matter and Its Interactions**

A. Using a model(s), identify that an atom's nucleus as made of protons and neutrons and is surrounded by electrons.

B. Using a model(s), identify that individual atoms of the same or different types that repeat to form extended structures (e.g., sodium chloride).

C. Compare and contrast characteristics of natural and synthetic materials (e.g., fibers) from provided information (e.g., text, media, visual displays, data).

D. Identify ways in which natural resources undergo a chemical process to form synthetic materials (e.g., medicine, textiles, clothing) which impact society.

E. Identify a chemical process that releases or absorbs thermal energy (e.g., dissolving ammonium chloride or calcium chloride) which, given the features of a problem, may provide a solution.

F. Identify a way to test or modify a device that either releases or absorbs thermal energy by chemical processes.

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**§9754. Energy**

A. Use information (e.g., graph, model) to identify a device (e.g., foam cup, insulated box) that either minimizes or maximizes thermal energy transfer (e.g., keeping liquids hot or cold).

B. Using information from graphical displays of data and models, describe the change in the kinetic energy of an object as energy transferred to or from an object.

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**§9755. Earth's Place in the Universe**

A. Sequence the relative order of events from Earth's history shown by rock strata and patterns of layering (organize was more complex as a task/term than sequence).

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**§9756. Earth's Systems**

A. Identify relationships between components in a model showing the cycling of energy flows and matter within and among Earth's systems, including the sun and Earth's interior as primary energy sources.

B. Identify examples of processes to explain that change Earth's surface at varying time and spatial scales that can be large (e.g., plate motions) or small (e.g., landslides).

C. Using graphical displays of data, identify how the shapes of the continents (e.g., fit like a jigsaw puzzle) and fossil comparisons (e.g., fit together) along the edges of continents to demonstrate lithospheric plate movement.

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### **§9757. Earth and Human Activity**

A. Identify explanations of the uneven distributions of Earth's minerals, energy, and groundwater resources due to past and current geoscience processes or by removal of resources.

B. Use maps, charts, and images of natural hazards to look for patterns in past occurrences of catastrophic events in each of two regions to predict which location may receive a future similar catastrophic event.

C. Identify technologies that mitigate the effects of natural hazards (e.g., the design of buildings and bridges to resist earthquakes, storm shelters for tornados, levees along rivers to prevent flooding).

D. Using data from a design solution for minimizing a human impact on the environment, identify limitations of the solution.

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### **§9758. From Molecules to Organisms: Structures and Processes**

A. Identify behaviors animals engage in (e.g., vocalization) that increase the likelihood of reproduction.

B. Identify specialized plant structures (e.g., bright flower parts) that increase the likelihood of reproduction.

C. Identify a scientific explanation for how environmental factors (e.g., availability of light, space, water, size of habitat) affect the growth of animals and plants.

D. Identify a scientific explanation for how genetic factors (e.g., specific breeds of plants and animals and their typical sizes) affect the growth of animals and plants.

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### **§9759. Heredity: Inheritance and Variation of Traits**

A. Use a model to explain how genetic variations in specific traits may occur as organisms pass on their genetic material from one generation to the next, along with small changes

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### **§9760. Biological Evolution: Unity and Diversity**

A. Use data to identify that fossils of different animals that lived at different times are placed in chronological order (i.e., fossil record) and located in different sedimentary layers.

B. Recognize that similarities and differences in external structures can be used to infer evolutionary relationships between living and fossil organisms.

C. Identify an explanation of the evolutionary relationships between modern and fossil organisms.

D. Identify patterns (i.e., pictorial displays, representations, data) in the embryological development as evidence of relationships among species.

E. Analyze numerical data sets that represent a proportional relationship between some change in the environment and corresponding changes in genetic variation (i.e., traits) over time.

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## **Subchapter J. Physical Science**

### **§9761. Matter and Its Interactions**

A. Identify the periodic table as a model to use to predict the properties of elements.

B. Identify that the periodic table was created based on the patterns of electrons in the outermost energy level of atoms.

C. Identify that the number of electrons in the outermost energy level of atoms impacts the behavior of the element.

D. Identify the periodic table as a model that predicts the number of electrons and other subatomic particles.

E. Identify an explanation for the outcome of a simple chemical reaction based on the outermost electron states of atoms.

F. Identify an explanation for the outcome of a simple chemical reaction based on trends in the periodic table.

G. Construct an explanation for the outcome of a simple chemical reaction based on the chemical properties of the elements involved.

H. Identify a chemical equation, and identify the reactants and products which support the claim that matter (i.e., atoms) is neither created nor destroyed in a chemical reaction.

I. Identify a mathematical representation (e.g., table, graph) or pictorial depictions that illustrates the claim that mass is conserved during a chemical reaction.

J. Identify models that illustrate nuclear processes (i.e., fusion, fission, and radioactive decays), involve the release or absorption of energy.

K. Contrast changes during the processes of alpha, beta, or gamma radioactive decay using graphs or pictorial depictions of the composition of the nucleus of the atom and the energy released.

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### **§9762. Motion and Stability: Forces and Interactions**

A. Predict changes in the motion of a macroscopic object, such as a falling object, an object rolling down a ramp, or a moving object being pulled by a constant force using data (e.g., tables or graphs of position or velocity as a function of time for an object subject to a net unbalanced force).

B. Identify an example of the law of conservation of momentum (e.g., in a collision, the momentum change of an object is equal to and opposite of the momentum change of the other object) represented using graphical or visual displays (e.g., pictures, pictographs, drawings, written observations, tables, charts).

C. Evaluate a device (e.g., football helmet or a parachute) designed to minimize force by comparing data (i.e., momentum, mass, velocity, force, or time).

D. Identify situations and provide evidence where an electric current is producing a magnetic field.

E. Identify situations and provide evidence where a magnetic field is producing an electric current.

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### **§9763. Energy**

A. Identify that two factors, an object's mass and height above the ground, affect gravitational potential energy (i.e., energy stored due to position of an object above Earth) at the macroscopic level.

B. Identify that the mass of an object and its speed determine the amount of kinetic energy the object possesses.

C. Identify the forms of energy that will be converted by a device that converts one form of energy into another form of energy.

D. Identify steps in a model of a device showing the transformations of energy that occur (e.g., solar cells, solar ovens, generators, turbines).

E. Describe constraints to the design of the device which converts one form of energy into another form of energy (e.g., cost or efficiency of energy conversion).

F. Identify the temperatures of two liquids of different temperature before mixing and after combining to show uniform energy distribution.

G. Investigate the transfer of thermal energy when two substances are combined within a closed system.

H. Use a model to identify the cause and effect relationships between forces produced by electric or magnetic fields and the change of energy of the objects in the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1433 (August 2018).

### **§9764. Waves and Their Applications**

A. Qualitatively describe cause and effect relationships between changes in wave speed and type of media through which the wave travels using mathematical and graphical representations.

B. Identify examples that illustrate the relationship between the frequency and wavelength of a wave.

C. Identify evidence that the speed of a wave depends on the media through which it travels.

D. Recognize the relationship between the damage to living tissue from electromagnetic radiation and the energy of the radiation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1433 (August 2018).

## **Subchapter K. Chemistry**

### **§9765. Matter and Its Interactions**

A. Identify the periodic table as a model to use to predict the properties of elements.

B. Identify that the periodic table was created based on the patterns of electrons in the outermost energy level of atoms.

C. Identify that the number of electrons in the outermost energy level of atoms impacts the behavior of the element.

D. Identify the periodic table as a model that predicts the number of electrons and other subatomic particles.

E. Identify an explanation for the outcome of a simple chemical reaction based on the outermost electron states of atoms.

F. Identify an explanation for the outcome of a simple chemical reaction based on trends in the periodic table.

G. Construct an explanation for the outcome of a simple chemical reaction based on the chemical properties of the elements involved.

H. Identify bulk properties of substances (i.e., melting point, boiling point, and surface tension).

I. Identify that electrical forces within and between atoms can keep particles close together.

J. Conduct an experiment to gather evidence of the strength of electrical forces between particles.

K. Determine whether energy is released or absorbed in a chemical reaction system using various types of models (e.g., drawings, graphs, etc.).

L. Identify the effects of changing the temperature of the reacting particles at the rate at which a simple reaction (i.e., two reactants) occurs using a model (e.g., a table of data) of the number and energy of collisions between particles.

M. Identify the effects of changing the concentration of the reacting particles at the rate at which a simple reaction (i.e., two reactants) occurs using a model (e.g., a table of data) of the number and energy of collisions between particles.

N. Identify a change in one variable (i.e., temperature, concentration, pressure) of a chemical equation that would produce increased amounts of products at equilibrium.

O. Identify a chemical equation, and identify the reactants and products which support the claim that matter (i.e., atoms) is neither created nor destroyed in a chemical reaction.

P. Identify a mathematical representation (e.g., table, graph) or pictorial depictions that illustrates the claim that mass is conserved during a chemical reaction.

Q. Identify models that illustrate nuclear processes (i.e., fusion, fission, and radioactive decays), involve the release or absorption of energy.

R. Contrast changes during the processes of alpha, beta, or gamma radioactive decay using graphs or pictorial depictions of the composition of the nucleus of the atom and the energy released.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1433 (August 2018).

### **§9766. Motion and Stability: Forces and Interactions**

A. Communicate that different materials have different molecular structures and properties which determine different functioning of the material (e.g., flexible, but durable).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1433 (August 2018).

### **§9767. Energy**

A. Identify a model showing the change in the energy of one component in a system compared to the change in energy of another component in the system.

B. Identify a model showing the change in energy of one component in a system when the change in energy of the other component(s) and energy flows in and out of the system are known.

C. Identify the forms of energy that will be converted by a device that converts one form of energy into another form of energy.

D. Identify steps in a model of a device showing the transformations of energy that occur (e.g., solar cells, solar ovens, generators, turbines).

E. Describe constraints to the design of the device which converts one form of energy into another form of energy (e.g., cost or efficiency of energy conversion).

F. Identify the temperatures of two liquids of different temperature before mixing and after combining to show uniform energy distribution.

G. Investigate the transfer of thermal energy when two substances are combined within a closed system.

H. Identify the relationship between increasing energy demand and the technologies developed to meet these needs.

I. Identify an alternative energy system with minimal social and environmental consequences.

J. Evaluate a claim about nuclear energy as an alternative source of energy as opposed to other forms of energy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1433 (August 2018).

### **Subchapter L. Physics**

#### **§9768. Motion and Stability: Forces and Interactions**

A. Predict changes in the motion of a macroscopic object, such as a falling object, an object rolling down a ramp, or a moving object being pulled by a constant force using data (e.g., tables or graphs of position or velocity as a function of time for an object subject to a net unbalanced force).

B. Identify an example of the law of conservation of momentum (e.g., in a collision, the momentum change of an object is equal to and opposite of the momentum change of the other object) represented using graphical or visual displays (e.g., pictures, pictographs, drawings, written observations, tables, charts).

C. Evaluate a device (e.g., football helmet or a parachute) designed to minimize force by comparing data (i.e., momentum, mass, velocity, force, or time).

D. Use Newton's law of universal gravitation as a mathematical model to qualitatively describe or predict the effects of gravitational forces in systems with two objects.

E. Use Coulomb's law to qualitatively describe or predict the electrostatic forces in systems with two objects.

F. Identify situations and provide evidence where an electric current is producing a magnetic field.

G. Identify situations and provide evidence where a magnetic field is producing an electric current.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1434 (August 2018).

#### **§9769. Energy**

A. Identify a model showing the change in the energy of one component in a system compared to the change in energy of another component in the system.

B. Identify a model showing the change in energy of one component in a system when the change in energy of the other component(s) and energy flows in and out of the system are known.

C. Identify that two factors, an object's mass and height above the ground, affect gravitational potential energy (i.e., energy stored due to position of an object above Earth) at the macroscopic level.

D. Identify that the mass of an object and its speed determine the amount of kinetic energy the object possesses.

E. Identify the forms of energy that will be converted by a device that converts one form of energy into another form of energy.

F. Identify steps in a model of a device showing the transformations of energy that occur (e.g., solar cells, solar ovens, generators, turbines).

G. Describe constraints to the design of the device which converts one form of energy into another form of energy (e.g., cost or efficiency of energy conversion).

H. Identify the temperatures of two liquids of different temperature before mixing and after combining to show uniform energy distribution.

I. Investigate the transfer of thermal energy when two substances are combined within a closed system.

J. Use a model to identify the cause and effect relationships between forces produced by electric or magnetic fields and the change of energy of the objects in the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1434 (August 2018).

### **§9770. Waves and Their Applications in Technologies for Information Transfer**

A. Qualitatively describe cause and effect relationships between changes in wave speed and type of media through which the wave travels using mathematical and graphical representations.

B. Identify examples that illustrate the relationship between the frequency and wavelength of a wave.

C. Identify evidence that the speed of a wave depends on the media through which it travels.

D. Identify a model or description of electromagnetic radiation as a wave model.

E. Identify a model or description of electromagnetic radiation as a particle model.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1434 (August 2018).

### **Subchapter M. Earth Science**

#### **§9771. Earth's Place in the Universe**

A. Describe components of a model illustrating that the sun shines because of nuclear fusion reactions which release light and heat energy which make life on Earth possible.

B. Communicate by using models that solar activity creates elements through nuclear fusion.

C. Recognize that objects in the solar system orbit the sun and have an orderly motion (e.g., elliptical paths around the sun).

D. Relate Earth's orbital characteristics to other bodies in the solar system.

E. Use a mathematical or computational representation to predict the motion of orbiting objects in the solar system.

F. Explain the relationship between the motion of continental plates and how materials of different ages are arranged on Earth's surface.

G. Relate/evaluate evidence of past and/or current movements in Earth's crust (plate tectonics) with the ages of crustal rocks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1434 (August 2018).

### **§9772. History of Earth**

A. Identify ancient Earth materials, lunar rocks, asteroids, and meteorites as sources of evidence scientists use to understand Earth's early history.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1435 (August 2018).

### **§9773. Space Systems**

A. Identify that the universe is expanding and must have been smaller in the past based on astronomical evidence (i.e., light spectra, motion of distant galaxies, and composition of matter in the universe).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1435 (August 2018).

### **§9774. Earth's Systems**

A. Use a model of Earth to identify that the motion of the mantle and its plates occurs primarily through thermal convection, which is primarily driven by radioactive decay within Earth's interior.

B. Identify relationships, using a model, of how the Earth's surface is a complex and dynamic set of interconnected systems (i.e., geosphere, hydrosphere, atmosphere, and biosphere).

C. Use a model of Earth to identify that the motion of the mantle and its plates occurs primarily through thermal convection, which is primarily driven by radioactive decay within Earth's interior.

D. Identify different causes of climate change and results of those changes with respect to the Earth's surface temperatures, precipitation patterns or sea levels over a wide range of temporal and spatial scales using a model.

E. Identify a connection between the properties of water and its effects on Earth materials.

F. Investigate the effects of water on Earth materials and/or surface processes.

G. Use a model of photosynthesis to identify that carbon is exchanged between living and nonliving systems.

H. Use a model of cellular respiration to identify that carbon is exchanged between living and nonliving systems.

I. Develop and/or use a quantitative model to identify relative amount of and/or the rate at which carbon is transferred among hydrosphere, atmosphere, geosphere, and biosphere.

J. Identify examples of coevolution of Earth's systems and the evolution of life on Earth.

K. Identify evidence (e.g., causal links and/or feedback mechanisms between changes in the biosphere and changes in Earth's other systems) in an argument that there is simultaneous coevolution of Earth's systems and life on Earth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1435 (August 2018).

### **§9775. Human Sustainability**

A. Explain the relationship between human activity (e.g., population size, where humans live, types of crops grown) and changes in the amounts of natural resources using evidence.

B. Explain the relationship between human activity (e.g., population size, where humans live, types of crops grown) and changes in the occurrence of natural hazards using evidence.

C. Identify a solution that demonstrates the most preferred cost-benefit ratios for developing, managing, and utilizing energy and mineral resources (i.e., conservation, recycling, and reuse of resources).

D. Compare design solutions for developing, managing, and/or utilizing energy or mineral resources.

E. Use numerical data to determine the effects of a conservation strategy to manage natural resources and to sustain human society and plant and animal life.

F. Connect a technological solution (e.g., wet scrubber; baghouse) to its outcome (e.g., clean air) and its outcome to the human activity impact that it is reducing (e.g., air pollution).

G. Use geoscience data to determine the relationship between a change in climate (e.g., precipitation, temperature) and its impact in a region.

H. Use representations to describe the relationships among Earth systems and how those relationships are being modified due to human activity (e.g., increase in atmospheric carbon dioxide, increase in ocean acidification, effects on organisms in the ocean (coral reef), carbon cycle of the ocean, possible effects on marine populations).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1435 (August 2018).

### **Subchapter N. Life Science**

#### **§9776. From Molecules to Organisms: Structures and Processes**

A. Relate DNA molecules to the way cells store and use information to guide their functions.

B. Relate groups of specialized cells (e.g., heart cells, nerve cells, muscle cells, epithelial cells, fat cells, blood cells) within organisms to the performance of essential functions of life.

C. Identify evidence supporting an explanation of how a substance called DNA carries genetic information in all organisms which codes for the proteins that are essential to an organism.

D. Using model(s), identify that different systems of the body carry out essential functions (e.g., digestive system, respiratory system, circulatory system, nervous system).

E. Using model(s), identify the hierarchical organization of systems that perform specific functions within multicellular organisms.

F. Identify how different organisms react (e.g., heart rate, body temperature) to changes in their external environment.

G. Identify examples of how organisms use feedback mechanisms to maintain dynamic homeostasis.

H. Identify how growth and/or maintenance (repair/replacement) occurs when cells multiply (i.e., mitosis) using a model.

I. Identify model of photosynthesis, which shows the conversion of light energy to stored chemical energy.

J. Using a model(s), identify how organisms take in matter and rearrange the atoms in chemical reactions to form different products allowing for growth and maintenance.

K. Using a model(s), identify respiration as the transfer of stored energy to the cell to sustain life's processes (i.e., energy to muscles or energy for maintaining body temperature).

L. Identify the process by which a virus uses a host cell's functions to make new viruses.

M. Recognize that most bacteria reproduce asexually resulting in two cells exactly like the parent cell.

N. Identify ways to protect against infectious diseases to maintain a body's health (e.g., eat nutritious food, washing hands, rest, exercise, etc.).

O. Identify treatments and/or prevention of viral and/or bacterial infections (e.g., antibiotics and vaccines).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1435 (August 2018).

### **§9777. Ecosystems: Interactions, Energy and Dynamics**

A. Recognize that the carrying capacities of ecosystems are related to the availability of living and nonliving resources and challenges (e.g., predation, competition, disease).

B. Use a graphical representation to identify carrying capacities in ecosystems as limits to the numbers of organisms or populations they can support.

C. Use a graphical or mathematical representation to identify the changes in the amount of matter as it travels through a food web.

D. Use a graphical or mathematical representation to identify the changes in the amount of energy as it travels through a food web.

E. Use evidence to identify how modest biological or physical changes versus extreme changes affect stability and change (e.g., number and types of organisms) in ecosystems.

F. Evaluate explanations of how living things in an ecosystem are affected by changes in the environment (e.g., changes to the food supply, climate change, or the introduction of predators).

G. Evaluate explanations of how interactions in ecosystems maintain relatively stable conditions, but changing conditions may result in a new ecosystem.

H. Describe how people can help protect the Earth's environment and biodiversity (e.g., preserving ecosystems) and how a human activity would threaten Earth's environment and biodiversity (e.g., pollution, damaging habitats, over hunting).

I. Evaluate or refine a solution to changes in an ecosystem (biodiversity) resulting from a human activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1436 (August 2018).

### **§9778. Heredity: Inheritance and Variation of Traits**

A. Identify that DNA molecules in all cells contain the instructions for traits passed from parents to offspring.

B. Identify appropriate questions about the relationships between DNA and chromosomes and how traits are passed from parents to offspring.

C. Identify a model showing evidence that parents and offspring may have different traits.

D. Identify that meiosis is a process which distributes genetic material among the new cells (i.e., gametes) produced, which results in genetic variation.

E. Identify that when DNA makes a copy of itself, sometimes errors occur that may lead to genetic variations.

F. Identify examples of mutations in DNA caused by environmental factors.

G. Use evidence to support a claim about a source of inheritable genetic variations.

H. Calculate the probability (e.g., two out of four) of a particular trait in an offspring based on a completed Punnett square.

I. Identify examples, using data, of environmental factors which affect the expression of traits, and so then affect the probability of occurrences of traits in a population.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1436 (August 2018).

### **§9779. Biological Evolution: Unity and Diversity**

A. Identify patterns (e.g., DNA sequences, fossil records) as evidence to a claim of common ancestry.

B. Recognize that as a species grows in number, competition for limited resources also increases.

C. Recognize that different individuals have specific traits that give advantages (e.g., survive and reproduce at higher rates) over other individuals in the species.

D. Identify how evolution may be a result of genetic variation through mutations and sexual reproduction in a species that is passed on to their offspring.

E. Use patterns in data to identify how heritable variations in a trait may lead to an increasing proportion of individuals within a population with that trait (i.e., an advantageous characteristic).

F. Use data to provide evidence for how specific biotic or abiotic differences in ecosystems (e.g., ranges of seasonal temperature, acidity, light, geographic barriers) support the claim that organisms with an advantageous heritable trait are better able to survive over time.

G. Identify the relationship between naturally occurring or human-induced changes in the environment (e.g., drought, flood, deforestation, fishing, application of fertilizers) and the expression of traits in a species (e.g., peppered moth studies).

H. Identify the relationship between naturally occurring or human-induced changes in the environment (e.g., drought, flood, deforestation, fishing, application of fertilizers) and the emergence of new species over time.

I. Identify that species become extinct because they can no longer survive and reproduce given changes in the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1436 (August 2018).

### **Subchapter O. Environmental Science**

#### **§9780. Resources and Resource Management**

A. Identify factors (e.g., human activity, population size, types of crops grown) that affect sustainable development in Louisiana.

B. Identify factors (e.g., human activity, population size, types of crops grown) that affect natural resource management in Louisiana.

C. Identify the effectiveness of management practices for one of Louisiana's natural resources related to social factors over the past 50 years.

D. Identify the effectiveness of management practices for one of Louisiana's natural resources related to economic factors over the past 50 years.

E. Identify the effectiveness of management practices for one of Louisiana's natural resources related to technological factors over the past 50 years.

F. Identify the effectiveness of management practices for one of Louisiana's natural resources related to political factors over the past 50 years.

G. Identify the risk-benefit values of implemented actions using data for selected environmental issues.

H. Identify the risk-benefit values of implemented practices using data for selected environmental issues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1436 (August 2018).

### **§9781. Environmental Awareness and Protection**

A. Use data or qualitative scientific and technical information to evaluate a solution to limit a non-point source pollution (e.g., land or urban runoff, abandoned mines) into state waterways.

B. Recognize the relationship between pollution and its effect on an organism's population size.

C. Predict the effects that pollution as a limiting factor has on an organism's population density using a model (e.g., mathematical, diagrams, simulations).

D. Evaluate evidence supporting an argument regarding negative impacts of introduced organisms (e.g., zebra mussel, fire ant, nutria) have on Louisiana's native species.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1437 (August 2018).

### **§9782. Personal Responsibilities**

A. Evaluate evidence supporting the positive consequences of using disposable resources versus reusable resources.

B. Evaluate evidence supporting the negative consequences of using disposable resources versus reusable resources.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1437 (August 2018).

### **§9783. Earth's Systems**

A. Identify relationships, using a model, of how the Earth's surface is a complex and dynamic set of interconnected systems (i.e., geosphere, hydrosphere, atmosphere, and biosphere).

B. Identify different causes of climate change and results of those changes with respect to the Earth's surface temperatures, precipitation patterns or sea levels over a wide range of temporal and spatial scales using a model.

C. Identify a connection between the properties of water and its effects on Earth materials.

D. Investigate the effects of water on Earth materials and/or surface processes.

E. Use a model of photosynthesis to identify that carbon is exchanged between living and nonliving systems.

F. Use a model of cellular respiration to identify that carbon is exchanged between living and nonliving systems.

G. Develop and/or use a quantitative model to identify relative amount of and/or the rate at which carbon is transferred among hydrosphere, atmosphere, geosphere, and biosphere.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1437 (August 2018).

### **§9784. Human Sustainability**

A. Explain the relationship between human activity (e.g., population size, where humans live, types of crops grown) and changes in the amounts of natural resources using evidence.

B. Explain the relationship between human activity (e.g., population size, where humans live, types of crops grown) and changes in the occurrence of natural hazards using evidence.

C. Identify a solution that demonstrates the most preferred cost-benefit ratios for developing, managing, and utilizing energy and mineral resources (i.e., conservation, recycling, and reuse of resources).

D. Compare design solutions for developing, managing, and/or utilizing energy or mineral resources.

E. Use numerical data to determine the effects of a conservation strategy to manage natural resources and to sustain human society and plant and animal life.

F. Connect a technological solution (e.g., wet scrubber; baghouse) to its outcome (e.g., clean air) and its outcome to the human activity impact that it is reducing (e.g., air pollution).

G. Use representations to describe the relationships among Earth systems and how those relationships are being modified due to human activity (e.g., increase in atmospheric carbon dioxide, increase in ocean acidification, effects on organisms in the ocean (coral reef), carbon cycle of the ocean, possible effects on marine populations).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1437 (August 2018).

### **§9785. Ecosystems: Interactions, Energy and Dynamics**

A. Recognize that the carrying capacities of ecosystems are related to the availability of living and nonliving resources and challenges (e.g., predation, competition, disease).

B. Use a graphical representation to identify carrying capacities in ecosystems as limits to the numbers of organisms or populations they can support.

C. Use a graphical or mathematical representation to identify the changes in the amount of matter as it travels through a food web.

D. Use a graphical or mathematical representation to identify the changes in the amount of energy as it travels through a food web.

E. Use evidence to identify how modest biological or physical changes versus extreme changes affect stability and change (e.g., number and types of organisms) in ecosystems.

F. Evaluate explanations of how living things in an ecosystem are affected by changes in the environment (e.g., changes to the food supply, climate change, or the introduction of predators).

G. Evaluate explanations of how interactions in ecosystems maintain relatively stable conditions, but changing conditions may result in a new ecosystem.

H. Describe how people can help protect the Earth's environment and biodiversity (e.g., preserving ecosystems) and how a human activity would threaten Earth's environment and biodiversity (e.g., pollution, damaging habitats, over hunting).

I. Evaluate or refine a solution to changes in an ecosystem (biodiversity) resulting from a human activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1437 (August 2018).

Shan N. Davis  
Executive Director

1808#029

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 140—Louisiana Early Childhood Care and Education Network (LAC 28:XCI.103, 307, 313, Chapter 5, 703, and 705)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 140—Louisiana Early Childhood Care and Education Network*.

The amendments ensure one organization within each local community network coordinates across programs (childcare, Head Start, school-based pre-K), and define organization responsibilities, set clear expectations for implementation of coordinated enrollment as required by Act 717 of the 2014 Regular Legislative Session, and establish processes to ensure fairness and equity for providers and families; and establish a unified quality rating and improvement system that specifies how programs and community networks are evaluated, and establishes processes for fairness and equity for programs. This Rule is hereby adopted on the day of promulgation.

**Title 28**

**EDUCATION**

**Part CLXVII. Bulletin 140—Louisiana Early Childhood Care and Education Network**

**Chapter 1. General Provisions**

**§103. Definitions**

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*At-Risk*—children are considered at-risk if they have any of the characteristics listed in the definition of “economically disadvantaged” found in Title 28, Part I of the *Louisiana Administrative Code*, or they meet the definition of an “infant or toddler with a disability” found in 34 CFR §303.21 for children ages birth to three years or a “child

with a disability” found in 34 CFR §300.8 for children ages 3 and older.

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*EarlySteps Program*—program administered by the Louisiana Department of Health that provides early intervention services for infants and toddlers with disabilities ages birth to three years and their families according to the requirements of the Individuals with Disabilities Education Act (IDEA), part C.

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*Individuals with Disabilities Education Act (IDEA), Part C*—federal program administered by the Louisiana Department of Health that provides early intervention services for infants and toddlers with disabilities ages birth to three years and their families to meet the developmental needs as identified by the individualized family services plan. See *EarlySteps Program*.

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*NSECD*—Nonpublic Early Childhood Development Program.

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*Publicly-Funded Children*—children ages birth to five years who have not yet entered kindergarten that are being served full-day with funds from either CCAP, Early Head Start, Head Start, LA 4 Program, NSECD, 8(g) block grant, title 1 of ESSA, other local, state, or federal funds, or IDEA part B in a full-day setting.

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*Publicly-Funded Early Childhood Care and Education Program*—an early learning center-based or school-based organization that is providing early childhood care and education to children ages birth to five years who have not yet entered kindergarten with funds from either CCAP, Early Head Start, Head Start, NSECD, LA 4 Program, 8(g) block grant, title 1 of ESSA or IDEA part B, other local, state, or federal funds, or that is authorized to receive CCAP, or that participates in the quality start child care rating system.

*Publicly-Funded Early Childhood Care and Education Site*—a distinct early learning center-based or school-based location that is providing early childhood care and education to children ages birth to five years who have not yet entered kindergarten in a full-day setting with funds from either CCAP, Early Head Start, Head Start, NSECD, LA 4 Program, 8(g) block grant, title 1 of ESSA or IDEA part B, other local, state, or federal funds, or that is authorized to receive CCAP, or that participates in the quality start child care rating system.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.23 and R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2580 (December 2015), amended LR 42:1871 (November 2016), LR 44:1438 (August 2018).

**Chapter 3. Early Childhood Care and Education Network**

**§307. Publicly-Funded Early Childhood Care and Education Programs and Community Networks**

A. - A.1.c. ...

2. Any publicly-funded program that does not comply with Paragraph A.1 of this Section may be subject to the loss of its public funding.

B. - B.1.f. ...



AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2582 (December 2015), amended LR 44:1438 (August 2018).

**§313. Academic Approval for Type III Early Learning Centers**

A. - D.2. ...

3. Renewal of Academic Approval. Academic approval shall be renewed annually for any non-full-day type III early learning center if the center:

- a. has current academic approval;
- b. is in compliance with any corrective action plans required by the department in accordance with this Section; and
- c. has submitted a signed copy of the current annual program partner assurances for non-full-day type III early learning centers to the department prior to July 1, or as requested by the department, whichever occurs earlier.

E. - F.1.a.i.(c). ...

ii. all lead teachers at the center:

(a). have an early childhood ancillary certificate or other traditional teaching certification issued by the BESE; or

(b). are in the process of completing training that will lead to the early childhood ancillary certificate and will have obtained an early childhood ancillary certificate by BESE within 24 months of the state date as a lead teacher;

iii. a minimum of 20 hours a week of care for every classroom providing full-day care in a publicly-funded site will be provided by a lead teacher or lead teachers that:

(a). have an early childhood ancillary certificate or other traditional teaching certification issued by BESE; or

(b). are in the process of completing training that will lead to the early childhood ancillary certificate and will have obtained an early childhood ancillary certificate issued by BESE within 24 months of start date as a lead teacher.

2. ...

G. Renewal of Academic Approval for Full-Day Type III Early Learning Centers for Fiscal Year 2018-2019

1. Academic approval shall be renewed annually for fiscal years 2018-2019 and beyond for any full-day type III early learning center that:

- a. has current academic approval;
- b. is in compliance with the provisions of this bulletin;
- c. has not had two unsatisfactory performance ratings within any consecutive three school years; and
- d. has submitted a signed copy of the current annual program partner assurances for full-day type III early learning centers to the department, and is thereby agreeing to comply with the provisions of this bulletin, which include:

i. membership in the corresponding community network, as provided in Chapter 3 of this Part;

ii. participation in the early childhood care and education accountability system, as provided in Chapter 5 of this Part; and

iii. participation in the coordinated enrollment process, as provided in Chapter 7 of this Part.

2. Full-day type III early learning centers shall annually submit a signed copy of annual program partner assurances for full-day type III early learning centers to the

department prior to July 1, or as requested by the department, whichever is earlier.

H. Renewal of Academic Approval for Full-Day Type III Early Learning Centers for Fiscal Years 2019-2020 and Beyond

1. Academic approval shall be renewed annually for fiscal years 2019-2020 and beyond for any full-day type III early learning center that:

a. has current academic approval;

b. is in compliance with the provisions of this bulletin;

c. has not had two unsatisfactory performance ratings within any consecutive three school years; and

d. has submitted a signed copy of the current annual program partner assurances for full-day early learning centers to the department, thereby certifying that:

i. the center will comply with the provisions of this bulletin, which include:

(a). membership in the corresponding community network, as provided in Chapter 3 of this Part;

(b). participation in the early childhood care and education accountability system, as provided in Chapter 5 of this Part; and

(c). participation in the coordinated enrollment process, as provided in Chapter 7 of this Part; and

ii. all lead teachers at the center:

(a). have an early childhood ancillary certificate or other traditional teaching certification issued by BESE; or

(b). are in the process of completing training that will lead to the early childhood ancillary certificate and will have obtained an early childhood ancillary certificate issued by BESE within 24 months of start date as a lead teacher;

iii. a minimum of 20 hours a week of care for every classroom providing full-day care in a publicly-funded site will be provided by a lead teacher or lead teachers that:

(a). have an early childhood ancillary certificate or other traditional teaching certification issued by BESE; or

(b). are in the process of completing training that will lead to the early childhood ancillary certificate and will have obtained an early childhood ancillary certificate issued by BESE within 24 months of the start date as a lead teacher.

2. Full-day type III early learning centers shall annually submit a signed copy of annual program partner assurances for full-day type III early learning centers to the department prior to July 1, or as requested by the department, whichever occurs earlier.

I. A center that has its academic approval terminated may not apply for academic approval for the fiscal year in which academic approval was terminated or the following fiscal year.

J. Academic approval shall be valid for the fiscal year, July 1-June 30, for which it is granted.

K. Academic approval is granted to a specific owner and a specific location and is not transferable. If a type III early learning center changes owners or location, it is considered a new operation, and academic approval for the new owner or location must be obtained prior to beginning operations under new ownership or at the new location.

L. Upon a change of ownership or change of location, the academic approval granted to the original owner or at the original location becomes null and void.

M. Renewal

1. Prior to July 1 of each year, the department shall send notice to each type III early learning center that has academic approval providing one of the following:

- a. renewal of academic approval for the center;
- b. notice of the center's failure to comply with specific requirements in Subsection A of this Section and specific corrective actions that must be taken by a specified date in order for academic approval to be renewed; or
- c. if an early learning center has received the notice outlined in Subparagraph N.2.a of this Section within the academic year and the center has not provided the required certifications and completed the stated corrective actions, the department may terminate the center's academic approval as provided in Subparagraph N.2.c of this Section and send notice of termination of the center's academic approval.

**N. Denial, Termination or Refusal to Renew Academic Approval**

1. The department may deny, terminate, or refuse to renew academic approval for:

- a. violations of any provisions of this bulletin;
- b. failure to timely comply with a corrective action plan provided by the department;
- c. any act of fraud, such as the submission of false or altered documents or information;
- d. failure to timely submit a signed copy of the annual program partner assurances;
- e. two unsatisfactory performance ratings within any consecutive three school years; or
- f. failure to participate in the early childhood school or center improvement planning process, as required by §512 of this bulletin.

**2. Notice**

a. If a type III early learning center is in violation of any provision of this bulletin, the department shall notify the center in writing and may specify any corrective actions in a corrective action plan that shall be required to retain academic approval.

b. Within 30 calendar days of receiving such notice, the center shall submit certification in writing to the department that the corrective actions specified in the corrective action plan have been taken or are in the process of being taken in compliance with the schedule provided in the corrective action plan and certification that the center will remain in compliance with the corrective action plan and all applicable regulations.

c. If the type III early learning center does not respond in a timely or satisfactory manner to the notice and corrective action plan or adhere to the implementation schedule required in the corrective action plan, the department may terminate or refuse to renew the center's academic approval.

d. The department shall provide written notice of denial, termination or refusal to renew academic approval to the center.

e. The denial, termination or refusal to renew a center's academic approval shall be effective when notice of the denial, termination, or refusal to renew is given.

**O. Appeal Procedure**

1. BESE shall have the authority to grant an appeal of the denial, termination or refusal to renew academic approval for a type III early learning center.

2. The appeal procedure shall be used when needed to address unforeseen and aberrant factors impacting type III early learning centers or when needed to address issues that arise when the literal application of the academic approval regulations does not consider certain unforeseen and unusual circumstances.

3. A type III early learning center may request an appeal of the denial, termination, or refusal to renew its academic approval by submitting a written request for an appeal to the department within 15 calendar days of being given notice of the denial, termination, or refusal to renew its academic approval.

4. All appeal requests shall clearly state the specific reasons for requesting the appeal and the reasons why the appeal should be granted and shall include any necessary supporting documentation.

5. The department shall review all timely submitted appeal requests and make recommendations to BESE during the first regularly scheduled BESE meeting following receipt of the appeal requests, or during the second regularly scheduled BESE meeting if an appeal request is received within 10 working days of the next regularly scheduled BESE meeting. Within this interval, the department shall notify the center of its recommendation and allow the center to respond in writing. The department's recommendation and the center's response shall be submitted to BESE for final disposition.

6. An early learning center that appeals the termination or refusal to renew its academic approval shall retain its academic approval during the appeal process.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:407.36(C) and R.S. 17:407.21 et seq.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:2584 (December 2015), amended LR 42:1871 (November 2016), LR 43:2129 (November 2017), LR 44:1439 (August 2018).

**Chapter 5. Early Childhood Care and Education  
Accountability System**

**§503. Coordinated Observation Plan and Observation Requirements**

A. ...

B. **CLASS®** Observation Requirements

1. A **CLASS®** observation is an observation of the typical experiences of children in a classroom using the appropriate toddler or pre-K **CLASS®** using all domains, typically occurring during the morning, in which a reliable observer conducts four 20-minute cycles of observation and note-taking followed by at least 10 minutes of scoring after each observation cycle.

2. - 3.c. ...

d. **Infant Classrooms**

i. For the 2018-2019 school year, all infant classrooms in a publicly-funded site shall be reported to the department as part of the community network's count of classrooms, and may conduct or allow local or third-party observations as practice.

ii. For the 2019-2020 school year, all infant classrooms in a publicly-funded site shall receive two **CLASS®** observations during the school year conducted by the community network, but the observations shall not be included in the performance ratings for the 2019-2020 school year.

(a). One observation shall occur during the fall observation period, if the classroom is in existence on October 1, and the other shall occur during the spring observation period, if the classroom is in existence on February 1.

(b). *CLASS*<sup>®</sup> observations conducted by third-party contractors hired by the department shall not count towards this requirement.

iii. For the 2020-2021 school year and beyond, all infant classrooms in a publicly-funded site shall receive two *CLASS*<sup>®</sup> observations during the school year conducted by the community network.

(a). One observation shall occur during the fall observation period, if the classroom is in existence on October 1, and the other shall occur during the spring observation period, if the classroom is in existence on February 1.

(b). *CLASS*<sup>®</sup> observations conducted by third-party contractors hired by the department shall not count towards this requirement.

4. Use of Infant, Toddler, or Pre-K *CLASS*<sup>®</sup>. Classrooms shall be observed with the same *CLASS*<sup>®</sup> throughout the school year based on the composition of the classroom when the observation plan required in Subsection C of this Section is submitted according to the following:

a. a classroom that only has infant children or a classroom that has a mix of infant and toddler children in which a majority are infant children shall be observed with the infant *CLASS*<sup>®</sup>;

b. a classroom that has all toddler children or a classroom that has a mix of infant and toddler children in which the majority or at least half are toddler children shall be observed with the toddler *CLASS*<sup>®</sup>;

c. a classroom that has all pre-K children or a classroom that has a mix of toddler and Pre-K children in which the majority or at least half are pre-K children shall be observed with the pre-K *CLASS*<sup>®</sup>;

d. a classroom that has a mix of pre-K and kindergarten age children shall be observed using the pre-K *CLASS*<sup>®</sup> when either the majority of the class is pre-K or if the classroom receives early childhood funding;

e. a classroom that is a mix of infant, toddler, and pre-K children shall be observed using the tool appropriate for the majority of the class. If there is a no clear majority among the three age groups, the toddler tool shall be used.

5. - 5.b. ...

c. At the end of the school year, for observations conducted by a community network observer that have been compared to domain-level results conducted by the department's third-party contractors within the same community network, if 50 percent or more of the domain-level results are different by more than one point for the community network observer over the course of the school year, the department may determine that the community network observer shall not be able to conduct observations for that community network for the next observation period.

c.i. - d. ...

#### C. Coordinated Observation Plan

1. Local Protocol. Each community network shall develop and maintain, no later than September 30 of each year, a written local protocol for coordinated observation using *CLASS*<sup>®</sup> that at a minimum includes:

a. ...

b. a plan to ensure reliable data that includes the following requirements:

i. all observers are reliable, which is defined as all observers having a certification achieved by completing and passing all trainings and assessments required by Teachstone to conduct a *CLASS*<sup>®</sup> observation with validity and fidelity;

ii. all observers maintain inter-rater reliability and fidelity. Inter-rater reliability occurs when two or more observers produce consistent observation results for the same classroom at the same time;

iii. the community network conducts inter-rater reliability observation checks for 10 percent of all classrooms observed during the fall observation period and for 10 percent of all classrooms observed during the spring observation period, and that these reliability observation checks include every observer for the community network at least once annually; and

iv. no observer shall conduct an observation in which the observer is an immediate family member, as defined in R.S. 42:1102, of a teacher in the classroom being observed or an immediate family member of an individual who supervises or provides training or technical assistance to a teacher in the classroom being observed or has a direct financial interest in the site where the classroom is being observed.

#### 2. Observation Schedule

a. In 2018-2019, each community network shall submit an observation schedule that includes two observations for each toddler and pre-K classroom identified in Paragraph B.3 of this Section.

b. In 2019-2020 and beyond, each community network shall submit an observation schedule that includes two observations for each infant, toddler, and pre-K classroom identified in Paragraph B.3.b, with one observation scheduled during the fall observation period and one during the spring observation period.

#### 3. Submission of Observation Schedules

a. For the fall observation period, the observation schedule must be submitted to the department by October 1 unless otherwise specified by the department.

b. For the spring observation period, the observation schedule must be submitted to the department by February 1 unless otherwise specified by the department.

c. Lead agencies may alter these schedules after submission as required by local circumstances, or in order to complete local observations around the same time as third-party observations.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2586 (December 2015), amended LR 42:1872 (November 2016), LR 43:2131 (November 2017), LR 44:1440 (August 2018).

#### §507. Performance Profile Implementation Timeline

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2587 (December 2015), repealed LR 44:1441 (August 2018).

**§509. Performance Rating Calculations for Publicly-Funded Sites**

**A. Performance Rating**

1. For the 2018-2019 and 2019-2020 school years, the performance rating for each publicly-funded site shall be based on the average of the dimension-level toddler and pre-K observation results from the fall and spring observation periods for all toddler and pre-K classrooms within the site, excluding the negative climate dimension.

2. For 2020-2021 school year and beyond, the performance rating for each publicly-funded site shall be based on the average of the dimension-level infant, toddler, and pre-K observation results from the fall and spring observation periods for all infant, toddler, and pre-K classrooms within the site, excluding the negative climate dimensions.

3. BESE may include a weight for improvement beginning with the 2016-2017 school year.

4. Sites that have classrooms that receive a score of 3.5 or above for the negative climate dimension shall receive a notice in writing at the end of the observation period in which they received that score. If a site receives a notice for two consecutive observation periods, an indicator of high negative climate may be reported on the performance profile.

**B. - C.2. ...**

a. Beginning with the 2016-2017 school year, if observation results conducted by community networks are consistently different by more than one point from observation results conducted by the department's third-party contractors, the department may replace all of the community network's observation results for a publicly-funded site with the results from the department's third-party contractors, including those results that do not differ by at least one point.

D. The performance rating for each site shall be based on the following numerical scale:

1. 6.0-7.0—excellent;
2. 5.25-5.99—high proficient;
3. 4.50-5.24—proficient;
4. 3.0-4.49—approaching proficient;
5. 1.0-2.99—unsatisfactory.

**E. - G. ...**

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2587 (December 2015), amended LR 42:1873 (November 2016), LR 44:1442 (August 2018).

**§511. Performance Rating Calculations for Community Networks**

**A. - B.2.b. ...**

i. For every year after the 2015-2016 school year, if the observation results conducted by a community network are consistently different by more than one point from observation results conducted by the department's third-party contractor, the department may replace all of the community network's observation results for a publicly-funded site with the results from the department's third-party contractor for that site, including those results that do not differ by at least one point.

**ii. ...**

C. The equitable access score performance rating shall be determined by calculating the access achieved by the community network for all at-risk four-year-old children in the community network coverage area. Points are earned on a four-level rating scale according to:

Percentage of At-Risk Four-Year-Olds Served	Rating
95-100 percent	Excellent
85 - 94.99 percent	High Proficient
75-84.99 percent	Proficient
65-79.99 percent	Approaching Proficient
0-64.99 percent	Unsatisfactory

D. The CLASS® observation results performance rating for each community network shall be based on the following numerical scale:

1. 6.0-7.0—excellent;
2. 5.25-5.99—high proficient;
3. 4.50-5.24—proficient;
4. 3.0-4.49—approaching proficient;
5. 1.0-2.99—unsatisfactory.

**E. - H. ...**

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2588 (December 2015), amended LR 42:1874 (November 2016), LR 44:1442 (August 2018).

**§512. Performance Ratings for Publicly-Funded Sites**

**A. - A.3. ...**

B. Early Childhood School or Center Improvement Planning Process

1. Beginning with the 2018-2019 school year, publicly-funded sites rated below 3.75 for the previous year shall participate in an early childhood school or center improvement planning process. At a minimum, sites must:

- a. develop and submit a plan for school or center improvement in consultation with the department;
- b. implement the plan for school or center improvement and allow for regular monitoring of implementation by the department; and
- c. provide any reports or information related to the plan for school or center improvement as requested by the department.

C. Rewards and Recognition

1. Beginning in the 2016-2017 school year, sites and community networks that are rated "excellent" shall be included in an annual honor roll published by the department and be eligible for financial rewards, as funds are available and as determined by the department.

2. No later than the 2017-2018 school year, sites and community networks that demonstrate significant improvement in their overall score or rating shall be labeled "top gains" on their performance profile and be eligible for financial rewards, as funds are available and as determined by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1874 (November 2016), amended LR 44:1442 (August 2018).

**§515. Reporting for the Accountability System**

A. - A.4. ...

B. Publicly-funded sites shall report to the department by October 31 for all classrooms in existence on October 1 and by February 28 for classrooms opened between October 1 and February 1, in the manner specified by the department, the following:

1. - 2. ...

3. credential and certification status of one lead teacher per classroom; and

4. ...

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2589 (December 2015), amended LR 42:1875 (November 2016), LR 44:1443 (August 2018).

**§517. Data Verification**

A. - B.3. ...

4. Data corrections for CLASS® scores may only be submitted for the following reasons:

B.4.a. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2590 (December 2015), amended LR 42:1876 (November 2016), LR 44:1443 (August 2018).

**§523. Disaster Consideration for Programs and Community Networks**

A. - B. ...

C. Severe impact sites and severe impact community networks may qualify for a waiver for up to one school year from participation in the accountability system.

1. A severe impact site or severe impact community network that is not open or operational for at least one of the observation periods during the school year may qualify for a waiver from participation in the accountability system for up to that one observation period.

2. A severe impact site or severe impact community network that is not open or operational during both observation periods during the school year in which the disaster occurred may qualify for a waiver for the school year.

3. BESE shall not issue a performance profile for any severe impact site or severe impact community network that is not open or operational during both observation periods of the school year in which the disaster occurred unless the site or community network requests that the performance profile be issued. BESE may extend such site or community network' performance rating and score from the previous year.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2591 (December 2015), amended LR 44:1443 (August 2018).

**Chapter 7. Coordinated Enrollment**

**§703. Coordinated Enrollment Process**

A. - G.4. ...

5. Written notice of the process outlined in Paragraph 2 of this Subsection, as well as of the complaint process

described in LAC 28:CLXVII.311, and the appropriate contact information for the department, shall be made available to any parent or caregiver.

H. Community networks shall determine preliminary eligibility for families interested in CCAP during the coordinated eligibility determination as provided in Paragraph B.2 of this Section, and the department shall determine final eligibility for CCAP.

I. Prior to the start of the school year, BESE shall review this Chapter and revise as necessary based on learnings from the previous year. A work group of the Early Childhood Care and Education Advisory Council shall be formed to study the effectiveness of the coordinated enrollment process and make recommendations to the council and BESE for changes for implementation in the following school year. This research may include, but not be limited to, defining key indicators of effectiveness, conducting focus groups of all provider types, reviewing data on the placement of new early childhood seats opened statewide, and reviewing other available information. The department, with assent shown by vote of the advisory council, may decide in a given year that no review is needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407.91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2591 (December 2015), amended LR 42:1876 (November 2016), LR 44:1443 (August 2018).

**§705. Implementation Timeline**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407.91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2592 (December 2015), amended LR 42:1876 (November 2016), repealed LR 44:1443 (August 2018).

Shan N. Davis  
Executive Director

1808#031

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 741—Louisiana Handbook for School Administrators—Ancillary Areas of Instruction (LAC 28:CXV.2305)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*: §2305, Ancillary Areas of Instruction. The revisions are related to substance abuse prevention programs. This Rule is hereby adopted on the day of promulgation.

**Title 28  
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for School Administrators**

**Chapter 23. Curriculum and Instruction**

**Subchapter A. Standards and Curricula**

**§2305. Ancillary Areas of Instruction**

A. - E. ...

F. Each LEA shall include in the curriculum a program of substance abuse prevention, to include informational, effective, and counseling strategies, and information designed to reduce the likelihood that students shall injure themselves or others through the misuse and abuse of chemical substances.

1. The substance abuse prevention education programs and curricula shall also include procedures for identifying students who exhibit signs of misuse or abuse of such substances and procedures for referral for counseling or treatment.

2. - 3. ...

4. Such programs shall integrate an evidence-based, age-appropriate instructional component on opioid substance abuse prevention.

G. - K.1.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154, R.S. 17:261 et seq., R.S. 17:280, R.S. 17:281 et seq., R.S.17:404, R.S. 17:405 et seq., 36 USCS §106, R.S. 17:263, and R.S. 17:81.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1288 (June 2005), amended LR 33:2353 (November 2007), LR 39:2214 (August 2013), LR 39:3259 (December 2013), LR 40:2531 (December 2014), LR 44:1443 (August 2018).

Shan N. Davis  
Executive Director

1808#030

**RULE**

**Department of Environmental Quality  
Office of the Secretary  
Legal Affairs and Criminal Investigations Division**

Fee Increase (LAC 33:III.307 and V.5111)(MM020)

Editor's Note: Editor's Note: The following Sections are being repromulgated to correct codification errors. The original Rule can be viewed in its entirety on pages 1238-1242 of the July 20, 2018 edition of the *Louisiana Register*.

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the nonapplicable regulations, LAC 33:I.1203 and 1911; III.211, 223, 307, 309, and 319; V.5111, 5123 and 5139; and IX.1309 (MM020).

This Rule provides for miscellaneous amendments and corrections necessary for fee changes authorized by Act 451 of the 2016 Regular Legislative Session. This Act authorized certain fee increases, new fees and other changes to the regulations pertaining to fees. This Rule is required to correct errors found during the implementation of MM018, the original fee increase Rule. The basis and rationale for this Rule are to implement the fee changes authorized in Act 451 of the 2016 Regular Legislative Session. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule is hereby adopted on the day of promulgation.

**Title 33  
ENVIRONMENTAL QUALITY**

**Part III. Air**

**Chapter 3. Regulatory Permits**

**§307. Regulatory Permit for Oil and Gas Well Testing**

A. - F.3. ...

G. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit shall be \$500. There shall be no annual maintenance fee associated with this regulatory permit.

H. ...

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AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:457 (March 2009), amended by the Office of the Secretary, Legal Division, LR 43:942 (May 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:1898 (October 2017), LR 44:1240 (July 2018), repromulgated LR 44:1444 (August 2018).

**Part V. Hazardous Waste and Hazardous Materials**

**Subpart 1. Department of Environmental Quality—  
Hazardous Waste**

**Chapter 51. Fee Schedules**

**§511. Treaters, Storers, and/or Disposers Application**

**Fees**

A. The applicant is required to calculate the appropriate application fee and, if applicable, siting fee according to the schedule included in the permit application form. Payment shall be made in accordance with the requirements of LAC 33:V.5127.

**B. Application Fee Schedule**

Item	Fee
Site Analysis—per acre site size	\$413 <sup>1</sup>
Process and Plan Analysis	\$1,650
Facility Analysis—per unit <sup>2</sup>	\$825
Management/Financial Analysis	\$1,650

[Note: Fee equals total of the four items.]

<sup>1</sup> Up to 100 acres, no additional fee thereafter.

<sup>2</sup> Incinerator, land farm, treatment pond, etc., each counted as a unit.

C. - D. ...

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AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:318 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 18:724 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:288 (March 2001), LR 29:685 (May 2003), LR 29:2048 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 35:2179 (October 2009), amended by the Office of the Secretary, Legal Division, LR 43:943 (May 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1240 (July 2018), repromulgated LR 44:1444 (August 2018).

Herman Robinson  
General Counsel

1808#021

**RULE**

**Department of Health  
Bureau of Health Services Financing**

**Home and Community-Based Services Providers  
Licensing Standards (LAC 48:I.5043)**

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.5043 as authorized by R.S. 36:254 and R.S. 40:2120.2. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

**Title 48**

**PUBLIC HEALTH—GENERAL**

**Part I. General Administration**

**Subpart 3. Licensing and Certification**

**Chapter 50. Home and Community-Based Services  
Providers Licensing Standards**

**Subchapter D. Service Delivery**

**§5043. Contract Services**

A. - D. ...

E. Any HCBS provider that employs contractors, including independent contractors, shall ensure that such utilization complies with all state and federal laws, rules and/or regulations, including those enforced by the United States Department of Labor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:77 (January 2012), amended LR 41:2638 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2511 (December 2017), LR 44:1445 (August 2018).

Rebekah E. Gee MD, MPH  
Secretary

1808#051

**RULE**

**Department of Health  
Bureau of Health Services Financing**

**Inpatient Hospital Services  
Non-Rural, Non-State Hospitals  
Reimbursement Rate Increase  
(LAC 50:V.Chapter 9)**

The Department of Health, Bureau of Health Services Financing has amended LAC 50:V.Chapter 9 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. This Rule is hereby adopted on the day of promulgation.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part V. Hospital Services**

**Subpart 1. Inpatient Hospital Services**

**Chapter 9. Non-Rural, Non-State Hospitals**

**Subchapter B. Reimbursement Methodology**

**§953. Acute Care Hospitals**

A. - U.I. ...

V. Effective for dates of service on or after January 1, 2018, the inpatient per diem rate paid to acute care hospitals shall be increased by indexing to 56 percent of the small rural hospital prospective per diem rate in effect on January 1, 2017.

1. Acute care hospitals whose per diem rates as of January 1, 2017, excluding the graduate medical education portion of the per diem, are greater than 56 percent the January 1, 2017 small rural hospital rate shall not be increased.

2. Carve-out specialty units, nursery boarder, and well-baby services are excluded from these rate increases.

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 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895, 1896 (September 2009), repromulgated LR 35:2182 (October 2009), amended LR 36:1552 (July 2010), LR 36:2561 (November 2010), LR 37:2161 (July 2011), LR 39:3095 (November 2013), LR 39:3297 (December 2013), LR 40:312 (February 2014), repromulgated LR 40:1939, 1940 (October 2014), LR 41:133 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:963 (May 2017), amended LR 43:1389 (July 2017), amended LR 44:1445 (August 2018).

**§955. Long-Term Hospitals**

A. - K. ...

L. Effective for dates of service on or after January 1, 2018, the inpatient per diem rate paid to long-term hospitals shall be increased by indexing to 42 percent of the small rural hospital prospective per diem rate in effect on January 1, 2017. Long-term hospitals whose per diem rates as of January 1, 2017, excluding the graduate medical education portion of the per diem, are greater than 42 percent of the January 1, 2017 small rural hospital rate shall not be increased.

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: 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1554 (July 2010), LR 36:2562 (November 2010), LR 37:2162 (July 2011), LR 40:312 (February 2014), repromulgated LR 40:1940 (October 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:964 (May 2017), amended LR 44:1445 (August 2018).

**§959. Inpatient Psychiatric Hospital Services**

A. - M.1. ...

N. Effective for dates of service on or after January 1, 2018, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals, and distinct part psychiatric units within non-rural, non-state acute care hospitals, shall be increased by indexing to 31 percent of the small rural hospital prospective per diem rate in effect on January 1, 2017.

1. Psychiatric hospitals and units whose per diem rates as of January 1, 2017, excluding the graduate medical education portion of the per diem, are greater than 31 percent of the January 1, 2017 small rural hospital rate shall not be increased.

2. Inpatient hospital psychiatric services provided under a public-private partnership as defined in §959.L of this Chapter, LAC 50:V.1701 and LAC 50:V.2901 shall be exempt from this rate increase.

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 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1554 (July 2010), LR 36:2562 (November 2010), LR 37:2162 (July 2011), LR 39:94 (January 2013), LR 39:323 (February 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 43:964 (May 2017), amended LR 44:1446 (August 2018).

**§961. Inpatient Rehabilitation Hospital Services**

A. Definitions

*Free-Standing Rehabilitation Hospital*—a non-rural, non-state hospital that is designated as a rehabilitation specialty hospital by Medicare.

B. Reimbursement Methodology

1. Effective for dates of service on or after January 1, 2018, the prospective per diem rate paid to non-rural, non-state free-standing rehabilitation hospitals shall be indexed to 36 percent of the small rural hospital prospective per diem rate in effect on January 1, 2017.

2. Rehabilitation hospitals whose per diem rates as of January 1, 2017, excluding the graduate medical education portion of the per diem, are greater than 36 percent of the January 1, 2017 small rural hospital rate shall not be increased.

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, Bureau of Health Services Financing, LR 44:1446 (August 2018).

Rebekah E. Gee MD, MPH  
Secretary

1808#050

**RULE**

**Department of Health  
Bureau of Health Services Financing**

Intermediate Care Facilities for  
Persons with Intellectual Disabilities  
Cost Reports and Complex Care Reimbursement  
(LAC 50:VII.Chapter 329)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:VII.Chapter 329 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. This Rule is hereby adopted on the day of promulgation.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part VII. Long Term Care**

**Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities**

**Chapter 329. Reimbursement Methodology**

**Subchapter A. Non-State Facilities**

**§32901. Cost Reports**

A. Intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) are required to file annual cost reports to the bureau in accordance with the following instructions.

1. Each ICF/IID is required to report all reasonable and allowable costs on a regular facility cost report, including any supplemental schedules designated by the bureau.

A.2. - B.2. ...

C. Direct Care Floor

1. ...

2. For providers receiving pervasive plus supplements in accordance with §32903.H or other client specific adjustments to the rate in accordance with §32903.I, the facility wide direct care floor is established at 94 percent of the per diem direct care payment and at 100 percent of any rate supplements or add-on payments received by the provider, including the pervasive plus supplement, the complex care add-on payment and other client specific adjustments to the rate. The direct care floor will be applied to the cost reporting year in which the facility receives a pervasive plus supplement and/or a client specific rate adjustment. In no case, however, shall a facility receiving a pervasive plus supplement and/or client specific rate adjustment have total facility payments reduced to less than 104 percent of the total facility cost as a result of imposition of the direct care floor.

3. For providers receiving complex care add-on payment in accordance with §32915, but not receiving pervasive plus supplements in accordance with §32903.H or



other client specific adjustments to the rate in accordance with §32903.I, the facility wide direct care floor is established at 85 percent of the per diem direct care payment and at 100 percent of the complex care add-on payment. The direct care floor will be applied to the cost reporting year in which the facility receives a complex care add-on payment. In no case shall a facility receiving a complex care add-on payment have total facility payments reduced to less than 104 percent of the total facility cost as a result of imposition of the direct care floor.

4. For facilities for which the direct care floor applies, if the direct care cost the facility incurred on a per diem basis is less than the appropriate facility direct care floor, the facility shall remit to the bureau the difference between these two amounts times the number of facility Medicaid days paid during the cost reporting period. This remittance shall be payable to the bureau upon submission of the cost report.

5. Upon completion of desk reviews or audits, facilities will be notified by the bureau of any changes in amounts due based on audit or desk review adjustments.

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 31:1592 (July 2005), repromulgated LR 31:2252 (September 2005), amended LR 33:461 (March 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 44:1446 (August 2018).

### §32915. Complex Care Reimbursements

A. Effective for dates of service on or after October 1, 2014, non-state intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) may receive an add-on payment to the per diem rate for providing complex care to Medicaid recipients who require such services. The add-on rate adjustment shall be a flat fee amount and may consist of payment for any one of the following components:

1. - 7. ...

B. Non-state owned ICFs/IID may qualify for an add-on rate for recipients meeting documented major medical or behavioral complex care criteria. This must be documented on the complex support need screening tool provided by the department. All medical documentation indicated by the screening tool form and any additional documentation requested by the department must be provided to qualify for the add-on payment.

C. The complex support need screening tool shall be completed and submitted to the department annually from the date of initial approval of each add-on payment. This annual submittal shall be accompanied by all medical documentation indicated by the screening tool form and any additional documentation requested by the department.

1. - 2.a.iii. Repealed.

D. In order to meet the complex care criteria, the presence of a significant medical or behavioral health need must exist and be documented. This must include:

1. endorsement of at least one qualifying condition with supporting documentation; and

2. endorsement of symptom severity in the appropriate category based on qualifying condition(s) with supporting documentation.

a. Qualifying conditions for complex care must include at least one of the following as documented on the complex support need screening tool:

i. significant physical and nutritional needs requiring full assistance with nutrition, mobility, and activities of daily living;

ii. complex medical needs/medically fragile; or

iii. complex behavioral/mental health needs.

3. Repealed.

E. Enhanced Supports. Enhanced supports must be provided and verified with supporting documentation to qualify for the add-on payment. This includes:

1. endorsement and supporting documentation indicating the need for additional direct service worker resources;

2. endorsement and supporting documentation indicating the need for additional nursing resources; or

3. endorsement and supporting documentation indicating the need for enhanced equipment resources (beyond basic equipment such as wheelchairs and grab bars).

F. One of the following admission requirements must be met in order to qualify for the add-on payment:

1. the recipient has been admitted to the facility for more than 30 days with supporting documentation of necessity and provision of enhanced supports; or

2. the recipient is transitioning from another similar agency with supporting documentation of necessity and provision of enhanced supports.

3. - 3.e.Repealed.

G. Qualification for a complex care add-on payment may be reviewed and re-determined by the department annually from the date of initial approval of each add-on payment. This review shall be performed in the same manner and using the same standard as the initial qualifying review under this section.

H. The department may require compliance with all applicable laws, rules, and regulations as a condition of an ICF/IID's qualification for the complex care add-on rate and may evaluate such compliance in its initial and annual qualifying reviews.

I. All of the following criteria will apply for continued evaluation and payment for complex care.

1. Recipients receiving enhanced rates will be included in annual surveys to ensure continuation of supports and review of individual outcomes.

2. Fiscal analysis and reporting will be required annually.

3. The provider will be required to report on the following outcomes:

a. hospital admissions and diagnosis/reasons for admission;

b. emergency room visits and diagnosis/reasons for admission;

c. major injuries;

d. falls; and

e. behavioral incidents.

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

42:276 (February 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 44:1447 (August 2018).

### **Subchapter B. Qualifying Loss Review (Private Facilities)**

#### **§32949. Basis for Administrative Review**

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 24:66 (January 1998), repromulgated LR 31:2255 (September 2005), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:1448 (August 2018).

#### **§32951. Request for Administrative Review**

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 24:66 (January 1998), repromulgated LR 31:2255 (September 2005), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:1448 (August 2018).

#### **§32953. Basis for Rate Adjustment**

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 24:66 (January 1998), repromulgated LR 31:2256 (September 2005), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:1448 (August 2018).

#### **§32955. Awarding Relief**

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 24:66 (January 1998), repromulgated LR 31:2256 (September 2005), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:1448 (August 2018).

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.

Rebekah E. Gee MD, MPH  
Secretary

1808#052

### **RULE**

#### **Department of Insurance Office of the Commissioner**

##### **Regulation 60—Advertising of Life Insurance (LAC 37:XIII.4101 and 4117)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., has amended Regulation 60 by repealing §4117.C.

The purpose of the amendment to Regulation 60 was to remove the requirement that insurers file a certificate of

compliance in regards to advertisements. This Rule is hereby adopted on the day of promulgation.

### **Title 37**

### **INSURANCE**

### **Part XIII. Regulations**

#### **Chapter 41. Regulation 60—Advertising of Life Insurance**

##### **§4101. Purpose**

A. The purpose of this regulation is to set forth minimum standards and guidelines to assure a full and truthful disclosure to the public of all material and relevant information in the advertising of life insurance policies and annuity contracts. This rule is being amended to remove the requirement that insurers file a certificate of compliance in regards to advertisements.

AUTHORITY NOTE: Promulgated in accordance with R.S. Title 22, Section 3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 22:1224 (December 1996), amended LR 44:1448 (August 2018).

##### **§4117. Enforcement Procedures**

A. - B. ...

C. In addition to any other penalties provided by the laws of this state, an insurer or producer that violates a requirement of this regulation shall be guilty of a violation of Part XXVI, Unfair Trade Practices, of the Louisiana Insurance Code, which regulates the trade practices on the business of insurance by defining and providing for the determination of all acts, methods, and practices which constitute unfair methods of competition and unfair or deceptive acts and practices in this state, and to prohibit the same.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 22:1228 (December 1996), amended LR 28:2366 (November 2002), LR 44:1448 (August 2018).

James J. Donelon  
Commissioner

1808#005

### **RULE**

#### **Department of Insurance Office of the Commissioner**

##### **Regulation 99—Certificates of Insurance (LAC 37:XIII.Chapter 139)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has repealed Regulation 99—Certificates of Insurance. The Louisiana Department of Insurance has repealed Regulation 99 to comply with Acts 2016, No. 278 of the Regular Session of the Louisiana Legislature that removed the commissioner of insurance from the approval process for certificates of insurance.

The purpose of Regulation 99 is to implement the provisions of Acts 2010, No. 1017 of the Regular Session of the Louisiana Legislature, concerning the issuance, effect

and approval of certificates of insurance. This Rule is hereby adopted on the day of promulgation.

**Title 37  
INSURANCE**

**Part XIII. Regulations**

**Chapter 139. Regulation 99—Certificates of Insurance**

**Subchapter A. General Provisions**

**§13901. Authority**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:2869 (December 2010), repealed LR 44:1449 (August 2018).

**§13903. Purpose**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:2869 (December 2010), repealed LR 44:1449 (August 2018).

**§13905. Scope and Applicability**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:2869 (December 2010), repealed LR 44:1449 (August 2018).

**§13907. Exemptions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:2869 (December 2010), repealed LR 44:1449 (August 2018).

**§13909. Definitions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:2869 (December 2010), repealed LR 44:1449 (August 2018).

**§13911. Effect and Use of Certificates of Insurance**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:2870 (December 2010), repealed LR 44:1449 (August 2018).

**§13913. Filing Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:2870 (December 2010), repealed LR 44:1449 (August 2018).

**§13915. Certificates of Insurance Approved Prior to  
Promulgation of Regulation 99**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:2871 (December 2010), repealed LR 44:1449 (August 2018).

**§13917. Use of ACORD, AAIS and ISO Forms**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:2871 (December 2010), repealed LR 44:1449 (August 2018).

**§13919. Notice of Cancellation**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:2871 (December 2010), repealed LR 44:1449 (August 2018).

**§13921. Investigations and Examinations of Complaints  
and Violations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:2871 (December 2010), repealed LR 44:1449 (August 2018).

**§13923. Severability**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:2871 (December 2010), repealed LR 44:1449 (August 2018).

**§13925. Effective Date**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:2871 (December 2010), repealed LR 44:1449 (August 2018).

James J. Donelon  
Commissioner

1808#002

**RULE**

**Department of Public Safety and Corrections  
Gaming Control Board**

Internal Control; Slots (LAC 42:III.2723)

The Department of Public Safety and Corrections, Gaming Control Board, in accordance with R.S. 27:15 and 24 and with the Administrative Procedure Act, R.S. 49:950 et seq., has amended LAC 42:III.2723, Internal Controls; Slots. The amendment increases the minimum payout jackpot threshold triggering the licensee or casino operator having to perform certain duties such as verifying seals and photographing the internal functions of the slot machines. This Rule is hereby adopted on the day of promulgation.

**Title 42**

**LOUISIANA GAMING**

**Part III. Gaming Control Board**

**Chapter 27. Accounting Regulations**

**§2723. Internal Controls; Slots**

A. - D.i.i. ...

j. verification and witness by an additional permitted gaming employee if the jackpot is less than \$1,200. This signature is not required if the jackpot is paid in accordance with §2723.C.9. If the jackpot is \$1,200 or

greater, the additional permitted gaming employee shall be an employee from a department independent of the department performing the payout.

D.2. - E.4. ...

F. If the jackpot is \$10,000 or more, in addition to Subsections D and E of this Section, a surveillance photograph shall be taken of the winner and the payout form shall be signed by a slot supervisor or casino shift manager. The requirements of this Subsection shall be met prior to the device being returned to operation.

G. If the jackpot is greater than \$50,000, in addition to Subsections D, E, and F of this Section, the slot attendant shall notify a slot technician who shall verify that division seals protecting the program storage media are intact. If the division seals are broken, the program storage media shall be tested to ensure compliance with these regulations. A photograph of the division seal covering the program storage media shall be taken or the test shall be completed before the jackpot is paid. The photograph may be in digital form and shall be timestamped. The photograph, or a copy of it, shall be attached to the jackpot payout form. Digital versions of the photograph shall be maintained for the same duration as the printed photograph. Surveillance shall record the process of certifying the division seals, any required testing, and the payment to the patron. The requirements of this Subsection shall be complied with prior to the device being returned to operation.

H. If the jackpot is \$500,000 or more, in addition to Subsections D, E, F, and G of this Section, the licensee or casino operator shall immediately call for a division agent. Surveillance shall constantly monitor the electronic gaming device until payment of the jackpot has been completed or until otherwise directed by a division agent. With the exception of surveillance monitoring the game and the processing of the jackpot slip, W-2G, and DCFS jackpot intercept search, no action shall be taken until a division agent is present. A slot technician shall verify that division seals protecting the program storage media are intact. The slot technician shall inspect and test the program storage media in a manner prescribed by the division. Surveillance shall monitor the entire process of inspecting and testing. The payout form shall be signed by a designated licensee or casino operator representative as specified in the internal controls. The device shall not be placed back into service until all requirements of this Subsection are met.

I. - S.11. ...

**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 38:1641 (July 2012), amended LR 44:1449 (August 2018).

Ronnie Jones  
Chairman

1808#007

## RULE

### Department of Public Safety and Corrections Gaming Control Board

#### Video Draw Poker—Application and License (LAC 42:XI.2405)

The Department of Public Safety and Corrections, Gaming Control Board, in accordance with R.S. 27:15 and 24 and with the Administrative Procedure Act, R.S. 49:950 et seq., has amended LAC 42:XI.2405, Application and License. The amendment allows qualified truck stop facilities to receive an initial 90-day waiver of the fuel sale requirements in the event of a force majeure event per the requirements of the rule instead of an initial 60-day waiver. This Rule is hereby adopted on the day of promulgation.

#### Title 42

#### LOUISIANA GAMING

#### Part XI. Video Poker

#### Chapter 24. Video Draw Poker

#### §2405. Application and License

A.1. - B.11.a.vi. ...

b. Truck Stop Facilities Only—Fuel Facility Operational—Waiver of Surrender Requirement

i. A licensed truck stop facility may be granted a 90-day waiver from the surrender provisions of Subparagraph B.11.a of this Section following a force majeure event which has not affected the operation of the fuel facility, but has resulted in the inability of the licensee to maintain and operate the on-site restaurant, the stable parking area, the onsite repair service, or any of its required amenities, provided that the licensee notifies the division in writing of the damage to the licensed establishment in accordance with the notification requirement in Paragraph B.11 of this Section and the division determines, following an on-site inspection of the licensed establishment, that the damage was in fact the result of a force majeure event.

ii. The division may grant one 60-day extension if it determines that the licensee has made substantial progress towards completing the necessary repairs within the original 90-day waiver period and the licensee can demonstrate a reasonable likelihood of completing the necessary repairs within the next 60 days.

iii. ...

iv. Under no circumstances shall a licensee continue video poker operations after the expiration of the 90-day waiver or any extension thereof granted by the division without completing the necessary repairs and resuming normal operations. If the licensee has not completed necessary repairs and resumed normal operations, it shall immediately surrender the license upon the expiration of the 90-day waiver or any extension granted by the division.

B.11.b.v. - D.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:955 (May 1998), LR 26:346 (February 2000), LR 26:2322 (October 2000), LR 27:61 (January 2001), LR 29:362 (March 2003), LR 30:267 (February 2004), repromulgated LR 30:439 (March 2004), amended LR 34:1037 (June 2008), LR 35:82 (January 2009), repromulgated LR 35:490 (March 2009), amended LR 36:2045 (September 2010), LR 38:2935 (November 2012), LR 40:1105, 1109 (June 2014), repromulgated LR 40:1382 (July 2014), amended LR 40:1384 (July 2014), LR 41:1498 (August 2015), LR 42:574 (April 2016), LR 44:1450 (August 2018).

Ronnie Jones  
Chairman

1808#008

## RULE

### Department of Public Safety and Corrections Gaming Control Board

Video Gaming Establishments—Security  
(LAC 42:XI.2415)

The Department of Public Safety and Corrections, Gaming Control Board, in accordance with R.S. 27:15 and 24 and with the Administrative Procedure Act, R.S. 49:950 et seq., has amended LAC 42:XI.2415, Gaming Establishments. The amendment changed the title of “security guard” to “security officer” to be in conformity with security officer laws, specifically R.S. 37:3272(18). The amendment expands the requirements of video surveillance security to licensed type IV video gaming establishments and to all type V video gaming establishments, not just those with more than 20 video gaming devices. The amendment restricts those employed as security officers in the affected gaming establishments from performing other job functions during their shift as a security guard. This Rule is hereby adopted on the day of promulgation.

#### Title 42

#### LOUISIANA GAMING

#### Part XI. Video Poker

#### Chapter 24. Video Draw Poker

#### §2415. Gaming Establishments

A. - A.I.e. ...

B. Security

1. Licensed and insured uniformed security officers, as defined in R.S. 37:3272(A)(18), or off duty uniformed P.O.S.T. (Peace Officers Standards and Training) certified law enforcement officers shall be required in all type IV and type V establishments with more than 20 devices. Security officers, other than off duty P.O.S.T. certified law enforcement officers, shall possess a security officer identification card issued by the Louisiana State Board of Private Security Examiners at all times while on duty at the licensed establishment. In addition:

a. a sufficient number of security personnel shall be provided for the safe operation of the establishment; and

b. if the division determines that an unsafe situation exists, the division shall have the authority to mandate that a licensee provide additional security measures.

2. All type IV and V establishments shall provide video security surveillance, approved by the division, for the continuous monitoring and recording of all gaming and cage/cashier activities. Surveillance recordings shall be maintained for a period of not less than 14 days.

3. Individuals working as security personnel at a licensed establishment shall not perform tasks or functions outside of the course and scope of duty as a security officer or that are not directly related to security of the licensed establishment during a shift.

C. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with L.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:197 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:1504 (August 1998), LR 26:1321 (June 2000), LR 36:2047 (September 2010), LR 39:329 (February 2013), LR 40:1106, 1110 (June 2014), repromulgated LR 40:1383 (July 2014), amended LR 40:1386 (July 2014), amended LR 44:1451 (August 2018).

Ronnie Jones  
Chairman

1808#006

## RULE

### Department of State Business Services Division

Corporations Secure Business Filings Service  
(LAC 19:V.100, 500, 700, 900, 1100, and 1300)

Pursuant to the provisions of the Administrative Procedures Act (R.S.49:950 et seq.) and under the authority of R.S. 49:222 and R.S. 36:742, the Secretary of State has adopted this Rule to eliminate the fee for the secure business filings (SBF) service. With the development of the secure business filings (SBF) service, the department charged a one-time optional \$35 fee for the service; however, it was determined that this security service should be made available free of charge to all Louisiana business filings in the geauxBIZ system to insure the integrity of our geauxBIZ system. This Rule is hereby adopted on the day of promulgation.

#### Title 19

#### CORPORATIONS AND BUSINESS

#### Part V. Secretary of State

#### Chapter 1. Domestic Corporations

#### §100. Secure Business Filings Service

A. The Department of State has developed and now offers a secure business filings (SBF) service designed to discourage fraudulent business filings in Louisiana. The service will notify a corporation via email whenever amendments are submitted on the corporation through geauxBIZ. The corporation will have the opportunity to review the filing and approve or reject further processing by the Department of State.

B. Any person who has a *geauxBIZ* account with a verified email address can enroll in the optional SBF service. The enrollment application must be authorized by a person who is a named officer, director, member, manager, or partner of record (the authorizing authority). The identity of the authorizing authority must be verified by completing a secure business filing service enrollment application authorization which must be verified by a licensed notary public in the state where the authorizing authority resides. A copy of the authorization form can be found on the department's website. The authorization application is required for all SBF applicants, even if the applicant is the approval authority.

C. Business entities will have an opportunity to review the filing and approve or reject further processing by the Department of State. To approve a filing, the corporation must provide the PIN assigned to the corporation within five days of receiving notification of a pending file. If the corporation rejects a filing or if five days passes with no action performed, the filing will not be processed by the Department of State.

D. The corporation is responsible for PIN usage and security. The Department of State will not be responsible for unauthorized usage of the PIN or changes made to the corporation's business record as a result of an unauthorized user entering the correct PIN. The department reserves the right to cancel the SBF service, change the PIN, remove an SBF enrollee, change the SBF service terms and conditions, or act to prevent or prosecute fraudulent activity at any time.

E. An enrollment does not expire; however, it can be cancelled by the enrollee, by another authorized applicant, or by the Department of State. Enrollments are non-transferrable. A new SBF enrollment application must be completed to reinstate a cancelled enrollment or to change the SBF enrollment to a different *geauxBIZ* user. Once the enrollment application is approved by the department, the department will provide the corporation with a personal identification number (PIN) that will be unique to the corporation. The corporation can give the PIN to any person filing amendments on the corporation's behalf.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:222 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Business Services Division, LR 42:905 (June 2016), amended LR 44:1451 (August 2018).

## **Chapter 5. Nonprofit Corporations**

### **§500. Secure Business Filings Service**

A. The Department of State has developed and now offers a secure business filings (SBF) service designed to discourage fraudulent business filings in Louisiana. The service will notify a corporation via email whenever amendments are submitted on the corporation through *geauxBIZ*. The corporation will have the opportunity to review the filing and approve or reject further processing by the Department of State.

B. Any person who has a *geauxBIZ* account with a verified email address can enroll in the optional SBF service. The enrollment application must be authorized by a person who is a named officer, director, member, manager, or partner of record (the authorizing authority). The identity of the authorizing authority must be verified by completing a secure business filing service enrollment application authorization which must be verified by a licensed notary

public in the state where the authorizing authority resides. A copy of the authorization form can be found on the department's website. The authorization application is required for all SBF applicants, even if the applicant is the approval authority.

C. Business entities will have an opportunity to review the filing and approve or reject further processing by the Department of State. To approve a filing, the corporation must provide the PIN assigned to the corporation within five days of receiving notification of a pending file. If the corporation rejects a filing or if five days passes with no action performed, the filing will not be processed by the Department of State.

D. The corporation is responsible for PIN usage and security. The Department of State will not be responsible for unauthorized usage of the PIN or changes made to the corporation's business record as a result of an unauthorized user entering the correct PIN. The department reserves the right to cancel the SBF service, change the PIN, remove an SBF enrollee, change the SBF service terms and conditions, or act to prevent or prosecute fraudulent activity at any time.

E. An enrollment does not expire; however, it can be cancelled by the enrollee, by another authorized applicant, or by the Department of State. Enrollments are non-transferrable. A new SBF enrollment application must be completed to reinstate a cancelled enrollment or to change the SBF enrollment to a different *geauxBIZ* user. Once the enrollment application is approved by the department, the department will provide the corporation with a personal identification number (PIN) that will be unique to the corporation. The corporation can give the PIN to any person filing amendments on the corporation's behalf.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:222 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Business Services Division, LR 42:906 (June 2016), amended LR 44:1452 (August 2018).

## **Chapter 7. Foreign Corporations**

### **§700. Secure Business Filings Service**

A. The Department of State has developed and now offers a secure business filings (SBF) service designed to discourage fraudulent business filings in Louisiana. The service will notify a corporation via email whenever amendments are submitted on the corporation through *geauxBIZ*. The corporation will have the opportunity to review the filing and approve or reject further processing by the Department of State.

B. Any person who has a *geauxBIZ* account with a verified email address can enroll in the optional SBF service. The enrollment application must be authorized by a person who is a named officer, director, member, manager, or partner of record (the authorizing authority). The identity of the authorizing authority must be verified by completing a secure business filing service enrollment application authorization which must be verified by a licensed notary public in the state where the authorizing authority resides. A copy of the authorization form can be found on the department's website. The authorization application is required for all SBF applicants, even if the applicant is the approval authority.

C. Business entities will have an opportunity to review the filing and approve or reject further processing by the Department of State. To approve a filing, the corporation

must provide the PIN assigned to the corporation within five days of receiving notification of a pending file. If the corporation rejects a filing or if five days passes with no action performed, the filing will not be processed by the Department of State.

D. The corporation is responsible for PIN usage and security. The Department of State will not be responsible for unauthorized usage of the PIN or changes made to the corporation's business record as a result of an unauthorized user entering the correct PIN. The department reserves the right to cancel the SBF service, change the PIN, remove an SBF enrollee, change the SBF service terms and conditions, or act to prevent or prosecute fraudulent activity at any time.

E. An enrollment does not expire; however, it can be cancelled by the enrollee, by another authorized applicant, or by the Department of State. Enrollments are non-transferrable. A new SBF enrollment application must be completed to reinstate a cancelled enrollment or to change the SBF enrollment to a different *geauxBIZ* user. Once the enrollment application is approved by the department, the department will provide the corporation with a personal identification number (PIN) that will be unique to the corporation. The corporation can give the PIN to any person filing amendments on the corporation's behalf.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:222 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Business Services Division, LR 42:906 (June 2016), amended LR 44:1452 (August 2018).

#### **Chapter 9. Special Corporations** **§900. Secure Business Filings Service**

A. The Department of State has developed and now offers a secure business filings (SBF) service designed to discourage fraudulent business filings in Louisiana. The service will notify a corporation via email whenever amendments are submitted on the corporation through *geauxBIZ*. The corporation will have the opportunity to review the filing and approve or reject further processing by the Department of State.

B. Any person who has a *geauxBIZ* account with a verified email address can enroll in the optional SBF service. The enrollment application must be authorized by a person who is a named officer, director, member, manager, or partner of record (the authorizing authority). The identity of the authorizing authority must be verified by completing a secure business filing service enrollment application authorization which must be verified by a licensed notary public in the state where the authorizing authority resides. A copy of the authorization form can be found on the department's website. The authorization application is required for all SBF applicants, even if the applicant is the approval authority.

C. Business entities will have an opportunity to review the filing and approve or reject further processing by the Department of State. To approve a filing, the corporation must provide the PIN assigned to the corporation within five days of receiving notification of a pending file. If the corporation rejects a filing or if five days passes with no action performed, the filing will not be processed by the Department of State.

D. The corporation is responsible for PIN usage and security. The Department of State will not be responsible for unauthorized usage of the PIN or changes made to the

corporation's business record as a result of an unauthorized user entering the correct PIN. The department reserves the right to cancel the SBF service, change the PIN, remove an SBF enrollee, change the SBF service terms and conditions, or act to prevent or prosecute fraudulent activity at any time.

E. An enrollment does not expire; however, it can be cancelled by the enrollee, by another authorized applicant, or by the Department of State. Enrollments are non-transferrable. A new SBF enrollment application must be completed to reinstate a cancelled enrollment or to change the SBF enrollment to a different *geauxBIZ* user. Once the enrollment application is approved by the department, the department will provide the corporation with a personal identification number (PIN) that will be unique to the corporation. The corporation can give the PIN to any person filing amendments on the corporation's behalf.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:222 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Business Services Division, LR 42:907 (June 2016), amended LR 44:1453 (August 2018).

#### **Chapter 11. Limited Liability Companies** **§1100. Secure Business Filings Service**

A. The Department of State has developed and now offers a secure business filings (SBF) service designed to discourage fraudulent business filings in Louisiana. The service will notify a limited liability company via email whenever amendments are submitted on the limited liability company through *geauxBIZ*. The limited liability company will have the opportunity to review the filing and approve or reject further processing by the Department of State.

B. Any person who has a *geauxBIZ* account with a verified email address can enroll in the optional SBF service. The enrollment application must be authorized by a person who is a named officer, director, member, manager, or partner of record (the authorizing authority). The identity of the authorizing authority must be verified by completing a secure business filing service enrollment application authorization which must be verified by a licensed notary public in the state where the authorizing authority resides. A copy of the authorization form can be found on the department's website. The authorization application is required for all SBF applicants, even if the applicant is the approval authority.

C. Business entities will have an opportunity to review the filing and approve or reject further processing by the Department of State. To approve a filing, the limited liability company must provide the PIN assigned to the limited liability company within five days of receiving notification of a pending file. If the limited liability company rejects a filing or if five days passes with no action performed, the filing will not be processed by the Department of State.

D. The limited liability company is responsible for PIN usage and security. The Department of State will not be responsible for unauthorized usage of the PIN or changes made to the limited liability company's business record as a result of an unauthorized user entering the correct PIN. The department reserves the right to cancel the SBF service, change the PIN, remove an SBF enrollee, change the SBF service terms and conditions, or act to prevent or prosecute fraudulent activity at any time.

E. An enrollment does not expire; however, it can be cancelled by the enrollee, by another authorized applicant, or

by the Department of State. Enrollments are non-transferrable. A new SBF enrollment application must be completed to reinstate a cancelled enrollment or to change the SBF enrollment to a different *geauxBIZ* user. Once the enrollment application is approved by the department, the department will provide the limited liability company with a personal identification number (PIN) that will be unique to the limited liability company. The limited liability company can give the PIN to any person filing amendments on the limited liability company's behalf.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 49:222 and R.S. 36:742.

**HISTORICAL NOTE:** Promulgated by the Department of State, Business Services Division, LR 42:907 (June 2016), amended LR 44:1453 (August 2018).

### **Chapter 13. Partnerships**

#### **§1300. Secure Business Filings Service**

A. The Department of State has developed and now offers a secure business filings (SBF) service designed to discourage fraudulent business filings in Louisiana. The service will notify a partnership via email whenever amendments are submitted on the partnership through *geauxBIZ*. The partnership will have the opportunity to review the filing and approve or reject further processing by the Department of State.

B. Any person who has a *geauxBIZ* account with a verified email address can enroll in the optional SBF service. The enrollment application must be authorized by a person who is a named officer, director, member, manager, or partner of record (the authorizing authority). The identity of the authorizing authority must be verified by completing a secure business filing service enrollment application authorization which must be verified by a licensed notary public in the state where the authorizing authority resides. A copy of the authorization form can be found on the department's website. The authorization application is required for all SBF applicants, even if the applicant is the approval authority.

C. Business entities will have an opportunity to review the filing and approve or reject further processing by the Department of State. To approve a filing, the partnership must provide the PIN assigned to the partnership within five days of receiving notification of a pending file. If the partnership rejects a filing or if five days passes with no action performed, the filing will not be processed by the Department of State.

D. The partnership is responsible for PIN usage and security. The Department of State will not be responsible for unauthorized usage of the PIN or changes made to the partnership's business record as a result of an unauthorized user entering the correct PIN. The department reserves the right to cancel the SBF service, change the PIN, remove an SBF enrollee, change the SBF service terms and conditions, or act to prevent or prosecute fraudulent activity at any time.

E. An enrollment does not expire; however, it can be cancelled by the enrollee, by another authorized applicant, or by the Department of State. Enrollments are non-transferrable. A new SBF enrollment application must be completed to reinstate a cancelled enrollment or to change the SBF enrollment to a different *geauxBIZ* user. Once the enrollment application is approved by the department, the department will provide the partnership with a personal

identification number (PIN) that will be unique to the partnership. The partnership can give the PIN to any person filing amendments on the partnership's behalf.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 49:222 and R.S. 36:742.

**HISTORICAL NOTE:** Promulgated by the Department of State, Business Services Division, LR 42:907 (June 2016), amended LR 44:1454 (August 2018).

R. Kyle Ardoin  
Secretary of State

1808#003

### **RULE**

#### **Department of Treasury Board of Trustees of the Teachers' Retirement System**

ReNEW Charter Management Organization  
(LAC 58:III.1901)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 11:826 the Board of Trustees of the Teachers' Retirement System of Louisiana (TRSL) has adopted LAC 58:III.1901 in order to ensure compliance with Internal Revenue Code provisions governing qualified governmental retirement plans by memorializing an agreement between TRSL and the ReNEW Charter Management Organization, which clarifies TRSL membership provisions for ReNEW Charter Management Organization employees. This Rule is hereby adopted on the day of promulgation.

### **Title 58**

#### **RETIREMENT**

#### **Part III. Teachers' Retirement System of Louisiana Chapter 19. ReNEW Charter Management Organization**

#### **§1901. ReNEW Charter Management Organization Employees**

A. For purposes of determining membership in the Teachers' Retirement System of Louisiana under R.S. 17:3997, R.S. 11:162, and R.S. 11:701, et seq., membership eligibility, service credit, and return-to-work status shall be determined in a manner consistent with the June 29, 2017, agreement between ReNEW Charter Management Organization and the Teachers' Retirement System of Louisiana. All applicable provisions of Title 11 of the Louisiana Revised Statutes of 1950 shall be construed in accordance with the June 29, 2017, agreement to the extent consistent with the law of Louisiana, the tax qualification requirements applicable to governmental retirement plans under the Internal Revenue Code, as the same may be amended, and any compliance statement rendered by the Internal Revenue Service under the Voluntary Correction Program relating to such agreement.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 11:826.

**HISTORICAL NOTE:** Promulgated by the Department of Treasury, Board of Trustees of the Teachers' Retirement System, LR 44:1454 (August 2018).

Dana L. Vicknair  
Director

1808#028



## RULE

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Domesticated Aquatic Organisms—Shovelnose Sturgeon (LAC 76:VII.905 and 911)

The Wildlife and Fisheries Commission has amended rules and regulations in the Experimental Fisheries Program (R.S. 56:571). The changes add a native species of sturgeon to domesticated aquatic organisms that are approved for use in aquaculture. This allows the development of additional aquaculture business in Louisiana while providing safeguards to assist in protecting native fish species. This Rule is hereby adopted on the day of promulgation.

#### Title 76

### WILDLIFE AND FISHERIES

#### Part VII. Fish and Other Aquatic life

#### Chapter 9. Aquaculture

#### §905. Domesticated Aquatic Organisms

A. Procedures for Approving a New Species of Domesticated Aquatic Organism

1. - 6. ...

B. The following is a list of "Domesticated Aquatic Organisms" approved for use in aquaculture:

1. - 21. ...

22. shovelnose sturgeon (*Scaphirhynchus platyrhynchus*), see LAC 76:VII.911.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:327(A)(2) and R.S. 56:411.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:2679 (December 2008), amended LR 35:1139 (June 2009), repromulgated LR 35:1263 (July 2009), amended LR 44:1455 (August 2018).

#### §911. Shovelnose Sturgeon

A. Rules and Regulations on Importation, Culture, Disposal and Sale of Shovelnose Sturgeon in Louisiana. The following terms shall have the following meanings in this Section.

*Culture*—all activities associated with the rearing and nurturing of shovelnose sturgeon.

*Culture System*—shall be an approved recirculating indoor system designed such that all water containing, or that at any time might contain, shovelnose sturgeon (adult fish, juvenile fish, fingerlings, fry and eggs) is filtered, screened and/or sterilized in such a manner as the department deems adequate to prevent any possibility of escape from the system.

*Department*—the Louisiana Department of Wildlife and Fisheries or an authorized employee of the department.

*Disposal*—the business of processing, selling, or purposely removing shovelnose sturgeon from the culture system.

*Permittee*—the individual or organization that possesses a valid Louisiana shovelnose sturgeon permit.

*Process*—the act of killing shovelnose sturgeon, and proper disposal of shovelnose sturgeon in such manner as the department deems necessary to prevent any possibility of accidental release of live fish.

*Secretary*—the secretary of the Department of Wildlife and Fisheries.

*Shovelnose Sturgeon*—pure strain of genetically unaltered fish (adult fish, juvenile fish, fingerlings, fry and eggs), belonging to the species *Scaphirhynchus platyrhynchus*.

*Shovelnose Sturgeon Permit*—official document pertaining to culture of shovelnose sturgeon, and allows for the importation, exportation, transport, culture, possession, disposal, transfer and sale of shovelnose sturgeon in Louisiana as approved by the secretary or his designee.

#### B. Shovelnose Sturgeon Permit Request Procedures

1. Individuals or organizations wishing to import, export, transport, culture, dispose, or transfer live shovelnose sturgeon in Louisiana must first request a shovelnose sturgeon permit from the secretary or his designee of the Department of Wildlife and Fisheries. A separate permit will be required for each facility or location. The following procedures will be necessary.

a. Applications for permits can be obtained by contacting the:

Louisiana Department of Wildlife and Fisheries  
Fisheries Permit Manager  
P.O. Box 98000  
Baton Rouge, LA 70898-9000

b. The completed applications should be returned to the same address whereby Fisheries Division personnel will review the application. Department personnel or a department approved contractor, at the applicant's expense, will then make an on-site inspection of the property and culture system.

c. After the on-site inspection has been completed, department personnel will make a final determination as to whether the applicant is in full compliance with all rules for a shovelnose sturgeon permit. Department personnel will then recommend to the secretary or his designee if the applicant's request should be approved or disapproved.

d. The secretary or his designee will notify the applicant, in writing, as to whether or not the permit has been granted and if not, why. In the event of disapproval, applicants may reapply after correcting specified deficiencies noted in the secretary's or his designee's letter of denial.

#### C. Rules on Transport of Live Shovelnose Sturgeon

1. Export of live shovelnose sturgeon will not be allowed for Louisiana shovelnose sturgeon permit.

2. For each occurrence of live shovelnose sturgeon being imported into Louisiana from out of state, or live transfer within the state, the permittee must obtain, in writing, approval from the department. These importations will only be allowed from fish that are acquired outside of the Red River drainage, and limited only to those populations occurring outside of the range for the similarity of appearance listing for the species. These requests shall be made no less than three business days before the expected date of shipment. Procedures and necessary information for obtaining approval are:

a. requests shall be made via email to the designated Departmental contact or via mail to:

Louisiana Department of Wildlife and Fisheries  
Fisheries Permit Manager  
P.O. Box 98000  
Baton Rouge, LA 70898-9000;

b. requests shall include:

i. Louisiana shovelnose sturgeon permit number;

- ii. route of transport;
- iii. date of transport;
- iv. time(s) of transport;
- v. destination;
- vi. owner of transport vehicle;
- vii. species certification made within the past 30 days identifying shipped stock to species;
- viii. total number of shovelnose sturgeon;
- ix. identification of seller and buyer and any permit numbers from the jurisdiction of origin to the jurisdiction of destination in which they are coming from.

3. A bill of lading must accompany the live shovelnose sturgeon during import, transport, transfer or sale and shall include:

- a. copy of the permittee's written approval as described in Paragraph C.2 above;
- b. date and approximate time of shipment;
- c. route of shipment;
- d. source of shovelnose sturgeon;
- e. name, address and phone number of seller;
- f. name, address and phone number of buyer;
- g. identification and certification as to species;
- h. total number of shovelnose sturgeon;
- i. destination;
- j. if imported, the source must provide certificate of health from a veterinarian or other certified expert stating that Shovelnose are not showing signs of diseases;
- k. display the words "SHOVELNOSE" prominently on at least two sides of the vehicle or hauling tank with letters that are no less than 6 inches high.

#### D. Rules for Security of Shovelnose Sturgeon Culture Facility

1. Shovelnose sturgeon live holding facilities will only be permitted in the following parishes: Acadia, Allen, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Caldwell, Cameron, Catahoula, Claiborne, De Soto, Evangeline, Franklin, Grant, Jackson, Jefferson Davis, LaSalle, Lafayette, Lincoln, Morehouse, Natchitoches, Ouachita, Rapides, Sabine, Union, Vermilion, Vernon, Webster, West Carroll and Winn.

2. Applicant must demonstrate to the satisfaction of department officials that adequate security measures are in place at the live holding facility that will guard against vandalism and theft of shovelnose sturgeon.

3. Any changes or modification of a permitted security system must first have the approval of department officials.

4. The department will have just cause to revoke a shovelnose sturgeon permit for lapses in security if:

- a. the permittee is found to be in noncompliance with Paragraphs 2 and 3 above;
- b. the permittee is determined to be derelict in maintaining the security measures that were approved for the permit;
- c. failure to take appropriate measures when vandalism, theft, or accidental release of fish occurs.

5. It shall be the responsibility of the permittee to immediately notify the secretary or his designee of any shovelnose sturgeon that leave the facility for any reason other than those specifically identified and allowed for under their current permit, including but not limited to accidental releases due to weather related events, vandalism and theft.

6. It shall be the responsibility of the permittee to have at least one individual who is familiar with the live holder system readily available for emergencies and inspections, both announced and unannounced.

#### E. Rules of Shovelnose Sturgeon Culture Site

1. A legal description of the shovelnose sturgeon live holding facility site that shows ownership must be submitted along with the permit request.

2. The applicant must agree to allow department officials or a department approved contractor, at the applicant's expense, to conduct unannounced random inspections of the transport vehicle, property culture system, and fish. Department officials may request other officials to accompany them during these inspections. Additionally, those individuals performing these inspections may remove or take fish samples for analysis and/or inspection.

3. All aspects of the shovelnose sturgeon culture facility must be at least 1 foot above the 100-year flood elevation. Additionally, the department may require a surface hydrological assessment of the proposed site at permittee's expense.

4. The department will require a live holding contingency plan for disposal of live shovelnose sturgeon in the event of impending flooding or other natural disasters.

5. All shovelnose sturgeon shall be tagged with a departmental approved non-removable tag.

#### F. Rules for the Shovelnose Sturgeon Culture System

1. Applicant must provide a detailed narrative description, including scale drawings, of the shovelnose sturgeon culture system.

2. The shovelnose sturgeon culture system shall be an approved indoor recirculating system designed such that shovelnose sturgeon eggs, larvae, fingerlings, juveniles or adults cannot escape.

3. All water utilized in the culture of shovelnose sturgeon shall be accounted for and shall be filtered, screened, and/or sterilized prior to leaving the live holding system and the permittee's property in such a manner as the department deems adequate to prevent any possibility of escape from the system.

4. All aspects of the shovelnose sturgeon culture system and processing shall be completely enclosed so that predation from birds, mammals, amphibians, and reptiles is precluded.

5. A means to dispose of shovelnose sturgeon through chlorination, desiccation, or other appropriate methods, in the event of an emergency must be included as a component of any department-approved live-holding system.

6. One or more persons responsible for the operation of the live holding system must demonstrate to the department's satisfaction a basic knowledge and understanding of the culture, rearing (care and feeding), biology, and potential local ecological impacts of shovelnose sturgeon.

#### G. Rules for the Processing of Shovelnose Sturgeon

1. All shovelnose sturgeon and shovelnose sturgeon parts other than live shovelnose sturgeon specifically permitted by the department must be properly processed and killed prior to leaving the shovelnose sturgeon culture facility. At no time will live shovelnose be allowed to be moved within Louisiana without expressed approval of the department. No live shovelnose shall be sold or transferred

to any parties outside of Louisiana. Transfer between Louisiana shovelnose sturgeon permittees within the state of Louisiana must be approved prior to shipment as described in Paragraph C.2 above.

2. Records for the previous five years shall be kept at the facility of all shovelnose sturgeon processed at a culture facility and shall include the following information:

- a. source of fish;
- b. processed pounds of both meat and caviar; and
- c. date processed.

3. A copy of this information shall be sent to the department's Baton Rouge office at the end of each year, or at any time upon the request of department officials.

#### H. General Rules for Shovelnose Sturgeon

1. The cost of a shovelnose sturgeon live holding permit shall be \$50, plus the actual cost of the on-site inspection. Qualified universities and other facilities conducting research approved by the department shall be exempt from the fee charge.

2. In order for the permit to be valid, the following licenses are required as a prerequisite:

- a. domesticated aquatic organism license;
- b. wholesale/retail dealers license or a retail dealer's license.

3. Permits are valid for 12 months and expire December 31 every year.

4. Permits are not transferable from person to person, or property to property.

5. Live shovelnose sturgeon shall not be sold within Louisiana except to a permitted culture facility.

6. No person may release live shovelnose sturgeon, fish or eggs, into the waters of Louisiana (whether public or private).

7. Permittee must agree to collect and provide an adequate number of shovelnose sturgeon to the department or a department-approved contractor upon request for identification and analysis, at the permittee's expense.

8. The only sturgeon allowed in commercial aquaculture under the Louisiana shovelnose sturgeon permit is *Scaphirhynchus platyrhynchus*. No genetically altered shovelnose sturgeon or their hybrids are allowed.

9. Shovelnose sturgeon permittees shall be required to submit an annual report to the secretary or his designee on a form provided by the department.

10. The department may employ whatever means it deems necessary to prevent the release or escapement of shovelnose sturgeon or their eggs into the environment. The permittee shall agree to reimburse the department for all costs including, but not limited to, man hours and materials utilized during corrective actions.

11. The department shall be overseer of all escape incidents and may implement or require to be implemented whatever measures deemed necessary to contain, kill or recapture fish. The permittee shall agree to reimburse the Department of Wildlife and Fisheries for all department costs including, but not limited to, man hours and materials utilized during these corrective actions. In order to assure the secretary that the permittee will fulfill their financial obligations, the shovelnose sturgeon permittee shall post a \$50,000 performance bond, or present a letter of credit from a financial institution stating that the \$50,000 is available to the department on a certificate of deposit.

12. If a permittee terminates shovelnose sturgeon culture, the permittee shall notify the secretary or his designee immediately and dispose of the shovelnose sturgeon according to methods approved by the department.

13. In addition to all other legal remedies, including provisions of R.S. 56:319(E), failure to comply with any of the provisions herein shall be just cause to immediately suspend and/or revoke the permittee's permit. All shovelnose sturgeon shall be destroyed at permittee's expense under the department's supervision within 30 days of permit revocation.

14. Any permittee allegedly in violation of the above rules has a right to make a written response of the alleged violation(s) to the secretary requesting a hearing to review the alleged violation(s) within five days.

I. Collection of Shovelnose Sturgeon Broodstock from Louisiana Waters

1. The Department of Wildlife and Fisheries will allow legally permitted shovelnose sturgeon permit holders to collect local broodstock from approved locations on the Red River while under the supervision of departmental personnel or other approved third parties. The permittee may be charged for man-power and equipment.

2. This collection of broodstock will be limited to 3 years. The permittee may be granted additional years upon approval by the secretary. The collection must be approved and coordinated with the LDWF fisheries permit manager and the director of Inland Fisheries and would require a special broodstock collection permit from the secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318 and R.S. 56:319.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 44:1455 (August 2018).

Jack Montoucet  
Secretary

1808#026

#### RULE

#### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Reef Fish—Harvest Regulations (LAC 76:VII.335)

The Wildlife and Fisheries Commission does has amended a Rule (LAC 76:VII.335) modifying existing reef fish harvest regulations. These changes modify the season for the recreational harvest of gray triggerfish to be closed from January 1 through the end of February annually in addition to the currently closed season of June 1 through July 31 of each year, reduce the recreational bag limit to 1 fish per day from 2, increase the recreational minimum size limit of gray triggerfish from 12 to 15 inches fork length, and increase the commercial trip limit from 12 to 16 gray triggerfish per trip. Other changes modify the closed season for the recreational harvest of greater amberjack to include January through April 30 and November through December of each year, change the gag minimum total size limit from 22 to 24 inches for commercially harvested fish, decrease the daily limit of red grouper to 2 within the grouper aggregate,

decrease the daily limit of mutton snapper to 5 within the 10 reef fish aggregate limit, increase the mutton snapper minimum total size limit from 16 to 18 inches, and raise the hogfish size limit from 12 to 14 inches fork length. Modifications are a result of changes in federal regulations. 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 Wildlife and Fisheries Commission. This Rule is hereby adopted on the day of promulgation.

**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, 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) with not more than 5 mutton snapper per person in the bag limit.
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 1 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 2 red grouper per person and not more than 2 gag grouper per person included in the bag limit
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. - D.7. ...

8. Commercial trip limits shall include those limits listed below. For the purposes of this rule, a *trip* is defined as a fishing trip, regardless of the number of days duration, that begins with departure from a dock, berth, beach, seawall or ramp and that terminates with return to a dock, berth, beach, seawall or ramp.

Species or Group	Trip Limit
a. Gray Triggerfish	16 fish
b. Greater Amberjack	1,500 pounds

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)

Species	Minimum Size Limits
2. Gray, yellowtail, and cubera snapper	12 inches total length
3. Lane snapper	8 inches total length
4. Mutton snapper	18 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	24 inches total length
9. Black grouper	24 inches total length
10. Scamp	16 inches total length
11. Greater amberjack	34 inches fork length (Recreational) 36 inches fork length (Commercial)
12. Hogfish	14 inches fork length
13. Banded rudderfish and lesser amberjack	14 inches fork length (minimum size) 22 inches fork length (maximum size)
14. Gray triggerfish	15 inches fork length

F. - G.1. ...

\* \* \*

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
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	January 1-April 30, June 1-July 31, and November 1-December 31 of each year.
e. Gray Triggerfish	January 1-end of February of each year and 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 (June 1998), LR 24:1139 (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 40:2281 (November 2014), amended by the Department of Wildlife and Fisheries, Office of Fisheries, LR 42:908 (June 2016), repromulgated LR 43:89 (January 2017), LR 44:1458 (August 2018).

Jack Montoucet  
Secretary

1808#014

# Notices of Intent

## NOTICE OF INTENT

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Horticulture Commission

Horticulture Examinations  
(LAC 7:XXIX.111 and 113)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and under the authority of R.S. 3:3801 and 3:3807, notice is hereby given that the Department of Agriculture and Forestry (department) and the Horticulture Commission intend to amend LAC 7:XXIX.111 and 113 to provide the length of time that a passing score on a licensure examination is valid and to strike and reinsert existing regulations for clarity.

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XXIX. Horticulture Commission

#### Chapter 1. Horticulture

#### §111. Minimum Examination Performance Levels Required

A. ...

B. An applicant who fails to complete or pass an examination for licensure must wait at least two weeks before reapplying to take the examination.

C. A passing score on an examination is valid for five years, after which time the applicant must apply to retake the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3807 and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 20:153 (February 1994), LR 35:1229 (July 2009), LR 37:3464 (December 2011), LR 40:759 (April 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Horticulture Commission, LR 44:

#### §113. Examination Schedule

A. ...

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3807 and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 18:250 (March 1992), LR 20:640 (June 1994), LR 31:1053 (May 2005), LR 35:1227 (July 2009), LR 37:3465 (December 2011), LR 40:759 (April 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Horticulture Commission, LR 44:

#### Family Impact Statement

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

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

#### Poverty Impact Statement

The proposed Rule does 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 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 Analysis

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.

#### Provider Impact Statement

The proposed Rule does 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 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, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Ansel Rankins, Director of the Horticulture Commission, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 3002, Baton Rouge, LA 70806 and must be received no later than 12 p.m. on September 9, 2018. No preamble is available.

Mike Strain, DVM  
Commissioner

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

**RULE TITLE: Horticulture Examinations**

**NOTICE OF INTENT**

**Department of Agriculture and Forestry  
Office of Agricultural and Environmental Sciences  
and  
Advisory Commission on Pesticides**

Pesticides (LAC 7:XXIII.709, 711, 715, and 2101)

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

The proposed rule change will not result in any costs or savings to state or local governmental units. The proposed rule change adds a five (5) year expiration to a passing score on any examination for horticulture licensure and makes an additional technical change. Additional examinations will not require additional resources and will be absorbed within Louisiana Department of Agriculture and Forestry's (LDAF) existing budget authority.

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

The proposed rule change may increase revenue for LDAF for the statutorily dedicated Horticulture and Quarantine Fund by an indeterminable amount. The proposed rule change would add a five (5) year expiration to a passing score on any examination for horticulture licensure. LDAF reports approximately 170 individuals whose test score would become invalid under the proposed rule, but whether or not these individuals would seek to become licensed in the future is unknown. To the extent an individual with an expired test score would seek licensure by the Horticulture Commission, a new examination with a fee ranging from \$114 to \$200 would be required and additional revenue would accrue to the Horticulture and Quarantine Fund.

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

The proposed rule change will result in additional costs for individuals whose test score becomes invalid after five (5) years and seek to become licensed by the Horticulture Commission. These individuals would be required to retake the examination for a fee ranging from \$114 to \$200.

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

The proposed rule change may affect employment opportunities for individuals whose test score becomes invalid after five (5) years and seek to become licensed by the Horticulture Commission. These individuals would be required to retake the examination for a fee ranging from \$114 to \$200.

Furthermore, the proposed rule change may affect employment opportunities for certain incarcerated individuals. Horticulture classes are offered at certain correctional facilities, and while these individuals are eligible to take horticulture examinations, they are not eligible for licensure while incarcerated. Incarcerated individuals who obtain a passing score on a horticulture examination but are not released within five (5) years of passing would need to retake the exam before seeking licensure by the Horticulture Commission.

Dane K. Morgan  
Assistant Commissioner  
1808#058

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and under the authority of R.S. 3:3203, 3:3242, 3:3244, and 3:3249, notice is hereby given that the Department of Agriculture and Forestry ("department") and the Advisory Commission on Pesticides intend to amend LAC 7:XXIII. (LAC 7:XXIII.709, 711, 715, and 2101 as follows: The amendment to §709 removes the office of the county agent as a testing location for private applicators of pesticides. Testing at these locations has been discontinued and no longer needs to be included in the rule. The amendments to §711 removes Subcategory 5b, marine paints containing TBT, because TBT is no longer allowed in the United States. The amendments to §715.D provides for the administration of the agricultural examination at district offices in addition to the Baton Rouge division. The amendment to §715.E.2.a.vii adds "mosquito control entomology" as a category of agricultural consultants, which was previously included in this regulation, but inadvertently omitted from the Rule in prior revisions. The amendment to §2101 adds private applicators to those required to keep records of pesticide applications as stated in the Section.

**Title 7**

**AGRICULTURE AND ANIMALS**

**Part XXIII. Pesticides**

**Chapter 7. Examinations, Certification and Licensing**

**Subchapter B. Certification**

**§709. Certification of Private Applicators.**

A. ...

B. Examinations for certification for private applicators of pesticides will be given during office hours upon request of the applicant, in Baton Rouge, at the division, at any district office of the department, or at any location approved by the director.

C. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3203, R.S. 3:3249.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:179 (April 1983), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3471 (December 2011), LR 44:

**§711. Certification of Commercial Applicators.**

A. - B.2.e.i. ...

ii. Subcategory 5b includes commercial applicators using, or supervising the use of, any restricted used in paints to be applied to vessel hulls and other marine structures to inhibit the growth of aquatic organisms such as barnacles and algae.

B.2.f. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:324.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:179 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 18:953 (September 1992), LR 19:735 (June 1993), LR 20:641 (June 1994), LR 21:928 (September 1995), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, Advisory Commission on Pesticides, LR 23:193 (February 1997), LR 24:280 (February 1998), LR 28:39 (January 2002), LR 32:794 (May 2006), repromulgated LR 32:1011 (June 2006), amended LR 35:627 (April 2009), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3471 (December 2011), LR 44:

**§715. Certification of Agricultural Consultants**

A. - C. ...

D. Each application for an agricultural consultant's examination shall be approved by the commission before an examination is administered. Examinations for agricultural consultants shall be administered only in Baton Rouge at the division or at any district office of the department, during office hours and shall be administered only after payment of the proper fee.

E. - E.2.a.vi. ...

vii. Mosquito Control Entomology. Making recommendations for the control of mosquito species.

E.2.b. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3246 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:184 (April 1983), amended LR 11:943 (October 1985), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:281 (February 1998), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides LR 28:39 (January 2002), LR 35:627 (April 2009), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3474 (December 2011), LR 44:

**Chapter 21. Record Keeping Requirements**

**§2101. Owner-Operators, Non-Fee Commercial Applicators, Private Applicators and Commercial Applicators**

A. Any person applying pesticides for a fee, private applicators described in §709, and commercial applicators described in §711, with the single exception of applicators listed in §711.B.2.g Category 7, shall accurately maintain, for a period of two years, records of pesticide applications on a record keeping form or record keeping format approved by the director. Records described herein must be maintained, within three days of the application, at the physical address of the employer or the physical address on the owner/operator license. A copy of

these records shall be provided to any employee of department upon request at a reasonable time during normal working hours. The following information shall be included on that form:

1. owner/operator name, address, and license number;
2. certified applicator, name, address, and certification number;
3. customer name and address;
4. product/brand name;
5. EPA registration number;
6. restricted/general use pesticide;
7. application date;
8. crop/type of application;
9. location of application;
10. size of area treated (acres, square feet, or minutes of spraying);
11. rate of application;
12. total amount of product (concentrate) applied;
13. applicator;
14. certification number of applicator (if applicable).

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:199 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 21:929 (September 1995), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3484 (December 2011), LR 44:

**Family Impact Statement**

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

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

**Poverty Impact Statement**

The proposed Rule does 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 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 Analysis**

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

### Provider Impact Statement

The proposed Rule does 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 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, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Kelly Moore, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 3000, Baton Rouge, LA 70806 or at (225)922-1234 and must be received no later than 12 p.m. on September 9, 2018. No preamble is available.

Mike Strain, DVM  
Commissioner

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Pesticides

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

The proposed rule changes will not result in any costs or savings to state or local governmental units. The proposed rule change provides additional testing locations for the agricultural consultant's examinations, adds the Mosquito Control Entomology agricultural consultant classification, and makes a technical change to pesticides used in paints applied to vessel hulls and other marine structures.

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

The proposed rule changes will have no effect on revenue collections for state or local government units.

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

The proposed rule changes will have no effect on costs or economic benefits to directly affected persons or non-governmental units.

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

The proposed rule changes will have no effect on competition and employment.

Dane Morgan  
Assistant Commissioner  
1808#059

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

### Department of Children and Family Services Licensing Section

Residential Home  
(LAC 67:V.Chapter 71)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:V, Subpart 8, Residential Licensing, Chapter 71, Residential Homes—Type IV, §§7109, 7111, and 7119.

Sections 7109, 7111, and 7119 are being amended to clarify the intent of existing statute and revise the residential home licensing standards to incorporate regulations to protect the safety and well-being of children residing in residential homes.

### Title 67

### SOCIAL SERVICES

### Part V. Child Welfare

### Subpart 8. Residential Licensing

### Chapter 71. Residential Homes, Type IV

### §7109. Critical Violations/Fines

A - A.4. ...

5. §7111.D.1.a. if sections noted in §7111.D.7. also cited or §7111.D.1.b.i. if sections noted in §7111.D.7. also cited or §7111.D.2—critical incident reporting; and/or

A.6. - H.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 43:258 (February 2017), amended LR 43:1725 (September 2017), LR 44:

### §7111. Provider Requirements

A. - B.4.b.iii. ...

iv. notification signed and dated from OJJ indicating youth is appropriate for non secure placement;

v. - xxiii. ...

xxiv. for residents placed from other states, proof of compliance with the Interstate Compact on Juveniles, the Interstate Compact on the Placement of Children, and the Interstate Compact on Mental Health, when indicated. Proof of compliance shall include clearance letters from the compact officers of each state involved;

B.4.c. - C.8. ...

D. Incidents

1. Critical and Other Incidents. The provider shall have and adhere to written policies and procedures for documenting, reporting, investigating, and analyzing all incidents and other situations or circumstances affecting the health, safety, or well-being of a resident or child of a resident.



a. The provider shall submit a written report of the following incidents to the Licensing Section within one calendar day, excluding when the incident occurs on a weekend or state holiday: (If the incident occurs on a weekend or state holiday, provider shall submit a written report on the first working day following the weekend or state holiday.)

- i. elopement or unexplained absence of a resident or child of a resident;
- ii. use of personal restraints with the exception of escorting;
- iii. injuries of unknown origin;
- iv. evacuation of residents or children of residents;
- v. attempted suicide;
- vi. serious threat or injury to the health, safety, or well-being of the resident or child of a resident;
- vii. injury with substantial bodily harm while in seclusion or during use of personal restraint; or
- viii. unplanned hospitalizations, emergency room visits, and emergency urgent care visits.
- ix. any other unplanned event or series of unplanned events, accidents, incidents and other situations or circumstances affecting the health, safety, or well-being of a resident or child of a resident.

b. The program director or designee shall:

- i. immediately verbally notify the legal guardian of any incident noted in §7111.D.1.a.i-ix.;
- ii. immediately verbally notify the appropriate law enforcement authority in accordance with state law;
- iii. if requested, submit a final written report of the incident to the legal guardian as soon as possible, but no later than five working days of the incident;
- iv. conduct an analysis of the incident and take appropriate corrective steps to prevent future incidents from occurring;
- v. maintain copies of any written reports or notifications in the resident's or child of a resident's record;
- vi. ensure that a staff person accompanies residents and children of residents when emergency services are needed.

2. The provider shall verbally notify state office licensing management staff immediately in the event of a death and follow up with a written report within one calendar day of the verbal report. If the death occurs on a weekend or State holiday, provider shall verbally notify state office Licensing management staff as soon as possible on the first working day following the weekend or State holiday and follow up with a written report the same day as verbal notification. The provider shall immediately verbally notify the legal guardian and law enforcement in the event of a death.

3. - 5.h. ...

i. date and time the legal guardian, licensing, and, if applicable, law enforcement were notified;

j. - k. ...

l. documentation of actions taken by the provider regarding staff involved in the incident to include corrective action.

6. A copy of all written reports shall be maintained in the resident's or child of a resident's record.

7. Critical incidents are noted in §7111.D.1.a.iv-vi and ix, §7111.D.2., and §7111.E.2.

E. - E.2. ...

3. After reporting suspected abuse and/or neglect as required by Louisiana law, provider shall submit a written report to the licensing section immediately or the next working day if the suspected abuse and/or neglect occurred on a weekend or state holiday. At a minimum the report shall contain:

E.3.a. - J.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:811 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:979, 984 (April 2012), LR 42:221 (February 2016), amended by the Department of Children and Family Services, Licensing Section, LR 43:261 (February 2017), LR 43:1725 (September 2017), LR 44:

### **§7119. Physical Environment**

A. - A.12. ...

13. No interior door shall have a lock or fastening device that prevents free egress to the exterior of the home from the interior. No exterior door shall have a lock or fastening device that prevents free egress from the interior unless the provider has documentation of written annual approval from the Office of State Fire Marshall (OSFM).

B. - P.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:828 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:985 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 43:285 (February 2017), LR 44:

#### **Family Impact Statement**

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

The proposed Rule is not anticipated to have an impact on poverty as defined by R.S. 49:973.

#### **Small Business Analysis**

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

#### **Provider Impact Statement**

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

#### **Public Comments**

All interested persons may submit written comments through September 25, 2018, to Angie Badeaux, Licensing Program Director, Department of Children and Family Services, P. O. Box 3078, Baton Rouge, LA, 70821.

#### **Public Hearing**

A public hearing on the proposed Rule will be held on September 25, 2018 at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least

seven working days in advance of the hearing. For Assistance, call (225) 342-4120 (Voice and TDD).

Marketa Garner-Walters  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Residential Home**

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

The proposed rule change is anticipated to increase expenditures for the Department of Children and Family Services (DCFS) by approximately \$2,343 in FY 19 for the publication of the proposed rule. It is not anticipated that any other state or local governmental units will incur costs or savings as a result of this rule change.

The proposed rule amends LAC 67: V, Subpart 8, Residential Licensing, Chapter 71, Residential Homes—Type IV, Sections 7109, 7111, and 7119. This amendment updates the definition of a critical incident and clarifies that the timeline for reporting critical incidents is one calendar day excluding weekends and state holidays. This amendment also updates the procedures for reporting critical incidents in residential care facilities by providing that these incidents must be reported in writing to DCFS licensing and that they can no longer be reported through the child protection hotline. Finally, this rule specifies that interior and exterior doors in residential care facilities shall not be locked, except under certain conditions.

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

Implementation of the proposed rule will have no effect on revenue collections of state or local governmental units.

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

Implementation of this proposed rule will have no cost or economic benefit to directly affected persons or nongovernmental groups.

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

The proposed rule has no known effect on competition and employment.

Terri Ricks  
Deputy Secretary  
1808#035

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Economic Development  
Office of the Secretary**

**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 proposes to amend LAC 13:I.2901 relative to the administration of the research and development tax credit program.

The purpose of this regulation is to implement legislative changes to the research and development tax credit program under R.S. 47:6015 as enacted by Act 336 of the 2017 Regular Session of the Legislature.

**Title 13**

**ECONOMIC DEVELOPMENT**

**Part I. Financial Incentive Programs**

**Chapter 29. Research and Development Tax Credit**

**§2903. Definitions**

A. Terms not otherwise defined in this Chapter shall have the same meaning given to them in R.S. 47:6015 unless the context clearly requires otherwise.

B. In this Chapter, the following terms shall have the meaning provided in this Section, unless the context clearly requires otherwise.

\* \* \*

*Credit Certification*—a certification by LED of the amount of the research and development tax credit earned by a person for a particular tax year.

*Custom Manufacturing or Custom Fabricating*—the business of companies (custom fabricators and/or manufacturers) 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.

\* \* \*

*Professional Services Firm*—a firm who is primarily engaged in work which requires specialized education, knowledge, labor, judgment or 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 for qualified research as defined under 26 U.S.C. §41(d) (“qualified research”) that are qualified research expenses under 26 U.S.C. §41(b) (“qualified research expenses”) and meet the following requirements:

a. - d. ...

e. 26 U.S.C. §41(d) also excludes expenditures associated with certain activities from the definition of qualified research. These activities include:

i. - vi. ...

*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 provided by R.S. 47:6015.

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), amended by the Department of Economic Development, Office of the Secretary, LR 44:

#### **§2904. Type, Amount and Duration of Credit**

A. Type. Any taxpayer meeting the following criteria shall be allowed a 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 claims for the taxable year a federal income tax credit under 26 U.S.C. 41(a) for the taxable year, or 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. 5 percent of the difference between the qualified research expenses in the state for the taxable year minus the base amount, if the applicant is an entity that employs 100 or more persons (including affiliates); or

2. 10 percent of the difference, between the Louisiana qualified research expenses in the state for the taxable year minus the base amount, if the applicant is an entity that employs 50 to 99 persons (including affiliates); or

3. 30 percent of the state's apportioned share of the taxpayer's qualified research expenses in the state if the applicant is an entity that employs fewer than 50 persons (including affiliates); or

4. 30 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, small business technology transfer program funds received, or small business innovation research grant funds received after December 31, 2021.

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), amended Office of the Secretary, LR 42:42 (January 2016), LR 44:

#### **§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 equal to 0.5 percent of the amount of the tax credits applied for, with a minimum of \$500 and a maximum of \$15,000, 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 request that LED enter into an attest engagement with a certified public accountant ("CPA") authorized to practice in Louisiana or a tax attorney who is selected by LED for a report that focuses on verification of the applicant's expenditures and claimed qualified research activities as well as pay the deposit for such report in accordance with R.S. 36:104.1 and 47:6015; 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 the 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. Taxpayers qualifying for tax credit transfers under §2915 may apply for up to two credit certifications per calendar year. All other taxpayers shall be limited to one credit certification per calendar year.

D. 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.

E. 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.

F. 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 research 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.

G. 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 38:351 (February 2012), LR 40:51 (January 2014), LR 40:1526 (August 2014), amended by the Office of the Secretary, LR 42:42 (January 2016), amended the Department of Economic Development, Office of the Secretary, LR 44:

**§2911. Recapture of Credits**

A. An application for credit certification shall constitute:

1. a consent by the taxpayer that credits granted under this Section, but later disallowed in whole or in part, may be recovered by the secretary of the Department of Revenue from the taxpayer applicant through any collection remedy authorized by the provisions of R.S. 47:6015(H); and

2. ...

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), amended by the Department of Economic Development, Office of the Secretary, LR 44:

**§2913. Ineligible Businesses**

A. - A.1. ...

2. businesses primarily engaged in custom manufacturing or custom fabricating that do not have a pending or issued United States patent related to the qualified research expenditures claimed.

B. ...

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), amended by the Department of Economic Development, Office of the Secretary, LR 44:

**§2915. Transfer of Certain Research and Development Credits**

A. For tax years 2018 and later, credits based upon participation in either the Small Business Technology Transfer Program or the Small Business Innovation Research Grant not previously claimed by a taxpayer shall be transferable in accordance with the following provisions.

1. A single transfer or sale may involve one or more transferees.

2. Notice of the credit transfer shall be submitted by the applicant to the Louisiana Department of Revenue in writing within 10 business days of the transfer or sale of credits.

a. No transfer or sale of credits shall be effective until recorded in the tax credit registry.

b. The notification shall include the transferor's tax credit balance prior to transfer, a copy of any tax credit certification letter issued by the Department of Economic Development, the transferor's remaining tax credit balance after transfer, all tax identification numbers for both transferor and transferee, the date of the transfer, the amount transferred, a copy of the credit certificate, the price paid by

the transferee to the transferor, and any other information required by the Department of Revenue.

c. The notification submitted to the Department of Revenue shall include a transfer processing fee of two hundred dollars per transferee.

d. Failure to comply with this Paragraph shall result in the disallowance of the tax credit until the taxpayers are in full compliance.

3. The transfer or sale of credits does not extend the time in which the credits can be used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 44:

#### **Family Impact Statement**

The proposed Rule changes have no impact on family formation, stability or autonomy, as described in R.S. 49:972.

#### **Poverty Impact Statement**

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

#### **Small Business Analysis**

The proposed Rule is not anticipated to 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 Rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

#### **Provider Impact Statement**

The proposed Rule is not anticipated to have an impact on providers of services as described in HCF 170 of the 2014 Regular Legislative Session.

#### **Public Comments**

Interested persons may submit written comments to Robin Porter, Louisiana Department of Economic Development, P.O. Box 94185, Baton Rouge, LA 70804-9185; or physically delivered to the LaSalle Building, Office of the Secretary, Eleventh Floor, 617 North Third Street, Baton Rouge, LA, 70802. Comments may also be sent by fax to (225) 342-9448, or by email to Robin.Porter@la.gov. All comments must be received no later than close of business Tuesday, September 25, 2018.

#### **Public Hearing**

A public hearing to receive comments on the Notice of Intent will be held on Wednesday, September 26, 2018 at 10 am in the Griffon Conference Room at the Department of Economic Development, 617 North Third Street, Baton Rouge, LA 70802.

Anne Villa  
Undersecretary

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

#### **RULE TITLE: Research and Development Tax Credit Program**

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

The proposed rule change is not anticipated to result in any additional expenditures or savings for state or local

governmental units. The LA Dept. of Economic Development (LED) intends to administer the program with existing resources and personnel. Any additional administrative expenditures that may be incurred are anticipated to be marginal and will be absorbed within LED's existing resources. The proposed rule changes revise the Research & Development tax credit program regarding credit amounts and transferability.

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

The proposed rule changes will increase program credit costs by \$200,000 in FY 19, and then decrease costs beginning in FY 20 with anticipated phase-up of savings totaling \$900,000 annually by FY 21. For reference, the current baseline of the program totals approximately \$4.7 M annually.

Providing transferability to the tax credits given to Small Business Innovation Research/Small Business Technology Transfer (SBIR/SBTT) firms, even with the reduced rate from 40% to 30%, likely increases program costs by \$1.8 M per year. Being applicable to tax year 2018, the additional costs are likely to be realized against state fiscal as early as FY 19. However, the credit rates and requiring smaller firms to exceed the base spending threshold for credits to apply work to reduce program credit costs by an estimated \$2.7 M. The net effect of the revisions to the credits serves to reduce the program by up to \$900,000 annually, although this net effect will be realized over time, as it will take approximately four years for firms participating in the program under its current parameters to work through the program, while new entrants with lower associated costs accumulate in the program.

Furthermore, a \$200 per transfer fee is imposed to help defray the costs of the transferable credit registry. This may generate additional SGR collections for the LA Dept. of Revenue depending upon the number of credit transfers, though revenue from this source is speculative.

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

The modifications to the Research & Development credit program regarding lowered credit amounts may represent a reduced economic benefit to eligible firms, as they will receive reduced credits from the state. However, eligible firms that receive a federal Small Business Innovation and Research Grant, (SBIR) or Small Business Technology Transfer (SBTT) grant will now have the ability to transfer the credits issued to them under the R&D program, which represents a new economic benefit for these firms.

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

Companies receiving benefits under this program will gain competitively over companies that do not receive the program's benefits.

Anne G. Villa  
Undersecretary  
1808#034

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Board of Elementary and Secondary Education**

Administrative Board Operations and Programs  
(LAC 28:I.Chapter 3, 503, 705,  
715, 1303, 2103, and 2709)

The Board of Elementary and Secondary Education proposes to amend LAC 28:I in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10). Provisions governing the board are being

amended, adopted, or repealed in order to add pertinent definitions, update citations, remove obsolete information, and streamline the regulations. The basis and rationale for this proposed Rule are to maintain the regulations that govern the Board of Elementary and Secondary Education, as well as the programs charged to the board.

## **Title 28**

### **EDUCATION**

#### **Part I. BESE/8(g) Operations**

##### **Subpart 1. Board of Elementary and Secondary Education**

##### **Chapter 3. Composition and General Authority**

##### **§307. General Powers and Duties**

A. - A.9. ...

10. except as otherwise provided by law, approve private schools in accordance with the provisions of R.S. 17:11 and other applicable laws;

11. - 16. ...

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VIII, §8 and R.S. 17:6(A), 17:7(2)(a), 17:7(3), 17:7(4), 17:7(5), 17:7(6)(a)(i), 17:7(7), 17:7(8), 17:4.1, 17:43, 17:348, 17:6(A)(10), 17:6(A)(11), 17:10.5, 17:1990 and 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:410 (March 2008), amended LR 38:3150 (December 2012), LR 39:3262 (December 2013), LR 44:

##### **§309. State Superintendent**

A. - D.4. ...

5. The state superintendent may delegate, subject to the approval of the board, the appointing authority conferred upon him/her by law as to the recovery school district to the recovery school district supervising executive. The state superintendent may delegate administrative authority conferred upon him/her by law as to the recovery school district to the recovery school district supervising executive, subject to any restrictions provided by law, rule, or policy.

E. - E.6.b. ...

c. The state superintendent shall appoint the recovery school district supervising executive with prior approval of the board. The board president shall be notified of any acting appointments taking effect and the board shall be notified of the acting appointment at its next regularly scheduled meeting. Upon appointment approval by the board, the employment of the recovery school district supervising executive will continue unless he/she is removed by the board upon recommendation of the state superintendent or upon voluntary separation from employment.

6.d. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:21(C), 17:6(B), 17:21(B), 17:21(D), 17:21(A), 17:1990, 17:24(A), 17:24(B), 17:24(C), 17:24(D), 17:22(2)(f), 36:645, 17:22(6), 17:88(B), 17:88(D), 17:92, 17:10.6(A)(2), 17:3983, 17:43, 17:1945, 36:642(C)(1), and 36:648.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:410 (March 2008), amended LR 37:886 (March 2011), LR 38:3150 (December 2012), LR 39:3262 (December 2013), LR 44:

##### **§311. The Special School District**

A. - A.1.a. ...

b. The special school programs provide educational services to students enrolled in state-approved programs in non-traditional settings such as those provided by the

Department of Health's Office for Citizens with Developmental Disabilities and the Office of Behavioral Health, the Office of Juvenile Justice, and the Department of Public Safety and Corrections.

B. - B.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:4.1, R.S. 17:6(B), 17:43, 17:1945, 36:642(C)(1), and 36:648.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:412 (March 2008), amended LR 38:3151 (December 2012), LR 39:3262 (December 2013), LR 44:

##### **§313. The Recovery School District**

A. - B.2. ...

3. The overall administrative organization of the recovery school district consists of the board in the exercise of its approval over the administration of the recovery school district, the state superintendent acting as the recovery school district's governing authority, consistent with authority delegated by the board and statutory authority acknowledged by the board, and a supervising executive of the recovery school district.

4. The recovery school district shall be administered by a superintendent, who shall report to the state superintendent. The responsibilities and duties of the recovery school district supervising executive shall be prescribed by the state superintendent.

C. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:6(B), and 36:651(F).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:413 (March 2008), amended LR 36:2851 (December 2010), LR 38:3151 (December 2012), LR 39:3262 (December 2013), LR 44:

##### **Chapter 5. Organization**

##### **§503. Advisory Councils**

A. - C.3.b.i. ...

ii. the supervising executive of the RSD, who is appointed by the state superintendent of education;

C.3.b.iii. - G.2. ...

3. Agendas of council meetings shall be distributed to council members by the board staff at least 7 days in advance of a meeting, calendar permitting. All council meetings shall be conducted in accordance with the Louisiana open meetings law (R.S. 42:11 et seq.). In the event that no items have been referred by the board to an advisory council for consideration, there are no items pending on an advisory council agenda, and the LDE has no items to bring forward to the advisory council at least 10 days prior to a scheduled meeting, the meeting shall be cancelled and the members shall be notified of the cancellation.

4. In accordance with R.S. 42:19, the agenda may be amended upon unanimous approval of the members present at a meeting and subject to other provisions of the statute.

5. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:6(A)(15), 17:11, 17:24.4, and 42:19.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:416 (March 2008), amended LR 35:1874 (September 2009), LR 36:2851 (December 2010), LR 37:2140 (July 2011), LR 38:772 (March 2012), LR 38:3152 (December 2012), LR 39:3263 (December 2013), LR 42:563 (April 2016), LR 44:744 (April 2018), LR 44:

## Chapter 7. Operations

### §705. Agenda

A. - B.3. ...

C. Amending Board or Committee Agenda. In accordance with R.S. 42:19, the agenda may be amended upon unanimous approval of the members present at a meeting and subject to other provisions of the statute.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and 42:19.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:420 (March 2008), amended LR 37:2141 (July 2011), LR 38:3153 (December 2012), LR 39:3264 (December 2013), LR 44:

### §715. Executive Session

A. An executive session of the board or its committees shall be conducted in accordance with state law and may include discussion of matters relative to:

1. the character, professional competence, or physical or mental health of a person;
2. any report, development, or course of action regarding security personnel, plans, or devices;
3. prospective and/or pending litigation; and
4. any other issue permitted by law to be discussed in executive session.

B. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:16, 42:17, and 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:423 (March 2008), amended LR 39:3265 (December 2013), LR 44:

## Chapter 13. Regulatory Documentation and Procedures

### Subchapter A. Regulatory Documents

#### §1303. Rulemaking

A. - B. ...

C. The following process must be followed for adoption of a new policy, the amendment of an existing policy, or the repeal of an existing policy.

1. The board approves a proposed Rule to be advertised as a Notice of Intent. The Notice of Intent approval will serve as authorization for the BESE executive director to submit the Notice of Intent to the Division of Administration's Office of the State Register to be published in the *Louisiana Register* for final adoption as a Rule at the expiration of the required 90-day advertisement period, if no public comments are received relevant to said Notice of Intent. If comments are received regarding the Notice of Intent, the comments will be considered by the board prior to final adoption as a Rule (refer to Subparagraphs 2.e-2.f.ii of this Subsection).

2. Following approval of a proposed Rule to be advertised as a Notice of Intent:

a. the appropriate LDE/BESE staff is requested to submit proposed policy language, a Family Impact Statement, a Poverty Impact Statement, a Small Business Analysis, a Provider Impact Statement, a Public Comments paragraph, a Public Hearing paragraph (if applicable), a Fiscal and Economic Impact Statement (FEIS), and comparison language to the board recorder for processing;

b. ...

c. after the FEIS is approved by the LFO, the board recorder prepares the Notice of Intent in compliance with statutory specifications and submits it to the *Office of the State Register* for publication in the *Louisiana Register*. A report regarding the Rule is also submitted to the appropriate legislative committees;

d. Upon publication of the Notice of Intent in the *Louisiana Register*, a period of 90 days must elapse before the Notice of Intent can be adopted as a final Rule.

e. - f.ii. ...

3. The deadline for submission of information for publication in the *Louisiana Register* is the tenth of the month unless the tenth falls on a weekend or holiday, in which case the deadline will be the last business day prior to the tenth of the month.

D. - E. ...

F. Codified board policies are posted on the Office of the State Register's website and are also accessible through links on the BESE website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and 49:951 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:426 (March 2008), amended LR 37:3220 (November 2011), LR 38:3156 (December 2012), LR 39:3267 (December 2013), LR 44:745 (April 2018), LR 44:

### Subchapter B. Petitioning for Rulemaking

#### §1309. Content of a Rulemaking Petition

A. In accordance with R.S. 49:953(C)(1), any interested person may petition the board's executive director in writing to adopt a new rule or amend or repeal an existing rule contained within the *Louisiana Administrative Code*, Title 28.

B. The petition shall include:

1. the petitioner's name and address;
2. the petitioner's interest in the proposed action;
3. the basis for the request;
4. specific text or a description of the proposed language desired for the adoption or amendment of a rule or the specific regulation and language requested for repeal;
5. any other information that justifies the proposed action; and
6. the signature of the petitioner requesting the rule change.

C. A copy of the form to petition for rulemaking, as described in Subsection B of this Section, can be obtained:

1. from BESE's website;
2. by requesting a copy sent through the U.S. Mail; or
3. by means of facsimile.

D. The petition shall be submitted by certified mail and addressed to:

Board of Elementary and Secondary Education  
Attn: Executive Director of the Board  
P.O. Box 94064, Capital Station  
Baton Rouge, LA 70804

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 49:953 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

#### §1311. Processing a Rulemaking Petition

A. Upon receipt, a petition for rulemaking shall be reviewed for completeness, as prescribed in LAC 28:I.1309.

If found complete, the petition shall be processed in accordance with this Section.

B. Within 90 days of receipt of the petition for rulemaking, the executive director, after consulting with the board's officers, shall either:

1. initiate procedures for processing a proposed regulation, along with the rulemaking procedures provided in R.S. 49:950 et seq., upon approval to proceed with rulemaking; or

2. shall notify the petitioner in writing, stating the reason(s) for the denial, upon a denial to proceed with rulemaking.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 49:953 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

**Subpart 3. Bulletin 921—Policy and Procedure Manual for the Louisiana Quality Education Support Fund 8(g) Chapter 21. Legislation and Purpose**

**§2103. Definitions**

**[Formerly LAC 28:XCIII.103]**

A. As used in this document, the following terms shall have the meaning specified.

8(g) *Advisory Council*—an advisory council to the BESE which annually makes recommendations on the program, budget, and recommended projects for funding to be allocated by the BESE. The council shall operate in accordance with LAC 28:I.503 and shall serve without compensation, except for reasonable and necessary expenses for attending meetings and performing duties.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3142 (December 2012), amended LR 44:

**Chapter 27. Annual 8(g) Program and Budget**

**Subchapter A. Establishment of Annual 8(g) Program and Budget**

**§2709. Notice of Adoption of Annual 8(g) Program and Budget**

**[Formerly LAC 28:XCIII.709]**

A. The board shall post on its website a summary of the adoption of the annual 8(g) program and. Such summary shall consist of a summary of the educational objectives and/or programs to receive budgetary priorities, including the proposed allocation. Such report shall include, but not be limited to, the following:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3144 (December 2012), amended LR 44:

**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 Analysis**

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 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 noon, September 9, 2018, to Shan N. Davis, Executive Director, Board of Elementary and Secondary



Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date-stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Administrative Board  
Operations and Programs**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
The proposed policy revisions will have an indeterminable impact to the state Department of Education (LDE).  
Provisions governing the board are being amended, adopted, or repealed in order to add pertinent definitions, update citations, remove obsolete information, and streamline the regulations. Additionally, changes provide for any interested person to petition the board to adopt a new rule or amend or repeal an existing rule. The board shall review the request and initiate procedures to process the request or notify the petitioner in writing of a denial. Such provisions could result in a workload increase for the staff of the Board of Elementary and Secondary Education (BESE) and the LDE, however, the extent of such increases will depend upon the frequency and complexity of requests which may be exercised and are indeterminable at this time.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The proposed policy revisions 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 are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There are no estimated impacts on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1808#042

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—Schools with Insufficient Test Data; Strength of Diploma Index; and Urgent and Comprehensive Intervention: Subgroup Performance (LAC 28:XI.607, 709, and 901)

In accordance with R.S. 17:6(A)(10) and R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education (BESE) approved for advertisement amendments

to *Bulletin 111—The Louisiana School, District, and State Accountability System*.

**Title 28  
EDUCATION**

**Part XI. Accountability/Testing  
Subpart 1. Bulletin 111—The Louisiana School, District, and State Accountability System**

**Chapter 6. Inclusion in Accountability  
§607. Pairing/Sharing of Schools with Insufficient Test Data**

**[Formerly §521]**

A. Any school with at least one testing grade (4-11) will receive an SPS based only on its own student data provided that it meets the requirements of LAC 28:XI.605.

B. Any K-3 school will receive an SPS calculated according to the formula in LAC 28:XI.301 using the K-8 assessment index based only on its own student data, provided it meets the requirements of LAC 28:XI.605, or an SPS calculated according to the formula in LAC 28:XI.301 using the K-8 assessment index based only on its own student data and the K-8 progress index equal to the K-8 progress index of the school to which it is paired, whichever results in the higher SPS.

C. Any K-2 school with insufficient testing data will be awarded an SPS equal to the SPS of the school to which it is paired.

D. Any school enrolling only 12th grade students will be awarded an SPS based on shared data from a school or schools containing grades 9-11 that send it the majority of its students. This sharing relationship is to define the cohort that will provide the starting roster on which its graduation index will be based.

E. Any K-2, 9-12 configuration shall receive an SPS based solely on the 9-12 data.

F. A district must identify the school where each of its non-standard schools shall be paired in order to facilitate the proper sharing of data for reporting purposes, as described above. The paired school must be the one that receives by promotion the largest percentage of students from the non-standard school. In other words, the paired school must be the school into which the largest percentage of students feed. If two schools receive an identical percentage of students from a nonstandard school, or when there is no distinct feeder pattern, the district shall select the paired school.

G. Requirements for the number of test/graduation index units shall be the sum of the units used to calculate the school's SPS (see LAC 28:XI.605).

H. If a school has too few test units to be a "stand-alone" school, it may request to be considered stand-alone.

1. It shall receive an SPS that is calculated solely on that school's data, despite the small number of test units.

2. The request shall be in writing to the LDE from the LEA superintendent.

3. The school forfeits any right to appeal an SPS and status based on minimum test unit counts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 30:1445 (July 2004), LR 32:1023 (June 2006), LR 36:1991 (September 2010), LR 38:3108 (December 2012), LR

**Chapter 7. Graduation Cohort, Index, and Rate**  
**[Formerly Chapter 6]**

**§709. Calculating a Strength of Diploma Index**  
**[Formerly §613]**

A. Beginning in 2017-2018 (2016-2017 cohort), points shall be assigned for each member of a cohort according to the following table.

Student Result	Points
***	
Four-year graduate (includes Career Diploma student with a regional Jump Start credential)	100
Five-year graduate with any diploma *Five-year graduates who earn an AP score of 3 or higher, an IB score of 4 or higher, a CLEP score of 50 or higher, or an Advanced statewide Jump Start credential will generate 140 points. Five-year graduates who earn an Associate’s Degree will generate 150 points.	75
Six-year graduate with any diploma	50
***	

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1025 (June 2006), amended LR 33:2031 (October 2007), LR 33:2594 (December 2007), LR 35:1472 (August 2009), LR 36:1769 (August 2010), repromulgated LR 36:1994 (September 2010), LR 36:2243 (October 2010), LR 37:3201 (November 2011), LR 38:1391 (June 2012), LR 38:3109 (December 2012), LR 39:306 (February 2013), LR 39:2444 (September 2013), LR 40:1317 (July 2014), LR 41:615 (April 2015), LR 42:1017 (July 2016), LR 42:2172 (December 2016), LR 44:455 (March 2018), LR 44:

**Chapter 9. Urgent Intervention and Comprehensive Intervention**

**§901. Subgroup Performance**

A. - A.1.f. ...

2. In order to receive a subgroup performance score, a school must have in the subgroup a minimum of 10 students included in each graduation and ACT index and 40 units in each assessment and progress index included in the school’s overall school performance score calculation.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:456 (March 2018), amended LR 44:

**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 Analysis**

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 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 noon, September 9, 2018, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201

North Third Street, Baton Rouge, LA 70802 and must be date-stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis  
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)**

There may be an indeterminable increase to local school districts as a result of the changes to the methodology used to calculate school performance scores (SPS) for K-3 schools. The addition of a progress index to calculate scores are critical to determining whether schools are on track for students to reach achievement levels of mastery. Scores calculated under the revised methodology may require schools to provide additional resources to ensure students meet these levels.

The proposed policy revisions provide for an alternative methodology for the calculation and reporting of school performance scores for K-3 schools. Approximately 27 K-3 schools statewide will be impacted by the changes. This is an interim solution while the state Department of Education works to develop a long-term solution for measuring performance and progress in K-2 and K-3 schools.

Additional changes address subgroup performance scores, and recognition of fifth year graduates who earn associate degrees. Changes to the dropout credit index for sub-group performance will allow for all students below the existing threshold to be included in the calculation of the school performance score, and high schools' SPS will benefit from the new credit associated with fifth year graduates' academic achievement. There is no anticipated fiscal impact as a result of these changes.

**C. Certification Areas  
1. Grades 6-12 Certification**

Grades 6-12 Certification Areas					
Subject Area	Praxis Test	Score			PLT 7-12
Agriculture	Agriculture (0700) Prior to 6/8/14	510	---	---	157
	Agriculture (5701) Effective 6/8/14	147			
American Sign Language	American Sign Language Proficiency Interview (ASLPI-0634)	3+ 170	World Languages Pedagogy 0841 (Score 158)		
Biology	Biology: Content Knowledge (0235 or 5235)	150	---	---	157
* * *					

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

The proposed policy revisions 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 are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

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

There are no anticipated impacts to competition or employment.

Beth Scioneaux  
Deputy Superintendent  
1808#044

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  
Teaching Authorizations and Certification  
(LAC 28:CXXXI.203, Chapter 3,  
414, 605, 803, and Chapter 9)

In accordance with R.S. 17:6 and R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education has approved for advertisement the revision of *Bulletin 746—Louisiana Standards for State Certification of School Personnel*.

**Title 28**

**EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards for  
State Certification of School Personnel**

**Chapter 2. Initial Teacher Certification  
Subchapter B. Testing Required for Certification Areas**

**§203. PRAXIS Exams and Scores  
(Formerly §243)**

A. - B. ...

\* \* \*

2. All-Level K-12 Certification

All-Level K-12 Certification Areas							
Subject Area	Praxis Test	Score	PLT K-6		PLT 5-9		PLT 7-12
Grades K-12 Art	Art: Content Knowledge (0134 or 5134)	159	160	or	160	or	157
Grades K-12 Dance	None Available**	---	160		160	or	157
Grades K-12 Foreign Languages	Chinese (Mandarin): World Language (5665)	164	PLT K-6 (Score 160) or PLT 5-9 (Score 160) or PLT 7-12 (Score 157) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)				
	French: World Language (5174)	157					
	German: World Language (5183)	157					
	Spanish: World Language (5195)	157					
	American Sign Language Proficiency Interview (ASLPI - 0634)	3+ 170					
Grades K-12 Music	Music: Content Knowledge (0113 or 5113)	151	160	or	160	or	157
Grades K-12 Health and Physical Education	Phys. Education: Content Knowledge (0091 or 5091), Prior to 6/8/14	146	160		160	or	157
	Health and Physical Education (5857), Effective 6/8/14	160					

\*\*At this time, a content area exam is not required for certification in Louisiana

D. - E. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1833 (October 2006), amended LR 36:485 and 488 (March 2010), LR 36:2265 (October 2010), LR 37:551 (February 2011), repromulgated LR 37:556 (February 2011), amended LR 37:3210 (November 2011), LR 39:1461 (June 2013), LR 40:277 (February 2014), LR 40:1680 (September 2014), LR 41:645 (April 2015), LR 41:916 (May 2015), LR 42:233 (February 2016), LR 43:1292 (July 2017), LR 44:264 (February 2018), LR 44:

**Chapter 3. Teaching Authorizations and Certifications**

**Subchapter B. Nonstandard Teaching Authorizations**

**§323. Temporary Authority to Teach (TAT)**

A. Temporary authority to teach (TAT) is issued for one calendar year, while the holder pursues alternate certification program admission requirements or certification requirements. A TAT cannot be issued to teachers who previously held a temporary employment permit (TEP) or a standard teaching certificate.

**B. Eligibility Requirements**

1. The applicant must teach in a demonstrated area of need as evidenced by LEA-level workforce needs.

2. The applicant must have a baccalaureate degree from a regionally-accredited institution.

3. The applicant must possess passing scores on the Praxis core academic skills for educators in reading and writing examinations or appropriate scores on the ACT or SAT.

a. Applicants possessing a graduate degree from a regionally-accredited college or university will be exempted from the Praxis core academic skills for educators requirement.

4. The applicant must have at least a 2.20 GPA. The GPA may be calculated using the last 60 hours of coursework earned from a regionally-accredited university.

C. The employing school system must submit the application and provide an affidavit signed by the local superintendent verifying that good faith efforts for recruiting certified personnel have been made, including posting all positions for which TATs are issued; that "there is no regularly certified, competent, and suitable person available for the position."

**D. Renewal Requirements**

1. TATs are valid for one year initially and may be renewed twice thereafter provided:

a. the applicant provides evidence that the required exam(s) for admission into a teacher preparation program has been taken at least twice within the validity period of the TAT;

b. the applicant provides evidence of meeting the standards of effectiveness pursuant to Bulletin 130;

c. the employing school system submits the application on behalf of the applicant and provides an affidavit signed by the local superintendent verifying that good faith efforts for recruiting certified personnel have been made, including posting all positions for which TATs are issued; and

d. there is no regularly certified, competent, and suitable person available for the position.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1803 (October 2006), amended LR 36:2547 (November 2010), LR 40:280 (February 2014), LR 44:

**Subchapter C. Ancillary Teaching Certificates**

**§348. Math for Professionals Certificate**

A. ...

B. Math for professionals certificate is valid for three years initially and allows an individual to teach one or more mathematics courses on a part-time basis.

1. - 1.a.i. ...

ii. earned a master's degree in mathematics, engineering, or science content area; or

a.iii. - c. ...

**2. Renewal Requirements**

a. TATs valid for three years initially and may be renewed thereafter for a period of five years at the request of an LEA.

b. For renewal of the certificate, a candidate must successfully meet the standards of effectiveness for at least three years during the initial or renewal period pursuant to Bulletin 130 and R.S. 17:3902.

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:220 (February 2009), amended LR 39:1463 (June 2013), LR 40:281 (February 2014), LR 44:

**§349. Dyslexia Ancillary Certificate (Optional)**

A. Dyslexia Practitioner. The optional dyslexia practitioner ancillary certificate is valid for five years and is issued to an individual to teach students with dyslexia.

1. Eligibility Requirements. Candidates shall:
  - a. hold a valid Louisiana teaching certificate; and
  - b. demonstrate completion of a multisensory-structured language training program accredited by a nationally-recognized accrediting organization, as posted on the LDE website, which shall include 45 hours of coursework and 60 hours of clinical work that is observed and monitored by a qualified professional; and
  - c. pass a multisensory-structured language education-related competency examination that is administered by a nationally-recognized professional organization that issues national certification.
2. Renewal Requirements. The certificate is valid for a period of five years and may be renewed thereafter at the request of the Louisiana employing authority.
  - a. Candidates shall successfully meet the standards of effectiveness for at least three years during the five-year renewal period pursuant to Bulletin 130 and R.S. 17:3902.
  - b. Candidates shall demonstrate that the certificate issued by a nationally-recognized professional organization is in good standing at the time the renewal is requested.

B. Dyslexia Therapist. The optional dyslexia therapist ancillary certificate is valid for five years and is issued to an individual to teach students with dyslexia.

1. Eligibility Requirements. Candidates shall:
  - a. hold a valid Louisiana teaching certificate; and
  - b. demonstrate completion of a multisensory-structured language training program accredited by a nationally-recognized accrediting organization, as posted to the LDE website, which shall include 200 hours of coursework and 700 hours of clinical work that is observed and monitored by a qualified professional; and
  - c. pass a multisensory-structured language education-related competency examination that is administered by a nationally-recognized professional organization, as posted on the LDE website, that issues national certification.
2. Renewal Requirements. The certificate is valid for a period of five years and may be renewed thereafter at the request of the Louisiana employing authority.
  - a. Candidates shall successfully meet the standards of effectiveness for at least three years during the five-year renewal period pursuant to Bulletin 130 and R.S. 17:3902.
  - b. Candidates shall demonstrate that the certificate issued by a nationally-recognized professional organization is in good standing at the time the renewal is requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:220 (February 2009), amended LR 39:1463 (June 2013), LR 40:281 (February 2014), LR 44:

**Chapter 4. Ancillary School Service Certificates**  
**Subchapter A. General Ancillary School Certificates**  
**§414. Mental Health Professional Counselor**

- A. ...
1. Eligibility Requirements. Candidates shall:
    - a.i. hold current Louisiana licensure as a provisional licensed professional counselor in Louisiana (PLPC), in accordance with R.S. 37:1101 et seq.; or
    - ii. work under active supervision of a board-approved licensed professional counselor supervisor (BA LPC-S) (i.e., 1 hour of supervision per 20 client contact hours) and accrue 1,900 direct client contact hours, 1,000 indirect hours, and 100 clinical supervision hours under the board-approved licensed professional counselor supervisor (BA LPC-S);
  - b. - f. ...
  2. Renewal requirements are non-renewable.

- B. ...
1. Eligibility Requirements. Candidates shall:
    - a. hold current Louisiana licensure as a licensed professional counselor in Louisiana (LPC) or as a provisional-licensed professional counselor (PLPC) in accordance with R.S. 37:1101 et seq.; or
    - 1.b. - 2.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:881 (March 2011), amended LR 44:

**Chapter 6. Endorsements to Existing Certificates**  
**Subchapter A. Regular Education Level and Area Endorsements**

**§605. Requirements to add Early Childhood (Grades PK-3)**

- A. - B. ...
- 1.a. prior to 9/1/15, a passing score for Praxis elementary education: content knowledge (0014 or 5014);
  - b. effective 9/1/15 to 8/31/17, a passing score for:
    - i. Praxis elementary education: content knowledge (5018); or
    - ii. Praxis elementary education: multiple subjects (5001);
  - c. mandatory 9/1/17, a passing score for Praxis elementary education: multiple subjects (5001);
  - 2.a. a passing score for Praxis principles of learning and teaching early childhood (0621 or 5621); or
  - b. accumulate 12 credit hours of combined early childhood and kindergarten coursework;
  3. nine semester hours of reading coursework or a passing score for Praxis teaching reading exam (0204 or 5204).

C. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1815 (October 2006), amended LR 37:883 (March 2011), repromulgated LR 37:1561 (June 2011), amended LR 37:3215 (November 2011), LR 38:44 (January 2012), LR 39:1464 (June 2013), LR 41:648 (April 2015), LR 41:918 (May 2015), LR 41:1270 (July 2015), LR 44:

**Chapter 8. Certification Appeal Process**

**§803. Appeal Process**

A. ...

1. An appeal cannot be initiated until:

a. an applicant has submitted a complete certification application to the Department of Education, Division of Certification, Leadership, and Preparation;

b. the application is reviewed by a certification specialist; and

c. the applicant is notified that he/she is denied the requested certification.

2. ...

3. Appeals will not be considered for individuals who:

a. ...

b. lack a minimum grade point average of 2.50 for initial certification; or

c. - f. ...

g. are requesting issuance or renewal of a non-standard teaching certificate excluding the temporary authority to teach (TAT) certificate;

3.h. - 4. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 32:1829 (October 2006), amended LR 36:487 (March 2010), LR 38:3140 (December 2012), LR 43:1314 (July 2017), LR 44:

**Chapter 9. Actions Related to the Suspension/Denial and Revocation of Louisiana Certificates**

**§903. Definitions**

A. ...

\*\*\*

B. The following crimes are reported under R.S. 15:587.1:

1. R.S. 14:2(B), R.S. 14:30, R.S. 14:30.1, R.S. 14:31, 14:32.6, 14:32.7, 14:32.8, R.S. 14:41 through R.S.14:45, R.S. 14:46.2, R.S. 14:46.3, R.S. 14:46.4, R.S. 14:74, R.S. 14:79.1, R.S. 14:80 through R.S. 14:86, R.S. 14:89, R.S. 14:89.1, R.S. 14:89.2, R.S. 14:92, R.S. 14:93, R.S. 14:93.2.1, R.S. 14:93.3, R.S. 14:93.5, R.S. 14:106, R.S. 14:282, R.S. 14:283, R.S. 14:283.1, R.S. 14:284, R.S. 14:286, R.S. 15:541, R.S. 40:966(A), R.S. 40:967(A), R.S. 40:968(A), R.S. 40:969(A), and R.S. 40:970(A) or convictions for attempt or conspiracy to commit any of those offenses;

2. those crimes of a jurisdiction other than Louisiana which, in the judgment of the bureau employee charged with the responsibility for responding to the request, would constitute a crime under the provisions cited in this Subsection in the following table, and those under the federal criminal code in 18 USC, having analogous elements of criminal and moral turpitude.

<b>Crimes Reported under R.S. 15:587.1</b>	
***	
*R.S. 14:44.1	Second degree kidnapping
*R.S. 14:44.2	Aggravated kidnapping of a child
*R.S. 14:45	Simple kidnapping
*R.S. 14:46.2	Human trafficking
*R.S. 14:46.3	Trafficking of children for sexual purposes
*R.S. 14:46.4	Rehoming of a child
R.S. 14:74	Criminal neglect of family
***	
*R.S. 14:80	Felony Carnal knowledge of a juvenile
*R.S. 14:80.1	Misdemeanor carnal knowledge of a juvenile

*R.S. 14:81	Indecent behavior with a juvenile
***	
*R.S. 14:93	Cruelty to juveniles
*R.S. 14:93.5	Sexual battery of persons with infirmities
R.S. 14:93.2.1	Child desertion
***	
*Certificate issuance/reinstatement will never be considered for crimes marked with an asterisk.	

C. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 32:1830 (October 2006), amended LR 34:2559 (December 2008), LR 38:763 (March 2012), LR 44:265 (February 2018), LR 44:

**§905. Denial of Initial or Renewal Certificates**

A. ...

B. An application for a Louisiana teaching certificate or an application for a renewal of an expired teaching certificate shall be denied if the individual applying for the certificate has ever had any professional license/certificate related to the area of certification denied, suspended, revoked, or voluntarily surrendered.

C. - D. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 36:1999 (September 2010), amended LR 38:763 (March 2012), LR 44:266 (February 2018), LR 44:

**§906. Issuance of a Denied Certificate**

A. Issuance will never be considered for teachers who have been convicted of a felony for the following crimes:

1. R.S. 14:30, 14:30.1, 14:31, 14:32.6, 14:32.7, 14:32.8, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.1.1, 14:43.2, 14:43.3, 14:43.4, 14:43.5, 14:44, 14:44.1, 14:45, 14:46.2, 14:46.3, 14:46.4, 14:78, 14:78.1, 14:80, 14:80.1, 14:81, 14:81.1, 14:81.2, 14:81.3, 14:81.4, 14:82 (in some instances), 14:82.1, 14:84, 14:86, 14:89, 14:89.1, 14:92 (in some instances), 14:93, 14:93.3, 14:93.5, 14:106, 14:283, and 14:286.

B. Issuance of certificates shall not be considered until at least three years have elapsed from the date of entry of final conviction or submission of fraudulent documentation, or the date of investigation results regarding the participation in cheating or professional license/certificate censure as noted in §905.B of this Chapter, which resulted in certification denial.

C. An applicant may apply to the board for the issuance of his/her Louisiana teaching certificate after the lapse of time indicated in Subsection B of this Section and under the following conditions.

1. There have been no further convictions, submission of fraudulent documentation, participation in cheating, or professional license/certificate censure.

C.2. - D. ...

1. Contact the office of the Board of Elementary and Secondary Education and request a records review for issuance of the certificate that was denied due to:

a. the submission of fraudulent documentation;

b. conviction for a crime listed in R.S. 15:587.1 or for any felony;

- c. participation in cheating; or
- d. professional license/certificate censure.

E. Board of Elementary and Secondary Education Responsibilities

1. - 2. ...

3. The board reserves the right to accept or reject any document offered as evidence of rehabilitation and the right to determine if adequate rehabilitation has occurred and will determine if and when an applicant is eligible for issuance of a teaching certificate.

4. In accordance with R.S. 42:17(A)(1), the board may meet in executive session for discussion of the character, professional competence, or physical or mental health of a person.

5. The board may deny a request for a records review for any applicant who:

- a. failed to disclose prior criminal convictions or expungements;
- b. falsified academic records;
- c. has been found to have participated in cheating in the administration of standardized tests;
- d. received further criminal convictions or participated in cheating; or
- e. has had additional professional license/certificate censure.

6. The committee of the board shall make a recommendation to the full board regarding whether the teaching certificate should be issued to the applicant. Board staff shall notify the applicant of the action of the board.

7. The action of the board is a final decision and can only be appealed to a court of proper jurisdiction in accordance with law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:1999 (September 2010), amended LR 38:763 (March 2012), LR 44:266 (February 2018), LR 44:

**§910. Suspension and Revocation of Certificates due to Professional License/Certificate Censure**

A. A Louisiana teaching certificate may be suspended and or revoked if a teacher is found to have had a professional license/certificate related to the area of certification denied, suspended, revoked, or voluntarily surrendered.

B. The department shall investigate prior to determining that a teacher has had a professional license/certificate censured. Upon confirmation of the information investigated, the department shall notify the teacher in writing that his/her certificate has been suspended pending official board action per revocation proceedings.

1. Such records review shall be limited to the issue of whether or not the professional license/certificate has been censured. The teacher shall provide the board with any documentation that will refute the findings of the department investigation.

C. The committee of the board shall make a recommendation to the full board, based on documentation received from the department and the teacher, whether the teaching certificate should be revoked. The decision of the board shall be transmitted to the local school board and to the teacher affected.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1831 (October 2006), amended LR 34:2560 (December 2008), LR 36:1999 (September 2010), LR 38:764 (March 2012), LR 44:268 (February 2018), LR 44:

**§911. Reinstatement of Suspended or Revoked Certificates**

A. Reinstatement will never be considered for teachers who have been convicted of a felony for the following crimes:

1. R.S. 14:30, 14:30.1, 14:31, 14:32.6, 14:32.7, 14:32.8, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.1.1, 14:43.2, 14:43.3, 14:43.4 14:43.5, 14:44, 14:44.1, 14:45, 14:46.2, 14:46.3, 14:46.4, 14:78, 14:78.1, 14:80, 14:80.1, 14:81, 14:81.1, 14:81.2, 14:81.3, 14:81.4, 14:82 (in some instances), 14:82.1, 14:84, 14:86, 14:89, 14:89.1, 14:92 (in some instances), 14:93, 14:93.3, 14:93.5, 14:106, 14:283, and 14:286.

B. Reinstatements of certificates shall not be considered until at least three years have elapsed from the date of entry of final conviction, submission of fraudulent documentation, the date of investigation results regarding the participation in cheating, or professional license/certificate censure as noted in §905.B, which resulted in certification suspension and/or revocation.

C. An applicant may apply to the board for reinstatement of his/her Louisiana teaching certificate after the lapse of time indicated above and under the following conditions.

1. There have been no further convictions, submission of fraudulent documentation, investigations regarding participation in cheating, or professional license/certificate censure as noted in §905.B of this Chapter.

C.2 - D.2. ...

E. Board of Elementary and Secondary Education Responsibilities

1 - 2. ...

3. The board reserves the right to accept or reject any document as evidence of rehabilitation and the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible for reinstatement of a teaching certificate.

4. In accordance with R.S. 42:17(A)(1), the board may meet in executive session for discussion of the character, professional competence, or physical or mental health of a person.

5. The board may deny any request for issuance by any applicant who:

- a. failed to disclose prior criminal convictions or expungements;
- b. falsified academic records;
- c. has been found to have participated in cheating in the administration of standardized tests; or
- d. received further criminal convictions or participated in cheating.

6. The committee of the board shall make a recommendation to the full board regarding whether the teaching certificate issued to the applicant should be issued, reinstated, suspended for an additional period of time, or remain revoked. Board staff shall notify the applicant of the board action.

7. The action of the board is a final decision and can only be appealed to a court of proper jurisdiction in accordance with law.

**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 32:1831 (October 2006), amended LR 34:2560 (December 2008), LR 36:1999 (September 2010), LR 38:764 (March 2012), LR 44:268 (February 2018), LR 44:

#### **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 Analysis**

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 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 noon, September 9, 2018, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date-stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel—Teaching Authorizations and Certification**

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

There will be a net increase in operating expenses of the Department of Education as a result of the proposed revisions to certain teacher certifications. While there will be a reduction in workload associated with the extended renewal periods for the Math for Professionals Certificate, and a cost avoidance to hold additional TAT Appeals Council meetings, there will be an increase in staff time and resources to process renewal of Temporary Authority to Teach (TAT) certificates, new American Sign Language endorsements and new Dyslexia ancillary certificates. The estimated increase over a three-year period is approximately \$4,500.

There could be cost increases for the districts to the extent teachers become eligible for increases in base salary or incremental pay. The impacts will vary depending upon the type of certificate awarded and the length of such certificates, as well as the demands and payment options of the district in which teachers are employed, and are indeterminable at this time.

Proposed revisions modify requirements for non-standard teaching authorizations (Temporary Authority to Teach); recognize additional qualifications for ancillary teaching certificates (Math for Professionals); as well as implement new ancillary teaching certificates (Dyslexia Practitioner), and endorsements (American Sign Language) for certain professionals. Additionally, proposed changes allow for extended renewals of up to three years for the Temporary Authority to Teach and the Math for Professional certifications. The optional dyslexia certificate will be valid for five years.



Additional changes provide technical clarifications for other general ancillary school certificates as well as action related to the suspension, denial and revocation of certificates

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

There will be a net increase in self-generated revenues of approximately \$60,000 over the next three years for the LDE as a result of the changes to teacher certifications. There will be an increase of \$60,000 in revenues associated with the three-year Temporary Authority to Teach (TAT) certificate impacting an estimated 400 applicants over the next three years; an increase of \$3,000 associated with the American Sign Language endorsement for approximately 90 applicants; and an increase of \$4,500 associated with the Dyslexia Ancillary certificates for an estimated 60 applicants. These increases will be offset by a \$7,500 reduction in revenues associated with the extended three-year renewal for the Math for Professionals certificates impacting an average 300 applicants over this time frame.

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

There will be a reduction in out-of-pocket expenses for teachers to obtain Math for Professional certifications of annual application fees of \$50. Teachers seeking renewal of TAT certificates will incur applications fees of \$50 annually for an additional two years. Teachers seeking new ASL and Dyslexia certificates will incur \$50 application fees and testing costs of approximately \$200 to \$300 respectively. Benefits will accrue to teachers awarded these certificates ranging from the ability to continue teaching while pursuing alternative certification to potential increased pay as a result of endorsements and ancillary certifications.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

School districts will benefit to the extent teachers with TAT certificates can continue teaching while pursuing alternative certification, and other certificates increase the potential number of teachers able to provide certain instruction. An increase in the number teachers with these credentials could create additional competition across districts however, these impacts will vary across the districts and will be based on the number of teachers who obtain such certifications, and are indeterminable at this time.

Beth Scioneaux  
Deputy Superintendent  
1808#043

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Board of Dentistry**

Dental Hygienists (LAC 46:XXXIII.701)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.701.

The Louisiana State Board of Dentistry is amending LAC 46:XXXIII.701 to allow hygienists working in FQHCs to operate under general supervision with the same limits as those in privately owned dental offices. When the rules allowing hygienists to work under general supervision in private dental offices were implemented, general supervision was allowed in public institutions or schools or in an office

owned by a Louisiana licensed dentist. Federally qualified health clinics are not public institutions and they are not generally owned by Louisiana licensed dentists, yet they employ dentists. Thus, under the current rule, FQHC's are not allowed to have hygienists work under general supervision. The Rule change would allow FQHC's to have hygienists work under the general supervision of a dentist, just as they are currently allowed to do in private dental offices and in public institutions.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXIII. Dental Health Profession**

**Chapter 7. Dental Hygienists**

**§701. Authorized Duties**

A. - G. ...

1. No entity may employ dental hygienists to provide treatment for patients of record under general supervision other than:

a. a public institution that has supervision by a Louisiana licensed dentist;

b. a nonprofit entity that meets the statutory, regulatory and program requirements for grantees supported under Section 330 of the Public Health Service Act (42 U.S.C. §254b or its successor) and that has supervision by a Louisiana licensed dentist;

c. a school that has supervision by a Louisiana licensed dentist, or

d. an office owned by a dentist or group of dentists licensed in Louisiana.

2. ...

3. No duly licensed and registered dentist shall supervise a dental hygienist for more than five consecutive business days or for more than 20 total days in any calendar year. These limits do not apply to a hygienist working at a school or public institution.

4. - 6. ...

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 14:791 (November 1988), amended LR 15:965 (November 1989), LR 19:206 (February 1993), LR 22:22 (January 1996), LR 22:1217 (December 1996), LR 24:1116 (June 1998), LR 27:1892 (November 2001), LR 32:2056 (November 2006), LR 37:590 (February 2011), LR 37:1406 (May 2011), amended by the Department of Health, Board of Dentistry LR 43:48 (January 2017).

**Family Impact Statement**

There will be no family impact in regard to issues set forth in R.S. 49:972.

**Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973. 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 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.

### Provider Impact Statement

The proposed rulemaking should not have any know 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 of 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 these proposed Rule changes to Arthur Hickham, Jr., Executive Director, Louisiana State Board of Dentistry, P.O. Box 5256, Baton Rouge, LA 70821. Written comments must be submitted to and received by the board within 20 days of the date of the publication of this notice. A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of the publication of this notice.

### Public Hearing

A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be in writing and received by the board within 20 days of the date of the publication of this notice.

Arthur Hickham, Jr.  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Dental Hygienists

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

The proposed rule change will result in a one-time SGR expenditure of \$500 in FY 18 for the LA State Board of Dentistry (LSBD) to publish the notice of intent and proposed rule change in the Louisiana Register. The proposed rule change will not affect expenditures of local governmental units.

The proposed rule change restates provisions of the present rules where dental hygienists may practice under general supervision in Louisiana, and further adds Federally Qualified Health Centers (FQHCs) as an eligible institution where dental hygienists may practice under general supervision. For reference, practicing under general supervision allows dental hygienists to perform services without a dentist present under certain circumstances. Furthermore, dental hygienists can currently practice at FQHCs provided their supervising dentist is present.

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

The proposed rule change will not affect revenue collections for state or local governmental units.

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

The proposed rule change allows Federally Qualified Health Centers to have hygienists work under the general supervision of a dentist, something already allowed in private dental clinics, schools, and public institutions. There will be no increased costs, workload or paperwork as a result of the proposed action. The proposed rule changes may benefit FQHCs and their patients by streamlining the service delivery process.

For reference, a dental hygienist practicing under general supervision is able to provide services without a supervising dentist present, provided the supervising dentist has seen or developed a treatment plan for a patient within the last 9 months, the hygienist notifies the patient that the dentist is not present, and the hygienist has one or more years of experience. Furthermore, dental hygienists are limited to practicing under general supervision for no more than 20 days in a calendar year, and may only practice under general supervision for up to 5 days consecutively.

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

The proposed rule change will not affect competition or employment.

Arthur F. Hickman, Jr.  
Executive Director  
1808#018

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Health Board of Medical Examiners

#### Uniform Prescription Drug Prior Authorization Form (LAC 46:XLV.8001 and 8003)

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., pursuant to the authority of the Louisiana Medical Practice Act, R.S. 37:1261 et seq., the Louisiana State Board of Medical Examiners (Board) hereby gives notice of its intent to promulgate a new Rule establishing the Louisiana Uniform Prescription Drug Prior Authorization Form. This rule-making effort is required by Act 423, of the 2018 Regular Session of the Legislature, and is in collaboration with the Louisiana Board of Pharmacy. The proposed Rule is set forth below.

#### Title 46

#### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XLV. Medical Professions Subpart 3. Practice

#### Chapter 80. Louisiana Uniform Prescription Drug Prior Authorization Form

#### Subchapter A. General Provisions

#### §8001. Louisiana Uniform Prescription Drug Prior Authorization; Requirements; Referral for Enforcement

A. A prescriber or pharmacy required to obtain prior authorization from a third party payor shall complete the Louisiana Uniform Prescription Drug Prior Authorization Form referenced below in §8003, either in written form or its electronic equivalent.

B. In the event a third party payor demands the completion of an alternative authorization process, the prescriber or pharmacy shall refer the demand to the appropriate enforcement agency.

1. If the demand is made by a Medicaid-managed care organization, the prescriber or pharmacy shall refer the demand to the Department of Health.

2. If the demand is made by any other third party payor, the prescriber or pharmacy shall refer the demand to the Department of Insurance.

**§8003. Louisiana Uniform Prescription Drug Prior Authorization Form**

**LOUISIANA UNIFORM PRESCRIPTION DRUG PRIOR AUTHORIZATION FORM**

**SECTION I - SUBMISSION**

Submitted to:	Phone:	Fax:	Date:
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**SECTION II - PRESCRIBER INFORMATION**

Last Name, First Name MI:		NPI# or Plan Provider #:	Specialty:	
Address:		City:	State:	ZIP Code:
Phone:	Fax:	Office Contact Name:	Contact Phone:	

**SECTION III - PATIENT INFORMATION**

Last Name, First Name MI:		DOB:	Phone:	<input type="checkbox"/> Male	<input type="checkbox"/> Female
				<input type="checkbox"/> Other	<input type="checkbox"/> Unknown
Address:		City:	State:	ZIP Code:	
Plan Name (if different from Section I):	Member or Medicaid ID #:	Plan Provider ID:			
Patient is currently a hospital inpatient getting ready for discharge? ___ Yes ___ No		Date of Discharge: _____			
Patient is being discharged from a psychiatric facility? ___ Yes ___ No		Date of Discharge: _____			
Patient is being discharged from a residential substance use facility? ___ Yes ___ No		Date of Discharge: _____			
Patient is a long-term care resident? ___ Yes ___ No		If yes, name and phone number: _____			
EPSDT Support Coordinator contact information, if applicable: _____					

**SECTION IV - PRESCRIPTION DRUG INFORMATION**

Requested Drug Name:						
Strength:	Dosage Form:	Route of Admin:	Quantity:	Days' Supply:	Dosage Interval/Directions for Use:	Expected Therapy Duration/Start Date:
To the best of your knowledge this medication is: ___ New therapy/Initial request ___ Continuation of therapy/Reauthorization request						
<b>For Provider Administered Drugs only:</b>						
HCPCS/CPT-4 Code: _____ NDC#: _____ Dose Per Administration: _____						
Other Codes: _____						
Will patient receive the drug in the physician's office? ___ Yes ___ No						
- If no, list name and NPI of servicing provider/facility: _____						

**SECTION V - PATIENT CLINICAL INFORMATION**

Primary diagnosis relevant to this request:	ICD-10 Diagnosis Code:	Date Diagnosed:
Secondary diagnosis relevant to this request:	ICD-10 Diagnosis Code:	Date Diagnosed:
For pain-related diagnoses, pain is: _____ Acute _____ Chronic		
For postoperative pain-related diagnoses: Date of Surgery _____		
Pertinent laboratory values and dates (attach or list below):		
Date	Name of Test	Value

**SECTION VI - THIS SECTION FOR OPIOID MEDICATIONS ONLY**

Does the quantity requested exceed the max quantity limit allowed? ___ Yes ___ No (If yes, provide justification below.)			
Cumulative daily MME _____			
Does cumulative daily MME exceed the daily max MME allowed? ___ Yes ___ No (If yes, provide justification below.)			
<b>SHORT AND LONG-ACTING OPIOIDS</b>	<b>YES (True)</b>	<b>NO (False)</b>	<b>THE PRESCRIBER ATTESTS TO THE FOLLOWING:</b>
			A A complete <b>assessment</b> for pain and function was performed for this patient.
			B The patient has been <b>screened for substance abuse / opioid dependence</b> . (Not required for recipients in long-term care facility.)
			C The <b>PMP</b> will be accessed <b>each</b> time a controlled prescription is written for this patient.
			D A <b>treatment plan</b> which includes current and previous goals of therapy for both pain and function has been developed for this patient.
			E <b>Criteria</b> for failure of the opioid trial and for stopping or continuing the opioid has been established and explained to the patient.
			F <b>Benefits and potential harms</b> of opioid use have been discussed with this patient.
<b>LONG-ACTING OPIOIDS</b>			G An <b>Opioid Treatment Agreement</b> signed by both the patient and prescriber is on file. (Not required for recipients in long-term care facility.)
			H The patient requires continuous <b>around the clock</b> analgesic therapy for which alternative treatment options have been inadequate or have not been tolerated.
			I. Patient previously utilized at least two weeks of short-acting opioids for this condition. Please enter drug(s), dose, duration and date of trial in pharmacologic/non-pharmacologic treatment section below.
			J. Medication has <b>not</b> been prescribed to treat acute pain, mild pain, or pain that is not expected to persist for an extended period of time.
			K Medication has <b>not</b> been prescribed for use as an as-needed (PRN) analgesic.
		L Prescribing information for requested product has been <b>thoroughly reviewed</b> by prescriber.	
IF NO FOR <b>ANY</b> OF THE ABOVE (A-L), PLEASE EXPLAIN:			

**SECTION VII - PHARMACOLOGIC & NON-PHARMACOLOGIC TREATMENT(S) USED FOR THIS DIAGNOSIS  
(BOTH PREVIOUS & CURRENT):**

Drug name	Strength	Frequency	Dates Started and Stopped or Approximate Duration	Describe Response, Reason
Drug Allergies:			Height (if applicable):	Weight (if applicable):
Is there clinical evidence or patient history that suggests the use of the plan's pre-requisite medication(s), e.g. step medications, will be ineffective or cause an adverse reaction to the patient? ___Yes ___No (If yes, please explain in Section VIII below.)				

**SECTION VIII - JUSTIFICATION (SEE INSTRUCTIONS)**

**By signing this request, the prescriber attests that the information provided herein is true and accurate to the best of his/her knowledge. Also, by signing and submitting this request form, the prescriber attests to statements in the 'Attestation' section of the criteria specific to this request, if applicable.**

Signature of Prescriber: \_\_\_\_\_

Date: \_\_\_\_\_

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1006.1(C) and 46:460.33(B).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed rule on the family has been considered. It is not anticipated that the proposed Rule 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 Rule on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed Rule 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 Rule on organizations that provide services for individuals with developmental disabilities has been considered. It is not anticipated that the proposed Rule 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.

**Small Business Analysis**

It is not anticipated that the proposed rule will have any adverse impact on small businesses as defined in the Regulatory Flexibility Act, R.S. 49:965.2 et seq.

**Public Comments**

Interested persons may submit written data, views, arguments, information or comments, via United States Postal Service or other mail carrier, or in the alternative, by personal delivery, 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 regarding the proposed Rule.

**Public Hearing**

A public hearing on this proposed Rule is scheduled for Friday, September 28, 2018, at 9:00 a.m., at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. 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.

Vincent A. Culotta, Jr., M.D.  
Executive Director

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

**RULE TITLE: Uniform Prescription Drug  
Prior Authorization Form**

**NOTICE OF INTENT**

**Department of Health  
Board of Pharmacy**

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

The LA State Board of Medical Examiners anticipates one-time printing expenditures of \$2,000 in FY 19 to publish the Notice of Intent and the final rule publication. The proposed rules implement Act 423 of the 2018 Regular Session regarding the use of a single prior authorization form for prescription drugs.

Furthermore, to the extent local governmental units utilize prior authorization forms, there may be a nominal cost to change their existing form to comply with the uniform document in the proposed rules. To the extent governmental units use multiple prior authorization forms for different payors, there may be future cost savings associated with the use of a single form, however any potential savings from this source is speculative.

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

The proposed rules will not affect revenue collections for state or local governmental units.

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

The proposed rules may benefit insurance companies and other entities that pay for prescription drug claims, as they may require the use of a prior authorization process for some drugs to manage their costs for such claims. Different entities may use different forms and some entities have initiated the use of electronic web portals to receive the information in lieu of printed forms. The proposed rules provide for a single form for use by all payors in the state, which may streamline the prior authorization process for payors.

Furthermore, some entities will incur printing costs for printing replacement forms. Furthermore, to the extent any of those providers have implemented information systems for the prior authorization process, they may incur a one-time expense to update their system to accommodate the uniform process proposed by the rule.

In addition, the prescribers and dispensers of prescription drugs required to complete the prior authorization process may benefit from the use of a single form for all payors in the state, as it may streamline the prior authorization process to the extent multiple forms are currently being used.

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

The proposed rules will not affect competition or employment.

Vincent A. Culotta, Jr., MD  
Executive Director  
1808#060

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**Uniform Prescription Drug Prior Authorization Form  
(LAC 46:LIII.1129 and 1130)**

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 Louisiana Board of Pharmacy hereby gives notice of its intent to promulgate a new rule to establish the Louisiana Uniform Prescription Drug Prior Authorization Form. The Rule will require all pharmacies, prescribers, and third-party payors to use this form when prior authorizations for prescription drugs are required. This rulemaking activity is required by Act 423 of the 2018 Legislature and is in collaboration with the Louisiana State Board of Medical Examiners.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LIII. Pharmacists**

**Chapter 11. Pharmacies**

**Subchapter B. Pharmacy Records**

**§1129. Louisiana Uniform Prescription Drug Prior  
Authorization Form; Requirements; Referral  
for Enforcement**

A. A prescriber or pharmacy required to obtain prior authorization from a third party payor shall complete the Louisiana Uniform Prescription Drug Prior Authorization Form referenced below in Section 1130, either in written form or its electronic equivalent.

B. In the event a third party payor demands the completion of an alternative authorization process, the prescriber or pharmacy shall refer the demand to the appropriate enforcement agency.

1. If the demand is made by a Medicaid managed care organization, the prescriber or pharmacy shall refer the demand to the Dept. of Health.

2. If the demand is made by any other third party payor, the prescriber or pharmacy shall refer the demand to the Dept. of Insurance.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:1006.1(C) and 46:460.33(B).

**HISTORICAL NOTE:** Promulgated by the Department of Health, Board of Pharmacy, LR 44:

**§1130. Louisiana Uniform Prescription Drug Prior Authorization Form**

**LOUISIANA UNIFORM PRESCRIPTION DRUG PRIOR AUTHORIZATION FORM**

**SECTION I - SUBMISSION**

Submitted to:	Phone:	Fax:	Date:
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**SECTION II - PRESCRIBER INFORMATION**

Last Name, First Name MI:		NPI# or Plan Provider #:	Specialty:	
Address:		City:	State:	ZIP Code:
Phone:	Fax:	Office Contact Name:	Contact Phone:	

**SECTION III - PATIENT INFORMATION**

Last Name, First Name MI:		DOB:	Phone:	<input type="checkbox"/> Male	<input type="checkbox"/> Female
				<input type="checkbox"/> Other	<input type="checkbox"/> Unknown
Address:		City:	State:	ZIP Code:	
Plan Name (if different from Section I):	Member or Medicaid ID #:	Plan Provider ID:			
Patient is currently a hospital inpatient getting ready for discharge? ___ Yes ___ No Date of Discharge: _____					
Patient is being discharged from a psychiatric facility? ___ Yes ___ No Date of Discharge: _____					
Patient is being discharged from a residential substance use facility? ___ Yes ___ No Date of Discharge: _____					
Patient is a long-term care resident? ___ Yes ___ No If yes, name and phone number: _____					
EPSDT Support Coordinator contact information, if applicable: _____					

**SECTION IV - PRESCRIPTION DRUG INFORMATION**

Requested Drug Name:						
Strength:	Dosage Form:	Route of Admin:	Quantity:	Days' Supply:	Dosage Interval/Directions for Use:	Expected Therapy Duration/Start Date:
To the best of your knowledge this medication is: ___ New therapy/Initial request ___ Continuation of therapy/Reauthorization request						
<b>For Provider Administered Drugs only:</b>						
HCPCS/CPT-4 Code: _____ NDC#: _____ Dose Per Administration: _____						
Other Codes: _____						
Will patient receive the drug in the physician's office? ___ Yes ___ No – If no, list name and NPI of servicing provider/facility: _____						

**SECTION V - PATIENT CLINICAL INFORMATION**

Primary diagnosis relevant to this request:	ICD-10 Diagnosis Code:	Date Diagnosed:
Secondary diagnosis relevant to this request:	ICD-10 Diagnosis Code:	Date Diagnosed:
For pain-related diagnoses, pain is: _____ Acute _____ Chronic		
For postoperative pain-related diagnoses: Date of Surgery _____		
Pertinent laboratory values and dates (attach or list below):		
Date	Name of Test	Value

**SECTION VI - THIS SECTION FOR OPIOID MEDICATIONS ONLY**

Does the quantity requested exceed the max quantity limit allowed? ___ Yes ___ No (If yes, provide justification below.)			
Cumulative daily MME _____			
Does cumulative daily MME exceed the daily max MME allowed? ___ Yes ___ No (If yes, provide justification below.)			
<b>SHORT AND LONG-ACTING OPIOIDS</b>	<b>YES (True)</b>	<b>NO (False)</b>	<b>THE PRESCRIBER ATTESTS TO THE FOLLOWING:</b>
			M A complete <b>assessment</b> for pain and function was performed for this patient.
			N The patient has been <b>screened for substance abuse / opioid dependence</b> . (Not required for recipients in long-term care facility.)
			O The <b>PMP</b> will be accessed <b>each</b> time a controlled prescription is written for this patient.
			P A <b>treatment plan</b> which includes current and previous goals of therapy for both pain and function has been developed for this patient.
			O <b>Criteria</b> for failure of the opioid trial and for stopping or continuing the opioid has been established and explained to the patient.
			R <b>Benefits and potential harms</b> of opioid use have been discussed with this patient.
<b>LONG-ACTING OPIOIDS</b>			T The patient requires continuous <b>around the clock</b> analgesic therapy for which alternative treatment options have been inadequate or have not been tolerated.
			U Patient previously utilized at least two weeks of short-acting opioids for this condition. Please enter drug(s), dose, duration and date of trial in pharmacologic/non-pharmacologic treatment section below.
			V Medication has <b>not</b> been prescribed to treat acute pain, mild pain, or pain that is not expected to persist for an extended period of time.
			W Medication has <b>not</b> been prescribed for use as an as-needed (PRN) analgesic.
			X Prescribing information for requested product has been <b>thoroughly reviewed</b> by prescriber.
IF NO FOR <b>ANY</b> OF THE ABOVE (A-L), PLEASE EXPLAIN:			



**SECTION VII - PHARMACOLOGIC & NON-PHARMACOLOGIC TREATMENT(S) USED FOR THIS DIAGNOSIS  
(BOTH PREVIOUS & CURRENT):**

Drug name	Strength	Frequency	Dates Started and Stopped or Approximate Duration	Describe Response, Reason
Drug Allergies:			Height (if applicable):	Weight (if applicable):
Is there clinical evidence or patient history that suggests the use of the plan's pre-requisite medication(s), e.g. step medications, will be ineffective or cause an adverse reaction to the patient? ___Yes ___No (If yes, please explain in Section VIII below.)				

**SECTION VIII - JUSTIFICATION (SEE INSTRUCTIONS)**

**By signing this request, the prescriber attests that the information provided herein is true and accurate to the best of his/her knowledge. Also, by signing and submitting this request form, the prescriber attests to statements in the 'Attestation' section of the criteria specific to this request, if applicable.**

Signature of Prescriber: \_\_\_\_\_

Date: \_\_\_\_\_

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1006.1(C) and 46:460.33(B).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 44:

**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. The following statements will be published in the Louisiana Register with the proposed agency Rule.

1. The effect on the stability of the family. The proposed Rule will have no effect on the stability of the family.
2. The effect on the authority and rights of parents regarding the education and supervision of their children. The proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.
3. The effect on the functioning of the family. The proposed Rule will have no effect on the functioning of the family.
4. The effect on family earnings and family budget. The proposed Rule will have no effect on family earnings or family budget.
5. The effect on the behavior and personal responsibility of children. The proposed Rule will have no effect on the behavior and personal responsibility of children.
6. The ability of the family or a local government to perform the function as contained in the proposed Rule. The

proposed Rule will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

**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. The proposed Rule will have no effect on household income, assets, or financial security.
2. The effect on early childhood development and preschool through postsecondary education development. The proposed Rule will have no effect on early childhood development or preschool through postsecondary education development.
3. The effect on employment and workforce development. The proposed Rule will have no effect on employment or workforce development.
4. The effect on taxes and tax credits. The proposed Rule will have no effect on taxes or tax credits.
5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance. The proposed Rule will have no effect on child and dependent care, housing, nutrition, transportation, or utilities assistance. To the extent the child requires a prescription drug for which the insurer requires a prior authorization process, the use of a single prescription drug prior authorization form by all parties in the state could simplify that process and improve access to the medication, with a positive impact on health care.

### **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 have no effect on the staffing level requirements or the qualifications for that staff 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. To the extent a provider includes the prescribing or dispensing of prescription medications to their clients, and to the extent that provider has previously established a prescription drug prior authorization process (or some multiple thereof) which is substantially different from the proposed form or its electronic equivalent, the provider may incur a one-time cost to revised its existing process to conform to the proposed process. However, we anticipate savings will accrue from the use of a single form by all parties in the state.

3. The overall effect on the ability of the provider to provide the same level of service. The proposed Rule will have no effect on the ability of the provider to provide the same level of service.

### **Regulatory Flexibility Analysis**

In accordance with Section 965 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 specific 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 specific reporting requirements in the proposed Rule.

3. The consolidation or simplification of compliance or reporting requirements for small businesses. There are no specific 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. The proposed Rule requires the use of a single form by all parties in the state, which could eliminate the need to maintain multiple forms for different third-party payors. In addition, the proposed Rule permits the use of electronic equivalents to the written form.

5. The exemption of small businesses from all or any part of the requirements contained in the proposed Rule. There are no exemptions for small businesses.

### **Public Comments**

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative, by personal delivery, to Malcolm J Broussard,

Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding this proposed Rule.

### **Public Hearing**

A public hearing on this proposed Rule is scheduled for 9 am on Friday, September 28, 2018 at the office of the Louisiana State Board of Medical Examiners, which is located at 630 Camp Street in New Orleans, LA 70130. 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.

Malcolm J Broussard  
Executive Director

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Uniform Prescription Drug Prior Authorization Form**

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

The LA Board of Pharmacy anticipates one-time printing expenditures of \$2,000 in FY 19 to publish the Notice of Intent and the final rule publication. The proposed rules implement Act 423 of the 2018 Regular Session regarding the use of a single prior authorization form for prescription drugs.

Furthermore, to the extent local governmental units utilize prior authorization forms, there may be a nominal cost to change their existing form to comply with the uniform document in the proposed rules. To the extent governmental units use multiple prior authorization forms for different payors, there may be future cost savings associated with the use of a single form, however any potential savings from this source is speculative.

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

The proposed rules will not affect revenue collections for state or local governmental units.

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

The proposed rules may benefit insurance companies and other entities that pay for prescription drug claims, as they may require the use of a prior authorization process for some drugs to manage their costs for such claims. Different entities may use different forms and some entities have initiated the use of electronic web portals to receive the information in lieu of printed forms. The proposed rules provide for a single form for use by all payors in the state, which may streamline the prior authorization process for payors.

Furthermore, some entities will incur printing costs for printing replacement forms. Furthermore, to the extent any of those providers have implemented information systems for the prior authorization process, they may incur a one-time expense to update their system to accommodate the uniform process proposed by the rule.

In addition, the prescribers and dispensers of prescription drugs required to complete the prior authorization process may benefit from the use of a single form for all payors in the state, as it may streamline the prior authorization process to the extent multiple forms are currently being used.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules will not affect competition or employment.

Malcolm Broussard  
Executive Director  
1808#036

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Board of Speech-Language Pathology and Audiology**

Speech-Pathology and Audiology  
(LAC 46:LXXV. Chapters 1-7)

Notice is hereby given in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:3085, that the Board of Speech-Language Pathology and Audiology proposes to amend its current regulations to make technical changes and clarifications, add definitions for telehealth/telepractice, remove hearing aid dispensing fee from renewal and initial applications, and add telehealth registration fees.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXXV. Speech Pathology and Audiology**

**Chapter 1. General Rules**

**§103. Definitions**

A. ...

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*Accredited Educational Institution*—college or university that holds regional accreditation.

*Accredited Educational Program*—a graduate program in audiology or speech-language pathology that is accredited by the Council for Academic Accreditation in Audiology and Speech-Language Pathology (CAA) or the Accreditation Commission for Audiology Education (ACAE).

*Aides*—individuals not licensed by the Louisiana Board of Examiners for Speech-Language Pathology and Audiology (LBESPA) who, after appropriate training, perform tasks that are prescribed, directed, and supervised by audiologists or speech-language pathologists licensed in accordance with R.S. 37:2659(A) or (B). Licensed audiologists and licensed speech-language pathologists are legally, ethically, and morally responsible for the services provided by aides working under their direction.

*Assistant Licensee*—an individual who meets the qualifications established by R.S. 37:2659(F), and works under the direct supervision of a licensed speech-language pathologist and performs only those duties specified in §119.

\*\*\*

*Criminal History Record Information*—information collected by state and federal criminal justice agencies consisting of identifiable descriptions and notations of arrests, detentions, indictments, bills of information or any other formal criminal charges, and any disposition arising therefrom, including sentencing, criminal correctional supervision and release.

*Direct Patient/Client Contact*—practicum experience obtained during performance of a clinical activity with a patient/client.

*Direct Supervision*—the supervisor observing the licensee engaging in a specified clinical activity with a patient/client in order to obtain knowledge and provide guidance regarding the supervisee’s clinical work. The supervisor shall accomplish this task either by being physically present in the room or through the use of a secure live video, live stream or web cam.

\*\*\*

*Facilitator*—the individual at the client site who assists with the delivery of telehealth services at the direction of the audiologist or speech-language pathologist.

\*\*\*

*Full-time supervised professional employment/experience*—a minimum of thirty-six weeks engaged in the provision of clinical services. Volunteer services are not acceptable.

\*\*\*

*Grace Period*—the period in which an applicant may be employed while an initial application for licensure is being considered by the board. The grace period cannot exceed 60 days from the date that the application is received by the board.

\*\*\*

*Indirect Supervision*—the utilization of alternative methods, other than direct supervision, to acquire knowledge of a supervisee’s clinical work, e.g. review of client folders and record keeping, scheduling, and planning.

\*\*\*

*Nine Months of Full-Time Supervised Postgraduate Professional Employment/Experience*—Repealed.

\*\*\*

*Part-Time Postgraduate Professional Employment Experience*—part-time experience greater than or equal to an average of 5 hours per week which culminates in an equivalent of 36 weeks of full-time employment experience.

*Provisional Assistant Licensee*—an individual who meets the qualifications established in R.S. 37: 2659(G) and works under the direct supervision of a licensed speech-language pathologist and performs only those duties specified in §121. This person has completed a minimum of 100 of 225 supervised clinical practicum hours and is working to complete the remaining hours on-the-job and/or through a regionally accredited educational institution or its cooperating programs.

*Supervised On-the-Job Training*—direct supervision hours which have been obtained during paid employment, and documented on the form provided by the board.

\*\*\*

*Telehealth*—also known as telepractice, is a mode of delivering audiology and speech-language pathology services that utilizes information and communication technologies to enable the diagnosis, consultation, treatment, education, care management, and self-management of clients at a distance from the audiologist or speech-language pathologist provider. Telehealth allows services to be accessed when providers are in a distant site and patients are in the originating site. Telehealth facilitates self-management

and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

*Telehealth Registration*—limited to out-of-state residents whose out-of-state audiology or speech-language pathology license does not require supervision, is an unrestricted and unencumbered license in good standing to perform audiology or speech-language pathology in the state in which the provider is located, and the license is comparable to the license in Louisiana as determined by this board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:705 (October 1988), amended LR 22:346 (May 1996), LR 27:197 (February 2001), LR 28:1781 (August 2002), LR 30:2307 (October 2004), LR 33:2192 (October 2007), LR 37:2392 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1665 (October 2016), LR 44:

### §105. Designations

A. - A.2. ...

3. Deleted

A.4. - B. ...

1. When signing professional documents, Speech-Language Pathology Assistants and Provisional Speech-Language Pathology Assistants shall write their full license title, e.g., B.A., SLP Assistant or B.A., Provisional SLP Assistant. Speech-Language Pathology Assistants and Provisional Speech-Language Pathology Assistants shall always identify themselves as such in professional interactions.

C. Titles and academic credential designations shall represent earned degrees obtained through regionally accredited university programs. To appropriately represent the level of education in the area of practice, when listing an educational designation, the licensee shall list the highest degree earned in audiology or speech-language pathology. In addition, graduate degrees earned in other disciplines must specify the area in which the degree was earned [e.g., B.S. (Speech-Language Therapy), M.Ed. (Administration)]. When listing credentials, licensees should sequentially list their name, educational designation, license designation, and professional certification, e.g., M.A., L-SLP, CCC-SLP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:346 (May 1996), amended LR 27:197 (February 2001), LR 30:2308 (October 2004), LR 33:2192 (October 2007), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 44:

### §107. Qualifications for Licensure

A. Coursework Requirements—Audiology License. The applicant shall submit official transcripts from one or more regionally accredited colleges or universities evidencing completion of at least 75 semester credit hours of post-baccalaureate coursework for applicants who began a doctoral program after January 1, 2005.

B. Coursework Requirements—Audiology License. The following coursework requirements apply to applicants who began a master's program after January 1, 1994.

1. - 2.b. ...

\* \* \*

C. Coursework Requirements—Audiology License. The following coursework requirements apply to applicants who began a master's program prior to January 1, 1994.

C.1. - F.2.b. ...

c. A maximum of 6 academic semester credit hours associated with clinical practicum may be counted toward the minimum of 30 semester credit hours of professional coursework, but those hours may not be used to satisfy the minimum of 12 semester credit hours in speech/language disorders, 6 hours in language disorders, or 3 hours in audiology, or the 21 graduate credits in the professional area for which the license is sought.

\* \* \*

G. - H.1.c. ...

2. Audiology License

a. 1820 clinical practicum hours if the graduate program began after January 1, 2005;

b. - c. ...

3. Speech-Language Pathology Assistant License

a. 225 clinical practicum hours are required, the first 100 of which shall have been obtained through a regionally accredited educational institution or its cooperating programs. Of the 100 hours obtained through a regionally accredited educational institution, 75 shall be obtained through direct patient/client contact, and the remaining 25 hours may be obtained through observation of assessment and therapy. It is recommended that the direct patient/client contact hours be obtained in at least two practicum sites with one site being a public school setting. The first 75 hours of direct patient/client contact shall be obtained in the following categories:

i. - ii. ...

iii. the remaining 35 hours may be obtained in the areas of speech, language or hearing disorders. A maximum of 5 of these hours may be in the area of audiology. It is recommended that a minimum of 20 hours be obtained in articulation.

3.b. - 4.a.i.(b). ...

(c) the remaining 35 hours may be obtained in the areas of speech, language or hearing disorders. A maximum of 5 of these hours may be in the area of audiology. It is recommended that a minimum of 20 hours be obtained in articulation.

b. The additional 125 hours required to upgrade to the Speech-Language Pathology Assistant License shall be obtained within three years of the date of issuance of the provisional assistant license and may be obtained by completing the remaining hours on-the-job and/or through a regionally accredited educational institution or its cooperating programs. Those hours obtained through supervised on-the-job training must consist of direct supervision hours and will only be accepted from the date that the application for license is received by the board.

c. A provisional speech-language pathology assistant may request deferment of the three-year period to complete licensure upgrade requirements. Such deferment may only be requested if there is an extenuating circumstance, such as inability to obtain employment in the area of speech-language pathology. The license must be renewed annually. Such deferment may only be held for a period of three years from the time of board approval.

i. If the licensee has never worked as a provisional speech-language pathology assistant, a notarized statement shall be submitted to the board office annually.

ii. ...

iii. Licensees on inactive status may retain their license by payment of the annual renewal fee. In order to resume practice as a speech-language pathology assistant, licensees on inactive status shall demonstrate completion of 5 clock hours of continuing education in the area of licensure for each year that inactive status was maintained (maximum of 25 hours).

I. Equivalency Requirements—Speech-Language Pathology, Provisional Speech-Language Pathology, or Audiology License

1. Individuals who do not possess a graduate degree in either audiology or speech-language pathology but wish to obtain a license through the equivalency process shall meet the coursework, practicum and examination requirements for the area in which licensure is sought as defined in the board's rules entitled Coursework Requirements: Audiology License Coursework Requirements: Speech-Language Pathology License and Provisional Speech-Language Pathology License; Clinical Practicum Hour Requirements and Examination Requirement.

J. Postgraduate Professional Employment/Experience

1. A graduate-level speech-language pathologist must submit verification of thirty-six weeks of full-time postgraduate professional employment/experience or its full-time equivalent.

2. deleted.

K. Examination Requirement—Speech-Language Pathology License, Provisional Speech-Language Pathology License, Audiology License

1. The board recognizes only the Educational Testing Service's specialty area examinations for audiology and speech-language pathology as the licensure examination for audiology and/or speech-language pathology. Scores received directly from the applicant are not acceptable for licensing purposes.

2. - 3. ...

4. If an individual has never held a license to practice audiology or speech-language pathology in another state, and if the degree program was completed greater than 10 years from the date of application, the passing score on the specialty area examination for audiology or speech/language pathology must have been obtained within the last 5 years.

L. - L.1.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:706 (October 1988), amended LR 22:346 (May 1996), LR 27:197 (February 2001), repromulgated LR 27:1690 (October 2001), amended LR 28:1781 (August 2002), LR 30:2308 (October 2004), LR 33:2192 (October 2007), LR 37:2393 (August 2011), LR 39:1042 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1666 (October 2016), LR 44:

### **§109. Licensure Application Procedures**

A. An application for a license to practice audiology and/or speech-language pathology shall be made on board-approved forms.

B. Criminal history record information must be submitted with the application form.

C. Official transcripts shall be sent to this board directly from the college or university from which the academic requirements were earned. Documentation of supervised clinical practicum hours shall be submitted on university forms signed by a clinical supervisor or director, and must be submitted along with the application form

D. Documentation of supervised clinical practicum hours shall be submitted on university forms signed by a clinical supervisor or director, and must be submitted along with the application form

E. The initial license fee submitted to this board with the application form and shall be paid by check, money order, or credit card.

F. Audiologists, speech-language pathologists, and/or assistants who have held a license in another state, shall provide official verification of their licensure status in each state, including any formal disciplinary action resulting in sanction and/or disciplinary proceedings which are pending. Verification of licensure status must be submitted along with the application form.

G. Documentation of thirty-six weeks of postgraduate professional employment/experience shall be submitted directly to the board in writing on official agency letterhead.

H. Documentation of thirty-six weeks of postgraduate professional employment/experience, a passing score on the Educational Testing Service's specialty area examination, and verification of supervised clinical practicum hours may be waived for individuals who submit verification that they hold the Certificate of Clinical Competence from the American Speech-Language-Hearing Association. Documentation must be submitted with the application form.

I. Postgraduate professional employment/experience which counts toward upgrading the license status, will only be accepted from the date that a licensee's application is received by the board.

J. While an initial application for licensure is being considered by the board, the applicant may be employed as an audiologist, speech-language pathologist, or speech-language pathology assistant for a period not to exceed 60 calendar days from the date that their completed application is received by the board. In no event may the applicant be employed as an audiologist, speech-language pathologist, or speech-language pathology assistant after the application has been denied.

K. An applicant, with the exception of military applicants and military spouses, may be granted only one 60-day period to work while his/her initial application is being processed. No additional grace period may be granted to an applicant, regardless of whether the application is a new license or a request to reinstate or upgrade a license.

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

M. Applications from individuals who have defaulted on a loan from the Louisiana Office of Financial Assistance as

per R.S. 37:2951 will be denied until such time as a release from the Louisiana Office of Financial Assistance has been received noting that a repayment agreement has been established.

N. Applicants who have not obtained licensure within one year of the board's receipt of the application shall be deemed to have abandoned the application, resulting in mandatory reporting to the appropriate federal data bank. An applicant may request a withdrawal of the application subject to review and approval by the board.

O. Individuals holding an unrestricted audiology or speech-language pathology license from another state shall be allowed to practice in Louisiana for five consecutive days within each renewal period upon proof of current licensure submitted to the board office 10 days prior to the scheduled activity.

P. When there is probable cause to believe that an applicant practiced illegally in Louisiana as an audiologist, speech-language pathologist, and/or speech-language pathology assistant, the board may offer a consent agreement and order which will grant the individual a license, subject to the following specified terms and conditions.

1. Within 90 days of the date of the consent agreement and order, the applicant shall take and pass an open book examination regarding R.S. 37:2650-2666, the board's rules and regulations, and ethical questions.

a. Open book test fee shall be \$30. The retest fee shall be \$10 per section.

b. Applicants have 4 1/2 hours to complete all sections of the test.

c. The open book examination or any section may be re-taken anytime within the 90 days.

d. Notice of the consent agreement and order shall be published.

e. If the applicant fails to successfully complete all requirements set forth in the above paragraphs, the applicant's license shall be suspended without further notice until the board receives and accepts documentation of the applicant's completion of the consent agreement and order requirements.

Q. Temporary Registration during a Declared Public Health Emergency

1. In a public health emergency lawfully declared as such by the governor of Louisiana, the requirement for a Louisiana license as an audiologist, speech-language pathologist, or speech-language pathology assistant may be waived by the board at that time to those out-of-state audiologists, speech-language pathologists, or speech-language pathology assistants, whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States, for a period of time not to exceed the duration and scope of R.S. 29:769(E), as more particularly set forth in this Section.

2. The following requirements for temporary registration may be imposed pursuant to the declared state of emergency and shall be in accordance with rules promulgated by the board.

3. An audiologist, speech-language pathologist, or speech-language pathology assistant not licensed in Louisiana, whose licenses, certifications or registrations are

current and unrestricted in another jurisdiction of the United States, may gratuitously provide audiology and speech-language pathology services if:

a. the audiologist, speech-language pathologist, or speech-language pathology assistant has photo identification and a license to verify a current and unrestricted license, certification or registration in another jurisdiction of the United States, and properly registers with the board prior to providing audiology or speech-language pathology services in Louisiana as follows:

i. the audiologist, speech-language pathologist, or speech-language pathology assistant is engaged in a legitimate relief effort during the emergency period, and provides satisfactory documentation to the board of the location site(s) that he/she will be providing gratuitous audiology or speech-language pathology services;

ii. the audiologist, speech-language pathologist, or speech-language pathology assistant shall comply with the Louisiana Speech-Language Pathology and Audiology Practice Act, board rules, and other applicable laws, as well as practice in good faith, and within the reasonable scope of his/her skill, training, and ability; and

iii. the audiologist, speech-language pathologist, or speech-language pathology assistant renders services on a gratuitous basis with no revenue of any kind to be derived whatsoever from the provision of services within the state of Louisiana.

4. This temporary registration period shall not exceed 60 days at the discretion of the board, with the potential extension of up to two additional periods not to exceed 60 days for each extension as determined appropriate and necessary by the board.

5. All interested audiologists, speech-language pathologists, and speech-language pathology assistants shall submit a copy of their respective current and unrestricted licenses, certifications or registrations issued in other jurisdictions of the United States and photographic identification, as well as other requested information, to the Louisiana Board of Examiners for Speech-Language Pathology and Audiology for registration with this agency prior to gratuitously providing audiology or speech-language pathology services in Louisiana.

6. Should a qualified audiologist, speech-language pathologist, or speech-language pathology assistant registered with the board fail to comply with any requirement or condition established by this Section, the board may terminate his/her registration upon notice and hearing.

7. In the event an audiologist, speech-language pathologist, or speech-language pathology assistant fails to register with the board, but practices audiology or speech-language pathology, whether gratuitously or otherwise, then such conduct will be considered the unlawful practice of audiology or speech-language pathology and prosecuted accordingly.

R. Volunteer Services. Individuals seeking to provide services on a voluntary basis shall hold an unrestricted out-of-state license in the area of practice, shall be deemed to meet all of the qualifications for license set forth by this Chapter, and shall abide by the Code of Ethics.

### S. Licensing Military Members and Military Spouses

1. Expedited application for licensure in the area of audiology or speech-language pathology shall be granted to military members and military spouses licensed, certified or registered in another jurisdiction, while the individual is satisfying the requirement for licensure.

a. Applications shall be submitted in accordance with §109.

b. Military members shall submit with the application a copy of current military-issued identification and military orders.

c. Applicants who are the spouse of military personnel shall submit with the application a copy of current military-issued identification, marriage license, and an affidavit attesting that applicant is married to military personnel.

2. Military applicants shall submit:

a. military members—official, primary-source documentation verifying requirements met in accordance with §107 and §115;

b. military spouse—official, primary-source documentation verifying requirements met in accordance with §107 and §115.

3. Military members and military spouses shall be given a 60-day grace period for submission of official documentation from the date their notarized application and license fee are received by the board office, regardless of lapsed license status. The board may consider an extension of this grace period as per House Concurrent Resolution 74 of the 2015 Regular Session of the Louisiana Legislature.

4. The provisions of this Section shall not apply to any applicant receiving a dishonorable discharge or a military spouse whose spouse received a dishonorable discharge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:352 (May 1996), LR 27:199 (February 2001), LR 28:1974 (September 2002), LR 30:2311 (October 2004), LR 33:2193 (October 2007), LR 37:2393 (August 2011), repromulgated LR 37:2623 (September 2011), LR 39:1043 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1666 (October 2016), LR 44:

#### §111. Application for Telehealth Registration

A. An application to practice audiology and/or speech-language pathology via telepractice shall be made on forms supplied by the board.

B. Proof of unrestricted, unencumbered current licensure granted in the home state based on standards at least equivalent to those in Louisiana shall be submitted.

C. Applicants shall provide official verification of licensure and/or registration status in each state, including any formal disciplinary action resulting in sanction and/or disciplinary proceedings which are pending.

D. The initial telehealth registration fee submitted to this board shall be paid by cashier's check, money order, or credit card.

E. Until an application has been approved by the board, the audiologist and/or speech-language pathologist shall not engage in delivery of telepractice services to Louisiana residents.

F. Applicants who have not obtained registration within one year of having submitted the application shall be deemed to have abandoned the application, resulting in mandatory reporting to the appropriate federal data bank. An applicant may request a withdrawal of the application subject to review and approval by the board.

G. In order for telehealth registration to remain current in Louisiana, the individual must maintain an unrestricted, unencumbered current license in another state, whose standards are at least equivalent to those in Louisiana.

H. When there is probable cause to believe that an applicant practiced illegally in Louisiana as an audiologist and/or speech-language pathologist, the board may offer a consent agreement and order which will grant the individual registration, subject to the following specified terms and conditions.

1. Within 90 days of the date of the consent agreement and order, the applicant shall take and pass an open book examination regarding R.S. 37:2650-2666, the board's rules and regulations, and ethical questions.

a. Open book test fee shall be \$30. The retest fee shall be \$10 per section.

b. Applicants have 4.5 hours to complete all sections of the test.

c. The open book examination or any section may be re-taken anytime within the 90 days.

d. Notice of the consent agreement and order shall be published.

e. If the applicant fails to successfully complete all requirements set forth in the above paragraphs, the applicant's registration shall be suspended without further notice until the board receives and accepts documentation of the applicant's completion of the consent agreement and order requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners for Speech-Language Pathology and Audiology, LR 44:

#### §113. Criminal History Record Information

A. In addition to any other requirements established by regulation, an applicant is required, as a condition for eligibility for licensure, to:

1. submit a full set of fingerprints, in a form and manner prescribed by the board;

2. permit the board to obtain state and national criminal history record information on the applicant;

3. submit the fee for state and national criminal history record information on the applicant.

B. Any and all state or national criminal history record information obtained by the board from the bureau or FBI which is not already a matter of public record shall be deemed non-public and confidential information restricted to the exclusive use of the board, its members, investigators, agents, and attorneys in evaluating the applicant's suitability and eligibility for licensure. No such information or records shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency.

C. An applicant who denies the existence or extent of criminal history record information on an application, which is discovered by information, records, or documentation provided by the state police, FBI, or any other state, national, or foreign jurisdiction shall, in addition to the potential disqualification of licensure for any of the causes specified in §141 of this Chapter, be deemed to have provided false, misleading, or deceptive information, or false sworn information on an application for licensure, and to have engaged in unprofessional conduct, providing additional cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license held or applied for by an applicant in the state of Louisiana culpable of such violation, pursuant to R.S. 37:2662.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:2650 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Health, Board of Examiners for Speech-Language Pathology and Audiology, LR 44:

### **§115. Licensure by Reciprocity (Formerly §111)**

A. The board may waive the examination for applicants who present proof of current licensure in another state with standards equivalent to those of Louisiana.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:2650 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:354 (May 1996), LR 30:2311 (October 2004), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 44:

### **§117. Additional Requirements for International Applicants/Speakers of English as a Second Language (Formerly §113)**

A. Any document required to be submitted to this board with an application for a license shall be in the English language, or accompanied by a certified translation thereof into the English language.

B. As a condition of the board's consideration of the license application of a graduate of a foreign college or university, the applicant shall provide the board with an evaluation of the applicant's transcript from an approved credentials evaluation agency. A list of approved agencies, and their addresses, may be obtained from the board.

C. Because the essence of the practice of audiology and speech-language pathology is communication, an applicant whose primary language is not English shall submit a passing score on a nationally recognized English proficiency examination as approved by the board, and make an appearance before the board or its designees before a license may be issued. An English proficiency assessment shall be conducted by the board or its designees as a condition for licensure. At the board's discretion, the license may be conditionally granted subject to an English remediation plan and/or restrictions on practice.

D. The clinical observation and clinical practicum for a speech-language pathologist educated outside the United States must consist of at least 400 patient contact hours, to include:

1. at least 25 hours in supervised observation prior to the clinical practicum. Patient contact hours in excess of the required minimum may be substituted for the required 25 hours of supervised observation;

2. at least 375 patient contact hours in speech-language pathology. Practicum experiences must be:

a. across the scope of practice in speech-language pathology;

b. with clients across the lifespan;

c. across the range of clinical severity.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:2650 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:354 (May 1996), LR 27:201 (February 2001), LR 30:2311 (October 2004), LR 37:2394 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 44:

### **§119. Requirements to Upgrade License (Formerly §115)**

A. The provisional speech-language pathology licensee who has not passed the examination at the time of initial licensure shall submit the following to upgrade his/her license status:

1. an official copy of a passing score on the Educational Testing Service area examination;

2. verification of 36 weeks of full-time postgraduate professional employment/experience or its part-time equivalent in the field the license is held;

3. proof of supervision through date of upgrade (Form 100);

4. upgrade fee of \$30.

B. The provisional speech-language pathology licensee who has not completed the thirty-six weeks of postgraduate professional employment/experience at the time of initial licensure shall submit the following to upgrade his/her license status:

1. verification of 36 weeks of full-time postgraduate professional employment/experience or its part-time equivalent in the field the license is held;

2. proof of supervision through date of upgrade (Form 100);

3. upgrade fee of \$30.

C. The provisional speech-language pathology assistant shall submit the following to upgrade his/her license status:

1. proof of 225 supervised clinical practicum hours shall be on file in the board's office. Only direct supervision hours and/or university practicum hours may be counted towards the 225 hours;

2. upgrade fee of \$30.

D. The restricted audiology or restricted speech-language pathology licensee who holds a master's degree or its equivalent in audiology or speech-language pathology shall submit the following documents to upgrade their license:

1. an official copy of a passing score on the Educational Testing Service area examination;

2. verification of 36 weeks of post-graduate professional employment/experience or its part-time equivalent in the field in which the license is held;

3. proof of supervision through date of upgrade (Form 100);



4. upgrade fee of \$30.

E. Only those hours that have been obtained on-the-job as paid professional experience may be counted towards an upgrade.

F. Restricted speech-language pathology licensees who hold a bachelor's degree who wish to change their status to a provisional speech-language pathology license shall submit an application for license and meet the requirements of R.S. 37:2659.

G. Speech-language pathology assistant licensees who wish to change their status to a provisional speech-language pathology license shall submit an application for license and meet the requirements of R.S. 37:2659.

H. Postgraduate professional employment/experience which counts toward upgrading the license status will only be accepted from the date that the licensee's application was received by the board.

I. It is the responsibility of the licensee to submit the documents and make a written request for upgrade of his/her license status. Licensees shall complete all supervision requirements consistent with the license held and immediately thereafter submit appropriate supervision forms to the board office along with a written request for license upgrade and the upgrade fee. The licensee shall remain under supervision until the upgrade has been approved by the board.

J. If a passing score on the Educational Testing Service's specialty area examination in speech-language pathology is not submitted within one year from the date of issuance of the license, a provisional licensee must apply for a speech-language pathology assistant license. This individual may perform only those duties as specified in §119 and must be supervised in accordance with the requirements specified in §129.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:349 (May 1996), amended LR 27:197 (February 2001), LR 28:1971 (September 2002), LR 30:2312 (October 2004), LR 33:2194 (October 2007), LR 37:2394 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 44:

**§121. Duties: Speech-Language Pathology Assistant License and Provisional Speech-Language Pathology Assistant License (Formerly §117)**

A.1. All duties performed by the speech-language pathology assistant licensee or provisional speech-language pathology assistant licensee shall be assigned by a licensed speech-language pathologist and shall be supervised in accordance with the rules and regulations specified by the board. Caseload assignments shall be consistent with the knowledge base and training of the licensee for the performance of the following tasks:

a. conduct speech-language screenings and assessments without interpretation, following specified protocols as developed by the supervising speech-language pathologist. An assistant may not administer a test if the publisher's examiner requirements dictate administration by a graduate-degreed individual. All screening and assessment reports shall be cosigned and interpreted by the supervising speech-language pathologist;

b. perform hearing screenings limited to a pass/fail determination for the purpose of initial identification of disorders, following specified protocols as approved by the supervising speech-language pathologist;

c. provide direct treatment which is within the level of training and experience as prescribed by the supervising speech-language pathologist to a caseload of patients/clients who demonstrate communication disorders. Supervision of treatment shall be in accordance with the rules and regulations specified by the board;

d. follow treatment plans or protocols as developed and documented by the supervising speech-language pathologist;

e. document patient/client progress toward meeting established objectives as stated in the treatment plan;

f. schedule activities, prepare charts, records, graphs, or otherwise display data;

g. perform checks and maintenance of equipment;

h. speech-language pathology assistants may participate in parent conferences, individual education plan meetings (IEP), case conferences, interdisciplinary team conferences, and research projects. Provisional speech-language pathology assistants may participate in these activities only with the supervising speech-language pathologist.

**2. Duties outside the Scope of Practice of a Speech-Language Pathology Assistant and Provisional Speech-Language Pathology Assistant**

a. The speech-language pathology assistant licensee and provisional speech-language pathology assistant shall not:

i. perform clinical tasks without the knowledge and approval of the supervising speech-language pathologist;

ii. conduct evaluations, even under supervision.

iii. interpret test and assessment results;

iv. screen or diagnose clients for feeding and swallowing disorders;

v. demonstrate swallowing strategies or precautions to clients, family, or staff;

vi. engage in service delivery via telepractice; however, the individual may function as a facilitator given appropriate training.

vii. work with a communication or related disorder unless s/he has had sufficient coursework with appropriate supervised practicum in that area obtained through a regionally accredited educational institution or its cooperating programs;

viii. provide patient/client or family counseling;

ix. select and/or discharge patients/clients for services without the approval of the supervising speech-language pathologist;

x. disclose clinical or confidential information either orally or in writing to anyone not designated by the supervising speech-language pathologist and without the authorization of the patient/client or their designee;

xi. make referrals for additional services without the approval of the supervising speech-language pathologist;

xii. participate in individualized family service plan (IFSP) meetings without the supervising speech-language pathologist.

3. The speech-language pathology assistant and the provisional speech-language pathology assistant shall not perform any clinical task without the knowledge and approval of the supervising speech-language pathologist.

4. Failure to comply with these rules and regulations may result in disciplinary action against the assistant and/or the supervising speech-language pathologist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 30:2312 (October 2004), amended LR 33:2194 (October 2007), LR 37:2394 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 44:

### **§123. Fees**

#### **(Formerly §119)**

A. The board collects the following fees, which are non-refundable:

1. initial Louisiana license application—\$125;
2. dual license application—\$225;
3. renewal of license submitted on or before June 30, of each year—\$65:
  - a. dual licensure renewal—\$90;
4. delinquent renewal fee submitted between July 1 and July 31, of each year—\$130;
  - a. dual licensure renewal—\$180;
5. initial telehealth registration fee—\$50;
6. renewal of telehealth registration submitted on or before June 30, of each year—\$25;
7. renewal of telehealth registration submitted between July 1 and July 31, of each year—\$50;
8. licensure upgrade—\$30;
9. continuing education pre-approval fee for corporations or individuals who are not LBESPA licensees—\$50;
10. mailing lists:
  - a. \$200 for speech-language pathologists;
  - b. \$25 for audiologists
  - c. \$25 for speech-language pathology assistants
11. NSF or returned check—\$40;
12. open book test fee—\$30;
  - a. open book retest fee, per section—\$10;
13. publications to include law, rules, etc.—\$5 ea. plus postage and handling;
14. re-issuance of license or registration certificate—\$25;
15. subpoena within East Baton Rouge Parish—\$50:
  - a. subpoena plus state-allowed travel rate per mile outside East Baton Rouge Parish—\$50;
16. verification of license or registration (written)—\$10;
17. an additional fee may be charged for credit card transactions in accordance with state treasury rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:706 (October 1988), amended LR 22:350 (May 1996), LR 27:197 (February 2001), repromulgated LR 27:1691 (October 2001) amended LR 30:2313 (October 2004), LR 33:2195 (October 2007), LR 37:2395 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1666 (October 2016), LR 44:

### **§125. Renewals**

#### **(Formerly §121)**

A. All licenses and registrations shall be renewed annually by June 30, to avoid delinquent renewal fees.

B. Initial licenses and registrations issued during the last quarter of the fiscal year, i.e., April, May, and June, will not be required to be renewed during that fiscal year. No continuing education hours will be required of the licensee or registrant for that period.

C. Licensees shall list on their renewal form the licensees (i.e., provisional speech-language pathologists, restricted speech-language pathologists, restricted audiologists, speech-language pathology assistants, or provisional speech-language pathology assistants) and aides that they are supervising.

D. It is the licensee's and registrant's continuing obligation to keep the board informed of his/her current mailing address.

E. Licensees shall participate in continuing professional education activities for each license period, July 1-June 30, in accordance with §127.

F. Inactive status is granted to licensees who are retired or who do not practice audiology or speech-language pathology during the fiscal year, July 1-June 30.

1. Licensees on inactive status may retain their license by payment of the annual renewal fee.

2. These licensees shall complete the affidavit on the continuing education report and submit it at the time of licensure renewal.

3. The licensee may submit the required five hours of continuing education each year he/she is on inactive status or submit all of the hours the year he/she returns to work in the profession.

4. Licensees on inactive status or who are retired shall not supervise individuals or otherwise engage in the practice of audiology or speech-language pathology.

5. In order to resume the practice of audiology or speech-language pathology, licensees on inactive status shall demonstrate completion of 5 clock hours of continuing education in the area of licensure for each year that inactive status was maintained (maximum of 25 hours). In addition, a letter requesting a change to active status must be submitted to the board office prior to resuming the practice of audiology or speech-language pathology.

G. Licensees who hold a license requiring supervision and who are not working in the field of audiology and/or speech-language pathology shall submit a notarized statement at the time of license renewal attesting to the fact that they did not work in the profession during the license period.

H. The board may refuse to consider any renewal application which is not complete in every detail, including submission of every document required by the application form and instructions. The board may, in its discretion, require additional information as a condition for consideration of the application.

I. Renewal applications from individuals who have defaulted on a loan from the Louisiana Office of Financial Assistance as per LA R.S. 37:2951 will be denied until such time as a release is received from the Louisiana Office of Financial Assistance noting that a repayment agreement has been established.

J. Renewal will be denied for licensees who are in default on the repayment of any loan guaranteed in accordance with R.S. 17:3023(A)(8) and R.S. 37:2951(A)(E).

**K. Delinquent Renewal**

1. Delinquent requests for renewals will be accepted by the board through July 31, provided the delinquent renewal fee is paid in accordance with §121(4) and the continuing education requirements have been met.

2. A licensee whose license lapsed on August 1, and applies to reinstate prior to the following June 30, is required to submit a completed application, proof of continuing education, initial license fee and delinquent renewal fee in accordance with §123 and §127.

3. A licensee whose license lapsed on August 1, and applies for reinstatement after June 30, of the following year, is required to submit a completed application, proof of continuing education, and is subject to the initial license fee and delinquent renewal fee and the requirements of §127.

4. A registrant whose registration lapsed on August 1, must complete the initial application process for telehealth registration.

**L. Conditional Renewal**

1. Licensees who previously held a full, valid license which was obtained under the grandfather clause of Act 260 of the 1978 Regular Session of the Louisiana Legislature, whether delinquent or lapsed, for a period not to exceed five years, shall be eligible for licensure renewal or reinstatement upon meeting the continuing education requirement and submitting the appropriate renewal fee in accordance with §123. If the license has lapsed for a period of more than five years, applicants shall reapply in accordance with the requirements enumerated in R.S. 37:2651 et seq., as amended by Act 892 of the 1995 Regular Session of the Louisiana Legislature.

2. Licensees who previously held a restricted license which was obtained under Act 260 of the 1978 Regular Session of the Louisiana Legislature, whether delinquent or lapsed, shall be eligible for licensure renewal or reinstatement, upon meeting the continuing education requirement and submitting the appropriate renewal fee as required in accordance with §123 and §127.

3. Licensees who allow their license to lapse (August 1) shall submit documentation of completion of five clock hours of continuing education (maximum of 25 hours) in the area of licensure for each year that the license has lapsed in addition to meeting the license requirements enumerated in R.S. 37:2650 et seq.

4. Licensees who have allowed their license to lapse for a period of 5 years or greater, and do not hold a current audiology or speech-language pathology license in another state, must submit evidence of 25 continuing education hours directly related to the clinical practice of the license being sought and must have been obtained within the past 18 months.

5. Licensees who have allowed their license to lapse for a period of 10 years or greater, and do not hold a current audiology or speech-language pathology license in another state, must submit a passing score on the Educational Testing Service's specialty area examination for audiology or speech-language pathology, as applicable to the license

being sought, achieved no more than five years prior to the submission of the request for reinstatement.

6. Renewal of a license will not be granted until all requirements including mandated continuing education hours have been completed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:2650 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:351 (May 1996), LR 27:198 (February 2001), LR 28:1972 (September 2002), LR 30:2314 (October 2004), LR 33:2195 (October 2007), LR 37:2395 (August 2011), LR 39:1043 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1667 (October 2016), LR 44:

**§127. Continuing Education Requirements (Formerly §123)**

A. Each licensee shall complete continuing professional education activities of at least 10 clock hours each license period, July 1-June 30.

B. Of the 10 hours, five shall be educational activities directly related to the scope of practice of the licensee and must be designed to increase the knowledge and skills in the area of licensure.

C. Of the 10 hours, five may be in areas related to the professions of audiology and speech-language pathology. Such activities shall increase knowledge and skills pertinent to practice. Examples include: billing, coding, and reimbursement; record-keeping; ethics; supervision.

D. Audiologists who dispense shall ensure that at least 3 of the total 10 hours are in areas directly related to hearing aid dispensing, such as business/practice management, marketing, aural habilitation/rehabilitation, diagnostic assessment, characteristics of hearing aids and their application, etc.

E. Dual licensees shall complete 15 hours per year with a minimum of five hours in audiology and five hours in speech-language pathology; the remaining five may be in areas related to the professions of audiology and speech-language pathology.

F. Out-of-state audiologists and speech-language pathologists who hold telehealth registration shall complete the continuing education requirements consistent with the license the individual possesses for the state in which the provider is located. Telehealth registrants residing in states which do not require continuing education for audiologists and/or speech-language pathologists shall complete the annual continuing education requirements specified in this Section and may be audited.

G. Continuing education events occurring in the month of June will be accepted for the collection period in which they occur or they may be counted in the following collection period which begins on July 1. Hours from one event may not be divided between two collection periods.

H. The graduated scale for the collection of continuing education hours is based on the date an applicant receives his/her initial license or registration.

License Received	Hours Required
April, May, June	0
January, February, March	3
October, November, December	6
July, August, September	10

I. In the case of extenuating circumstances, when the licensee does not fulfill the continuing education requirements, the licensee shall submit a written request for extension to the board for consideration.

J. Continuing education hours accrued during the applicant's grace period will be accepted.

K. Acceptable continuing education sponsors and activities that are directly related to the practice of audiology and/or speech-language pathology:

1. board-sponsored activities;
2. presentations in the area of communication disorders sponsored by professional organizations such as American Academy of Audiology (AAA), American Speech-Language-Hearing Association (ASHA), Louisiana Academy of Audiology (LAA), Louisiana Speech-Language-Hearing Association (LSHA), Speech Pathologists and Audiologists in Louisiana Schools (SPALS), Louisiana Society for Hearing Aid Specialists, etc. Business meetings, luncheons, award ceremonies, receptions, and other non-content area events are not recognized as acceptable continuing education activities;

3. activities provided by ASHA-approved continuing education providers or AAA-approved continuing education activities;

4. meetings of related professional organizations (e.g., Council for Exceptional Children, International Dyslexia Association);

5. college courses in the area of licensure with the exception of clinical practicum taken for credit or official audit (3 semester hours or 6 quarter hours=10 hours of continuing education);

6. distance learning (video conferences, telephone seminars and internet courses sponsored by universities, schools, clinics, state agencies, hospitals, professional organizations, or related professional organizations);

7. workshops and in-services that are university, school, clinic, hospital or state agency sponsored (maximum of five hours in a related area). Only content area workshop and in-service time shall count as earned continuing education. Documentation of staff development content must be separated from employee meeting activities such as announcements, review of deadlines, event planning, and other non-content area activities;

8. publication of an article in a peer-reviewed journal for the year in which it was published;

9. digital media (e.g. CD, DVD, online webinars, etc.) which is ASHA-approved or AAA-approved continuing education media;

10. the presenting licensee may count 1 1/2 times the value of an activity the first time it is presented to allow for preparation time (example: a 3 hour workshop=4 1/2 hours). The activity will count for the actual hour value for each subsequent presentation of the same activity;

11. teaching at the college level in the area of communication disorders is not acceptable.

L. Pre-Approval Policy

1. Pre-approval is required for continuing education events that do not meet the requirements as listed under §125.K.1-11, and pre-approval of continuing education events is required in those situations where it is unclear whether the topic is relevant to the profession or will further a professional's expertise in a particular area.

2. The licensee shall request pre-approval (minimum of 30 days in advance) of self-study activities, or other appropriate activities.

3. Individuals not licensed by LBESPA as well as corporations offering continuing education not addressed under §127.K., must submit a \$50 continuing education review fee along with the pre-approval request.

4. Licensees who elect to attend university classes/courses in audiology and/or speech-language pathology without payment of the university fee shall submit a self-study plan for pre-approval from the Louisiana Board of Examiners for Speech-Language Pathology and Audiology to receive continuing education credits.

5. Self-study activities in the area of communication disorders:

- a. digital media (maximum of 5 hours);

- b. reading of journal articles that contain self-examination questions. Articles shall be submitted for pre-approval (maximum of 5 hours).

6. Publication of diagnostic and/or therapeutic materials (maximum of 5 hours).

M. Recording of Continuing Education Activities

1. Licensees shall record all continuing education activities as prescribed by the board and submitted at the time of renewal.

2. Licensees shall maintain records of continuing education activities completed for three years.

3. Licensees shall not submit repeated continuing education activities for credit within a three-year period.

4. A percentage of licensees will be audited each year as a means of evaluating compliance with the continuing education requirements. The board may request, through random audit, verification of clock hours submitted, including information regarding content and attendance. If the title of the activity does not clearly state the content, a description and/or time-ordered agenda may be required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:351 (May 1996), amended LR 27:199 (February 2001), LR 28:1973 (September 2002), LR 30:2314 (October 2004), LR 33:2196 (October 2007), LR 37:2395 (August 2011), LR 39:1043 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1667 (October 2016), LR 44:

**§129. Supervision Requirements for Restricted License and Provisional Speech-Language Pathology License (Formerly §125)**

A. Restricted licensees and provisional speech-language pathology licensees are required to undergo direct supervision by a licensed speech-language pathologist, licensed in accordance with R.S. 37:2659(B). Direct and indirect supervision must occur in every work setting in which the licensee is employed. An audiologist, licensed in accordance with R.S. 37:2659(A) may supervise these individuals for the purpose of hearing screening.

B. A supervising speech-language pathologist must have a minimum of one year of full-time professional speech-language pathology experience following the postgraduate professional/employment experience. Full-time employment

in a school system for the school year is considered to meet this requirement.

C. Prior to the initiation of supervision of a restricted or provisional licensee, training in the area of supervision is strongly recommended.

D. An individual may not be supervised by a provisional licensee, restricted licensee, assistant licensee, an individual on inactive status, a telehealth registrant, or a family member.

E. Supervision must involve the direct participation of the supervisor in order for the supervisor to monitor, observe, evaluate, and make suggestions for improvement regarding the supervisee's professional employment.

F. Restricted licensees and provisional speech-language pathology licensees must submit a supervisory agreement signed by the supervisor and supervisee as prescribed by the board. The form must be submitted to the board by the supervisee within 30 days of employment and submitted annually at the time of renewal. If there is a change in supervisor(s) at any time, a new supervisory agreement must be submitted to the board within 30 days of the change in supervision. If there are multiple supervisors for the same supervisee, all supervisors must sign the supervisory agreement.

G. Speech-language pathologists may share the supervision responsibility for provisional or restricted licensees, but each supervising speech-language pathologist shall complete and submit the necessary supervision forms.

H. Supervisory records, including supervision logs and other documentation of supervision, shall be maintained by both the supervisor and supervisee for a period of three years. Documentation of supervision may be requested by the board.

I. The direct supervision of the licensee, whether employed full-time or part-time, shall include 16 monitoring activities annually.

1. At least eight shall be direct observations divided between the areas of diagnostics and management. The direct observations must be equal to or greater than a total of eight hours. Indirect supervision may include conferences, audio and video recordings, review of written records, staffings and discussions with other persons who have participated in the licensee's training.

2. For 12-month employees, two direct observations shall be conducted each quarter.

3. For nine-month employees, four direct observations shall occur in each semester. If the nine-month employment is extended for a period of time, additional direct as well as indirect supervision must occur.

J. Documentation of supervision shall be submitted annually at the time of license renewal on Form 100 provided by the board.

K. Licensees shall complete all supervision requirements consistent with the license held and immediately thereafter submit appropriate supervision forms to the board office along with a written request for license upgrade and the upgrade fee. The licensee shall remain under supervision until the upgrade has been approved by the board.

L. The board will accept supervision provided out-of-state by an individual licensed or ASHA-certified in the area of practice. Supervision must be documented on Form 100.

1. Restricted licensees and provisional speech-language pathology licensees who have not worked in Louisiana may submit their clinical fellowship report as proof of supervision that was carried out during the license period. Otherwise, licensees must submit at the time of license renewal, appropriate proof of supervision consistent with Louisiana supervision requirements.

M. Licensees who are not working in the field of speech-language pathology and who hold a license requiring supervision, shall submit a notarized statement at the time of license renewal attesting to the fact that they did not work in the profession during the license period.

N. All costs of supervision shall be borne by the licensee or his/her employer, but in no event will those costs be borne by the board.

O. When supervision requirements have not been met in accordance with §129, licensees shall complete additional months of supervision to replace months of incomplete supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:352 (May 1996), LR 27:199 (February 2001), LR 28:1974 (September 2002) LR 30:2315 (October 2004), LR 33:2196 (October 2007), LR 37:2396 (August 2011), LR 39:1043 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 44:

**§131. Supervision Requirements for Speech-Language Pathology Assistant and Provisional Speech-Language Pathology Assistant (Formerly §127)**

A. A supervising speech-language pathologist must have a minimum of one year of full-time professional speech-language pathology experience following the postgraduate professional/employment experience. Full time employment in a school system for the school year is considered to meet this requirement.

B. Prior to the initiation of supervision of an assistant or provisional assistant, training in the area of supervision is strongly recommended.

C. An individual may not be supervised by a provisional licensee, restricted licensee, assistant licensee, an individual on inactive status, a telehealth registrant, or a family member.

D. The supervision requirements specified in these regulations are minimum requirements. It is the responsibility of the speech-language pathologist to design and provide a supervision system that protects patient/client care and maintains the highest possible standards of quality.

E. Supervision must involve the direct participation of the supervisor in order for the supervisor to monitor, observe, evaluate, and make suggestions for improvement regarding the supervisee's employment.

F. The supervisor is responsible for ensuring that the assistant does not make decisions regarding evaluation, management and future disposition of clients.

G. The supervisor is responsible for initial consultation with the assistant regarding coursework and practicum experiences prior to caseload assignment. The supervising speech-language pathologist shall assign only those tasks for which the assistant has been trained.

H. Decision-making regarding specification of on-going treatment protocol and necessary modifications, is the responsibility of the supervisor. The level of supervision required is considered the minimum necessary to ensure appropriate patient/client care.

I. The supervising speech-language pathologist shall be readily available for consultation with the assistant licensee. This includes personal contact, telephone, or other means of communication.

J. Speech-language pathology assistants and provisional speech-language pathology assistants must submit a supervisory agreement signed by the supervisor and supervisee as prescribed by the board. The form must be submitted to the board by the supervisee within 30 days of employment and submitted annually at the time of renewal. If there is a change in supervisor(s) at any time, a new supervisory agreement must be submitted to the board within 30 days of the change in supervision. If there are multiple supervisors for the same supervisee, all supervisors must sign the supervisory agreement.

K. Speech-language pathologists may share the supervision responsibility for speech-language pathology assistants or provisional speech-language pathology assistants, but each supervising speech-language pathologist shall complete and submit the necessary supervision forms.

L. Supervisory records, including supervision logs and other documentation of supervision, shall be maintained by both the supervisor and supervisee for a period of three years. Documentation of supervision may be requested by the board.

M. The board will accept supervision given out-of-state by a licensed or ASHA certified speech-language pathologist in the area of licensure. Licensees must submit at the time of license renewal, appropriate proof of supervision consistent with Louisiana supervision requirements.

N. Assistants who are not working in the field of speech-language pathology shall submit a notarized statement at the time of license renewal attesting to the fact that they did not work in the profession during the license period.

O. Although more than one speech-language pathologist may provide supervision of an assistant licensee and provisional assistant licensee, at no time may a licensed speech-language pathologist supervise or be listed as a supervisor for more than three assistant or provisional assistant licensees. When multiple supervisors are used, the supervisors are encouraged to coordinate and communicate with each other.

P. Provisional speech-language pathology assistants and speech-language pathology assistants must undergo direct supervision as well as indirect supervision in every work setting in which the licensee is employed.

Q. Documentation of supervision shall be submitted annually at the time of license renewal on Form 200 provided by the board.

R. Supervision Requirements for the Speech-Language Pathology Assistant

1. A minimum of one clock hour of direct supervision shall be completed in the primary work setting each week for each licensee. If the assistant is employed in more than one work setting, additional direct supervision must occur in the secondary work setting.

2. A minimum of one clock hour of indirect supervision shall be completed each week for each licensee. These activities should include, but are not limited to:

- a. specifying protocols for speech-language screenings and assessments conducted by the assistant licensee;
- b. specifying protocols for hearing screenings conducted by the assistant licensee;
- c. approving treatment plans or protocols and documenting approval;
- d. monitoring patient/client progress toward meeting established objectives;
- e. monitoring, scheduling, charting and data collection;
- f. directing maintenance of equipment;
- g. directing research projects, in-service training and public relations programs;
- h. conducting telephone conferences.

3. If circumstances prohibit a supervisor from completing the minimum supervision requirements (§131.R.1 and 2) in a given week, the remaining supervision shall be completed the following week in conjunction with the required supervision hours for that week.

4. When the supervising speech-language pathologist is unavailable for supervision for more than one week, arrangements shall be made for another qualified supervisor or the speech-language pathology assistant shall be transferred to other duties.

5. Speech-Language Pathology Assistant Full-Time and Part-Time Supervision Requirements

Hours Worked	Required Direct Supervision	Required Indirect Supervision
21-40 hours	1 hour/week	1 hour/week
20 hours or less	1 hour/every 2 weeks	1 hour/every 2 weeks

6. Assistant licensees shall be supervised only by a speech-language pathologist licensed under the provisions of R.S. 37:2659(B) with the exception of hearing screenings which may be supervised by an audiologist, licensed under the provisions of R.S. 37:2659(A).

S. Supervision Requirements for the Provisional Speech-Language Pathology Assistant

1. A minimum of three clock hours of direct supervision shall be completed in the primary work setting each week for each licensee. If the provisional speech-language pathology assistant is employed in more than one work setting, additional direct supervision must occur in the secondary work setting.

2. A minimum of two clock hours of indirect supervision shall be completed each week for each licensee.

3. These activities should include, but are not limited to:

- a. specifying protocols for speech-language screenings and assessments conducted by the assistant licensee;
- b. specifying protocols for hearing screenings conducted by the assistant licensee;
- c. approving treatment plans or protocols and documenting approval;
- d. monitoring patient/client progress toward meeting established objectives;

- e. monitoring scheduling, charting and data collection;
  - f. directing maintenance of equipment;
  - g. directing research projects, in-service training and public relations programs;
  - h. conducting telephone conferences.
4. If extenuating circumstances prohibit a supervisor from completing the minimum supervision requirements (§131.S.1 and 2) in a given week, the remaining supervision shall be completed the following week in conjunction with the required supervision hours for that week.
5. When the supervising speech-language pathologist is out for more than one week, arrangements shall be made for another qualified supervisor or the provisional speech-language pathology assistant shall be transferred to other duties.
6. When supervision requirements have not been met, in accordance with §131 licensees shall complete additional months of supervision to replace months of incomplete supervision.
7. Provisional Speech-Language Pathology Assistant Full-Time and Part-Time Supervision Requirements

Hours Worked	Required Direct Supervision	Required Indirect Supervision
21-40 hours	3 hours/week	2 hours/week
20 hours or less	1.5 hours/every 2 weeks	1 hour/every 2 weeks

8. Provisional assistant licensees shall be supervised by a speech-language pathologist licensed under the provisions of R.S. 37:2659(B) with the exception of hearing screenings which may be supervised by an audiologist, licensed under the provisions of R.S. 37:2659(A).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:353 (May 1996), LR 27:200 (February 2001), repromulgated LR 27:1691 (October 2001), amended LR 30:2316 (October 2004), LR 33:2197 (October 2007), LR 37:2396 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 44:

**§133. Independent Practice (Formerly §129)**

A. Licensed audiologists and speech-language pathologists, by virtue of academic coursework, clinical practicum, and professional experience, are qualified to engage in the autonomous or independent practice of the professions. Individuals who hold a license, i.e., provisional, restricted, assistant or provisional assistant, mandating supervision during the practice of the professions may not engage in the autonomous or independent practice of audiology or speech-language pathology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 33:2198 (October 2007), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 44:

**§135. Telepractice (Formerly §130)**

A. Telepractice, regardless of where the service is rendered or delivered, constitutes the practice of audiology or speech-language pathology and shall require Louisiana licensure for in-state practitioners and telehealth registration for out-of-state licensed practitioners.

B. A provider of telehealth services shall be competent in both the type of services provided and the methodology and equipment used to provide the services.

C. A provider of telehealth services must use methods for protecting client information that include authentication and encryption technology.

D. The standard of care shall be the same as if the audiology or speech-language pathology services were delivered face-to-face. It is the responsibility of the provider to determine candidacy and to ensure that the client is comfortable with the technology being utilized.

E. The client shall be notified of telehealth services including but not limited to the right to refuse telehealth services, options for service delivery, and instructions on filing and resolving complaints, in all applicable jurisdictions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 39:1044 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1668 (October 2016), LR 44:

**§137. Hearing Aid Dispensing (Formerly §131)**

A. Audiologists who dispense hearing aids shall meet the coursework and practicum requirements for dispensing as specified in R.S. 37:2650 et seq.

B. Audiologists who dispense hearing aids shall maintain annual calibration records on audiometric equipment.

C. Audiologists who dispense hearing aids shall comply with the following:

1. Audiologists shall ensure that a pre-purchase evaluation includes:

- a. a case history;
- b. an otoscopic examination;
- c. a basic audiological test battery conducted within the preceding six-month period in a sound-treated environment unless the patient's physical condition prohibits accomplishment of these procedures. The battery shall include:

- i. basic comprehensive audiometry;
- ii. appropriate tolerance testing;
- d. middle ear measurements shall also be obtained when indicated.

2. Audiologists shall provide the consumer with a minimum 30-day trial period on all new hearing aids purchased.

3. Audiologists shall inform the consumer of the total cost of the hearing aid, including any fees for returning the aid at the end of the trial period.

4. Audiologists shall conduct a post-fitting evaluation that includes functional gain measurements conducted in a sound treated environment and/or real ear measurements

unless the patient's physical conditions prohibit accomplishment of these procedures.

5. Audiologists who engage in the fitting or selling of hearing aids shall deliver to each person supplied with a hearing aid, a bill of sale which shall contain the dispenser's signature, address and license number, together with a description of the make, model and serial number of the hearing aid and the amount charged. The bill of sale shall also indicate whether the hearing aid is new, used, or reconditioned.

D. Licensed Audiologists who did not hold a doctoral degree and were not registered to dispense hearing aids prior to August 1, 2016 and who wish to include hearing aid dispensing as a component of their practice, must have proof of appropriate training, education and experience in the area of hearing aid dispensing. These audiologists who wish to include dispensing as part of their practice shall submit a self-study for pre-approval by the board. Upon culmination, the audiologist must submit a report documenting completion. An audiologist who meets the qualifications for licensure but lacks the coursework and practicum requirements necessary for registration as a dispenser may fulfill the requirements by:

1. Completing nine months of postgraduate professional employment/experience under the supervision of a licensed dispensing audiologist, and

2. By proof of the successful completion of a study course by the National Institute for Hearing Instruments Studies, or its equivalent. Equivalency for National Institute for Hearing Instruments Studies is defined as:

a. an individualized program of study that shall include:

i. hearing aid technology and dispensing courses sponsored by hearing aid manufacturers to include a minimum of 15 clock hours;

ii. workshops in the area of hearing aid technology and dispensing sponsored by professional organizations or individual practitioners to include a minimum of 15 clock hours;

iii. successful completion of university coursework in the area of hearing aid technology and dispensing; or

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:353 (May 1996), amended LR 27:201 (February 2001), LR 28:1975 (September 2002), LR 30:2317 (October 2004), LR 33:2198 (October 2007), LR 37:2398 (August 2011), repromulgated LR 37:2624 (September 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1668 (October 2016), LR 44:

### **§139. Qualifications and Duties of Aides (Formerly §133)**

A. Audiologists and speech-language pathologists are legally, ethically, and morally responsible for the services provided by aides working under their direction.

B. Requirements for the use of aides follow:

1. A licensed audiologist or speech-language pathologist may utilize an aide who meets the following qualifications. The aide shall:

- a. be of good moral character;
- b. be at least 18 years old;

- c. possess appropriate communication skills;
- d. have a high school diploma or G.E.D.

2. The supervising audiologist or speech-language pathologist is responsible for determining that the aide is qualified and prepared for the duties which s/he will be assigned. It is recommended that the aide be afforded continuing education opportunities. Appropriate areas of training may include:

- a. normal processes in speech, language and hearing;
- b. disorders of speech, language and hearing;
- c. record-keeping and data compilation;
- d. utilization of equipment and materials;
- e. professional ethics and their application to the aide's duties;
- f. administration of hearing screening tests.

C. Supervision

1. The licensed audiologist or speech-language pathologist shall provide periodic direct observation for each aide at least once per month during the initial year of the aide's employment. Speech-language pathology aides are required to undergo direct supervision by a licensed speech-language pathologist, licensed in the area in accordance with R.S. 37:2659(B). Audiology aides are required to undergo direct supervision by a licensed audiologist, licensed in the area in accordance with R.S. 37:2659(A). Audiology aides and speech-language pathology aides may not be supervised by a provisional licensee, restricted licensee, or assistant licensee.

2. The direct observation in subsequent years shall be established by the supervising audiologist or speech-language pathologist on an individual basis but shall be no less than once every three months.

3. The supervising audiologist or speech-language pathologist shall be readily available for consultation with the aide at all times.

4. Documentation of direct supervision shall be maintained by the supervising audiologist or speech-language pathologist and shall be submitted to the board upon request.

5. The supervising audiologist or speech-language pathologist shall report to the board at the time of licensure renewal, the names and employment locations of aides.

D. The speech-language pathology aide may engage in activities limited to those that are planned and directed by the supervising speech-language pathologist. Providing that the preparation, training, and supervision are appropriate, the following tasks may be assigned to speech-language pathology aides:

1. setting up room and equipment;
2. clearing room and storing equipment;
3. preparing materials (such as making copies, typing forms) for use by the speech-language pathologist;
4. checking equipment to determine if the equipment is performing adequately;
5. transporting patients/clients to and from sessions;
6. assisting with field trips;
7. performing hearing screenings limited to pure-tone air conduction screening and screening tympanometry;
8. recording, charting, graphing, or otherwise displaying objective data relative to the patient's/client's performance.



E. The audiology aide may engage in activities limited to those that are planned and directed by the supervising audiologist. Providing that the preparation, training, and supervision are appropriate, the following tasks may be assigned to audiology aides:

1. setting up room and equipment;
2. clearing room and storing equipment;
3. preparing materials (such as making copies, typing forms) for use by the audiologist;
4. checking equipment to determine if the equipment is performing adequately;
5. transporting patients/clients to and from sessions;
6. assisting with field trips;
7. performing hearing screening tests and pure-tone air conduction threshold tests without interpretation;
8. recording, charting, graphing, or otherwise displaying objective data relative to the patient's/client's performance.

F. Only the audiologist or speech-language pathologist shall exercise independent judgment in the provision of professional services. Specifically, the audiologist or speech-language pathologist may not delegate any of the following to the aide:

1. speech-language screening;
2. evaluation, diagnosis, or therapy with individuals with speech, language or hearing disorders;
3. interpretation of test and assessment results or discussion of confidential information despite the fact that this information may have been requested by the patient/client, parent or referring agency;
4. performance of any procedure for which the aide has not been trained.

G. Exemption. Aides employed on or before April 1996 may continue to operate under the provisions of Chapter 3, §§301-305 of the *Louisiana Register* 16:409 (May 1990) of the Louisiana Board of Examiners for Speech Pathology and Audiology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 16:409 (May 1990), amended LR 22:355 (May 1996), LR 27:201 (February 2001), LR 28:1781 (August 2002), LR 30:2318 (October 2004), LR 33:2199 (October 2007), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 44:

#### **§141. Disciplinary Actions (Formerly §135)**

A. This board may refuse to issue, may suspend or revoke a license for the practice of audiology or speech-language pathology or otherwise discipline an applicant or licensee, upon finding that the applicant or licensee has violated any provisions of R.S. 37:2650 et seq., or any of the rules or regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:354 (May 1996), LR 28:1975 (September 2002), LR 30:2319 (October 2004), LR 33:2200 (October 2007), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 44:

### **Chapter 3. Impaired Practitioner Program**

#### **§301. Purpose and Scope**

A. - B.7. ...

C. The applicant or licensee will be responsible for executing all required releases of information and authorizations required for the board to obtain information from any monitor, treatment or service provider concerning the licensee's progress and participation in the program.

D. - G. ...

H. The board will, to the full extent permissible, maintain an agreement or consent agreement and order relating to the licensee's participation in the Impaired Practitioner Program as a confidential matter. The board retains the discretion to share information it deems necessary with those persons providing evaluation/assessment, therapy, treatment, supervision, monitoring or drug/alcohol testing or reports. Violation of any terms, conditions or requirements contained in any consent agreement and order, or board decision can result in a loss of the confidential status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 30:2319 (October 2004), amended LR 37:2398 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 44:

#### **Chapter 5. Procedural Rules**

#### **§501. Investigation of Complaints**

A. The board is authorized to receive from any person, a complaint(s) against licensees, registrants, applicants, or other persons engaging in practices which violate or are alleged to violate the provisions of R.S. 37:2650 et seq.

B. Any complaint bearing on a licensee or registrant's professional competence, conviction of a crime, unauthorized practice, mental competence, neglect of practice, or violation of state law or ethical standards where applicable to the practice of audiology or speech-language pathology shall be submitted to the board in writing and signed by the complainant.

C. The board is also authorized to initiate such complaints when the board otherwise possesses or obtains information suggesting such a complaint is warranted.

D. Once a written complaint is received, the board shall initiate a review of the allegations contained therein. The board may dispose of the complaint informally through correspondence or conference with the licensee, registrant, and/or the complainant, which may result in a private letter of concern or a consent agreement and order. If the licensee or registrant stipulates to the complaint and waives her/his right to a formal hearing, the board may impose appropriate sanctions without delay. If the board finds that a complaint cannot be resolved informally, the written complaint shall be forwarded to the board's designated investigator for investigation. The board shall at that time notify the licensee or registrant, by certified mail, return receipt requested, of the investigation.

E. The board's designated investigator shall have authority to investigate the nature of the complaint through conference, correspondence, and other investigative procedures, directed to those parties or witnesses involved. The board's designated investigator shall send the involved licensee or registrant notice by certified mail, return receipt

requested, of the investigation containing a short summary of the complaint. All subsequent letters to the involved licensee or registrant, all letters to the complainant, or any other witness, shall be sent with a designation "personal and confidential" clearly marked on the outside of the envelope.

F. The board's designated investigator shall have authority to investigate the nature of the complaint through conference, correspondence, and other investigative procedures, directed to those parties or witnesses involved. The board's designated investigator shall send the involved licensee or registrant notice by certified mail, return receipt requested, of the investigation containing a short summary of the complaint. All subsequent letters to the involved licensee or registrant, all letters to the complainant, or any other witness, shall be sent with a designation "personal and confidential" clearly marked on the outside of the envelope.

G. The designated investigator shall conclude the investigation as quickly as possible, without compromising thoroughness. Unless good cause is shown by the designated investigator satisfactory to the board, which may extend the time for the investigation, the investigation and recommendations to the board shall be delivered to the board within 60 days of the date that the designated investigator first received the assignment from the board.

H. The designated investigator may determine that the licensee or registrant's explanation satisfactorily answers the complaint and may recommend to the board that the matter be dismissed.

I. If the designated investigator's recommendation for an informal hearing is accepted by the board, the designated investigator shall notify the licensee or registrant of the time, date, and place of the informal hearing and of the issues to be discussed. The licensee or registrant shall appear on a voluntary basis. The licensee or registrant shall be advised that the hearing will be informal, no attorneys will be present, and no transcript of the hearing will be made. Any witnesses who testify will not be placed under oath, and no subpoenas will be issued. The licensee or registrant shall be informed that any statements made at the informal hearing will not be used or introduced at a formal hearing, unless all parties consent. If the licensee or registrant notifies the designated investigator that s/he does not wish an informal hearing, or if the licensee or registrant fails or refuses to attend an informal hearing, the informal hearing shall not be held. In that event, the board shall initiate a formal disciplinary hearing.

J. A complaint may be resolved by:

1. a private letter of concern to the licensee, registrant, or other appropriate parties.
2. a consent agreement and order approved by the board and entered into by the licensee or registrant.

K. The designated investigator shall recommend to the board the initiation of a formal disciplinary hearing if the investigation discloses any of the following: the complaint is sufficiently serious to require a formal adjudication; the licensee or registrant fails to respond to the correspondence by the designated investigator concerning the complaint; the licensee or registrant's response to the designated investigator discloses that further action is necessary; an informal hearing is held but does not resolve all of the issues; or the licensee or registrant refuses to comply with the recommended remedial action.

L. The designated investigator shall submit any recommended action to the board in brief, concise language, without any reference to the particulars of the investigation, to any findings of fact or any conclusions of law arrived at during the investigative process.

M. The board shall have the authority to delegate to the designated investigator any alleged violations of the Speech-Language Pathology and Audiology Act, R.S. 37:2650 et seq., and any alleged violations of any and all rules and regulations adopted by the board pursuant thereto, prior to board action on those alleged violations. If requested by the board, the designated investigator shall submit to the board the complete investigation file. Final authority for appropriate action rests solely with the board including formal notification to the complainant, the licensee, or registrant.

N. At no time shall the designated investigator investigate any case as authorized by the board where the investigator has any personal or economic interest in the outcome of the investigation, or is personally related to or maintains a close friendship with the complainant, the licensee, the registrant, or any of the witnesses involved. In such event, the designated investigator shall immediately notify the board, who shall appoint a substitute investigator for disposition of that particular case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:373 (April 1991), amended LR 22:356 (May 1996), LR 30:2320 (October 2004), LR 33:2200 (October 2007), LR 37:2398 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1668 (October 2016), LR 44:

### **§503. Compliance Hearings**

A. The board shall provide a compliance hearing to a rejected applicant for licensure or registration provided that the rejected applicant requests a compliance hearing in writing within 30 days of the receipt of the notice of rejection. The applicant's request for a compliance hearing shall state with specificity the reason(s) why the application should be accepted.

B. ...

C. The purpose and intent of the compliance hearing is to provide a forum for the applicant, licensee, or registrant to present documentary evidence, in the form of affidavits, public records, official records, letters, etc., along with testimony under oath to establish that the applicant, licensee, or registrant does, in fact, meet the lawful requirements for issuance of a license or registration, or the retention of the license or registration. The board shall have the authority to administer oaths, hear the testimony, and conduct the hearing. The applicant, licensee, or registrant may be represented by counsel, or may represent her/himself.

D. In any compliance hearing, the burden of proof shall rest with the applicant, licensee, or registrant.

E. Within 30 days after the compliance hearing, the board shall forward its final decision, including specific reasons thereof, by certified mail, return receipt requested, to the applicant, licensee or registrant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:374 (April 1991), amended LR 22:357 (May 1996), LR 27:201 (February 2001), LR 30:2321 (October 2004), LR 37:2399 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 44:

#### **§505. Formal Disciplinary Hearings**

A. If, after completion of the investigation, the board determines that the circumstances may warrant the withholding, denial, suspension, or revocation of a license or registration, or other disciplinary action, the board shall initiate a formal disciplinary hearing. The board shall promptly notify the attorney general who is authorized and directed to appear on behalf of the state. The hearing shall convene in the parish in which the board is domiciled. The hearing shall be held before the board only after the involved licensee is given at least 30-days' notice by certified mail, return receipt requested. The notice shall include the following:

A.1. - B. ...

C. The board shall arrange for a certified court reporter to make an accurate recording of all testimony presented and all documents entered into evidence at the hearing. A party wishing to file documents into evidence shall provide the court reporter with a copy marked for identification as an exhibit and shall provide copies to each member of the hearing panel, the board's legal counsel, opposing counsel, as well as counsel for any joined parties, and/or any unrepresented parties.

D. - E. ...

F. It is the licensee and registrant's continuing obligation to keep the board informed of her/his whereabouts. Accordingly, if notice of the hearing cannot be delivered by mail because of a licensee or registrant's change of address and the new address is not provided to the board, the board may hold the hearing in the licensee or registrant's absence, after making reasonable efforts to obtain the licensee or registrant's new address.

G. Within 15 days of the licensee or registrant's receipt of notice, s/he may file a written answer to the notice, denying some or all of the charges, or offering any explanation or asserting whatever defense s/he deems applicable.

H. - J. ...

K. If the board finds by a preponderance of the evidence that the withholding, denial, suspension, or revocation of a license or registration, or other disciplinary action is warranted, the board shall sanction said individual according to the provisions of R.S. 37:2662(B):

1. refuse to issue a license or registration;
2. refuse to renew a license or registration;
3. issue a public letter of reprimand;
4. - 6. ...
7. suspend a license or registration;
8. revoke a license or registration;
9. ...
10. otherwise discipline a licensee or registrant.

L. A final decision or order adverse to a party in an adjudication proceeding shall be in writing or stated in the record within 45 days of the formal procedure. A final decision shall include findings of fact and conclusions of

law. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Parties shall be notified by the board, either personally or by certified mail, return receipt requested, of any decision or order. Upon request, a copy of the decision or order shall be mailed to each party and to her/his attorney of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:374 (April 1991), amended LR 22:357 (May 1996), LR 30:2321 (October 2004), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1669 (October 2016), LR 44:

#### **§507. General Procedural Rules for Hearings**

A. The board is empowered to issue subpoenas upon receipt of a written request from the licensee, registrant, or attorney general at least 15 days in advance of any scheduled hearing. The board shall issue said subpoenas upon receipt of said written request and receipt of any and all fees for subpoenas as provided for in §123.A. promulgated by the board.

B. - H. ...

I. Upon request by either the licensee, registrant, or the attorney general, witnesses shall be sequestered and not allowed in the hearing chambers during the hearing or permitted to discuss their testimony with other witnesses prior to the conclusion of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:374 (April 1991), amended LR 22:358 (May 1996), LR 27:201 (February 2001), LR 28:1975 (September 2002), LR 30:2322 (October 2004), LR 37:2399 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 44:

#### **§512. Summary Suspension of License/Registration**

A. The board may suspend an existing license or registration because of a person's conviction of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of the licensee or registration. The board may also suspend an existing license or registration if there are allegations of fact that the board believes demonstrates a substantial likelihood that the licensee or registrant poses a risk of harm to the public health, safety or welfare.

B. If the board finds that public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license or registration may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

C. Following the proceedings, the notice to summarily suspend an existing license or registration shall be serviced personally upon the respondent or by certified mail or by other reasonable means. The notice shall inform the licensee or registrant of the opportunity, including the time and place, to appear before the board to show cause regarding why the license or registration should not be suspended. The opportunity for the licensee or registrant to be heard shall occur from 2 to 10 days following the summary suspension of the license or registration.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37: 2651-2666.

HISTORICAL NOTE: Promulgated by the Department of Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 33:2201 (October 2007), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 44:

## **Chapter 7. Code of Ethics**

### **§701. Preamble**

A. The Code of Ethics of the Louisiana Board of Examiners for Speech-Language Pathology and Audiology specifies professional standards that govern clinical and scientific practice, direct professional conduct, provide for proper implementation of professionals' responsibilities to those served, and ensure the welfare of the consumer.

B. Any action that violates the intent and purpose of this code shall be considered unethical. Although the Code of Ethics cannot be inclusive of all specific situations, failure to delineate any particular responsibility or practice in this Code of Ethics shall not be construed as denial of the existence of such responsibilities or practices.

C. Principles of ethics form the underlying moral basis for the Code of Ethics. Individuals shall observe these principles as affirmative obligations under all conditions of professional activity.

D. Rules of ethics are specific statements of minimally acceptable as well as unacceptable professional conduct which are applicable to all individuals.

E. Rules of Ethics for Audiology, Speech-Language Pathology, Provisional Speech-Language Pathology, and Restricted Speech-Language Pathology Licensees and Registrants

1. Principle of Ethics I. Licensees and registrants shall honor their responsibility to hold paramount the welfare of persons they serve professionally or who are participants in research and scholarly activities, provide professional services with honesty and compassion, and respect the rights of those served. The licensee or registrant shall take all reasonable precautions to avoid harm to the individual served professionally.

a. Individuals shall provide all clinical services and scientific activities competently.

b. Individuals shall use every resource, including interprofessional collaboration and referral when applicable, to ensure that appropriate service is provided.

c. Individuals shall not discriminate in the delivery of professional services or in the conduct of research and scholarly activities on the basis of race, ethnicity, citizenship, sex, gender identity/gender expression, sexual orientation, age, religion, national origin, disability, culture, language, or dialect.

d. Individuals shall not misrepresent their credentials nor those under their supervision including aides, assistants, technicians, other support personnel, students, research interns, or individuals completing the postgraduate professional employment/experience, and they shall fully inform those they serve professionally of the name, role, and credentials of persons providing services.

e. Individuals may delegate tasks related to the provision of clinical services to students, aides, assistants, technicians, or other support personnel only if those persons are adequately trained and appropriately supervised. The

responsibility for the welfare of those served remains with the fully licensed individual.

f. Individuals shall not delegate tasks that require the unique skills, knowledge, judgment or credentials that are within the scope of practice of their profession to aides, assistants, technicians, other support personnel or nonprofessionals over whom they have supervisory authority.

g. Individuals shall obtain consent from the persons they serve only after a description of and discussion about the nature and possible risks and effects of services to be rendered, technology to be employed, and products to be dispensed. Consumers shall also be informed about possible effects of not engaging in treatment or following clinical recommendations. When the consumer is incapable of providing informed consent, individuals should seek authorization from a legally authorized/appointed representative or family member.

h. Individuals shall enroll and include persons as participants in research only if participation is voluntary, without coercion, and with informed consent.

i. Individuals shall accurately represent the intended purpose of a service, product, or research endeavor and shall abide by established standards for clinical practice and the responsible conduct of research.

j. Individuals shall evaluate the effectiveness of services rendered, technology employed, and products dispensed and shall provide services or dispense products only when benefit can reasonably be expected.

k. Individuals shall not guarantee, directly or by implication, the results of any treatment or procedure; however, they may make a reasonable statement of prognosis.

l. Individuals shall use independent and evidence-based clinical judgment, keeping paramount the welfare of those served.

m. Individuals shall not provide clinical services solely by correspondence but may provide services via telepractice consistent with professional standards and state and federal regulations.

n. Individuals shall protect the confidentiality of any professional or personal information about persons served professionally or participants involved in research and scholarly activities, and may disclose confidential information only when doing so is necessary to protect the welfare of the person or of the community, is legally authorized, or is otherwise required by law.

o. Individuals shall protect the confidentiality and security of records of professional services rendered, research and scholarly activities conducted, and products dispensed. Access to these records shall be allowed only when doing so is necessary to protect the welfare of the person or of the community, is legally authorized, or is otherwise required by law.

p. Individuals shall maintain timely records and accurately record and bill for services provided and products dispensed, and shall not misrepresent services rendered, products dispensed, or research and scholarly activities conducted.

q. Individuals whose professional practice is adversely affected by substance abuse or other health-related conditions are impaired practitioners and shall seek

professional assistance and, where appropriate, withdraw from the affected areas of practice.

r. Individuals who have knowledge a practitioner is unable to provide professional services with reasonable skill and safety shall report this information to the appropriate authority including the licensure board.

s. Individuals shall provide reasonable notice and information about alternatives for obtaining care in the event that the individual can no longer provide professional services.

2. Principle of Ethics II. Individuals shall honor their responsibility to achieve and maintain the highest level of professional competence and performance consistent with prevailing practice standards.

a. Individuals shall engage in only those aspects of the professions that are within the scope of their practice and competence, considering their level of licensure, registration, education, training and experience.

b. Individuals who engage in research shall comply with institutional, state, and federal regulations that address any aspects of research.

c. Individuals shall enhance and refine their professional competence and expertise through engagement in lifelong learning applicable to their professional activities and skills.

d. Individuals in administrative or supervisory roles shall not require or permit their professional staff to provide services or conduct research activities that exceed a licensee's competence, education, training, experience, and licensure status.

e. Individuals in administrative or supervisory roles shall not require or permit their professional staff to provide services or conduct clinical activities that compromise the licensee independent and objective professional judgment.

f. Individuals shall make use of technology and instrumentation consistent with accepted professional practice guidelines and shall ensure that all technology and instrumentation used to provide services or to conduct research and scholarly activities are in proper working order and are properly calibrated. When such technology is not available, an appropriate referral should be made.

3. Principle of Ethics III. Individuals shall honor their responsibility to the public when advocating for communication, swallowing, and vestibular needs of the public, and shall provide accurate information involving any aspect of the professions.

a. Individuals shall not misrepresent their credentials, competence, education, training, experience, or scholarly contributions.

b. Individuals shall avoid engaging in conflicts of interest whereby personal, financial, or other considerations have the potential to influence or compromise professional judgment and objectivity.

c. Individuals shall not misrepresent research and scholarly activities, diagnostic information, services rendered, results of services provided, products dispensed, or the effects of products dispensed.

d. Individuals shall not defraud through intent, ignorance, or negligence, or engage in any scheme to defraud in connection with obtaining payment, reimbursement, or grants and contracts for services provided, research conducted, or products dispensed.

e. Individuals' statements to the public shall provide accurate and complete information about the nature and management of communication disorders, about the professions, about professional services, about products, and about research and scholarly activities.

f. Individuals' statements to the public shall adhere to prevailing professional norms and shall not contain misrepresentations when advertising, announcing, and promoting their professional services and products or when reporting research results.

g. Individuals shall not make false statements regarding areas of professional practice, and shall complete all materials honestly and without omission.

4. Principle of Ethics IV. Individuals shall uphold the dignity and autonomy of the professions, maintain collaborative and harmonious interprofessional and intraprofessional relationships, and accept the professions' self-imposed standards.

a. Individuals shall work collaboratively, when appropriate, with members of one's own profession and members of other professions to deliver the highest quality of care.

b. Individuals shall exercise independent professional judgment in recommending and providing professional services when an administrative mandate, referral source, or prescription prevents keeping the welfare of persons served paramount.

c. Individuals' statements to colleagues about professional services, research results, and products shall adhere to prevailing professional standards and shall contain no misrepresentations.

d. Individuals shall not engage in any form of conduct that adversely reflects on the professions or on the individual's fitness to serve persons professionally.

e. Individuals shall not engage in dishonesty, negligence, fraud, deceit, or misrepresentation.

f. Applicants for licensure or registration, and individuals making disclosures shall not make false statements and shall complete all application and disclosure materials honestly and without omission.

g. Individuals shall not engage in any form of harassment, power abuse, or sexual harassment.

h. Individuals shall not engage in sexual activity with students, patients/clients, research participants, speech-language pathology assistants, aides, or licensees over whom they exercise professional authority or power.

i. Individuals shall not allow anyone under their supervision to engage in any practice that violates any provision of the practice act or Rules and Regulations including the Code of Ethics.

j. Individuals shall assign credit only to those who have contributed to a publication, presentation, protocol, process, or product. Credit shall be assigned in proportion to the contribution and only with the contributor's consent.

k. Individuals shall not engage in plagiarism and shall reference the source when using other persons' ideas, research, presentations, or products in written, oral, or any other media presentation or summary.

l. Individuals shall not discriminate in their relationships with colleagues, assistants, other support personnel, students, and members of other professions and disciplines on the basis of race, ethnicity, citizenship, sex,

gender identity/gender expression, sexual orientation, age, religion, national origin, disability, culture, language, or dialect.

m. Individuals shall comply with local, state, and federal laws and regulations applicable to professional practice, research ethics, and the responsible conduct of research.

n. Individuals shall inform the board of any violations of the practice act and the Rules and Regulations including the Code of Ethics.

o. Individuals shall cooperate fully with the board on matters of professional conduct relative to the practice act and the Rules and Regulations including the Code of Ethics, and shall not make false statements of fact or withhold relevant facts necessary to fairly adjudicate complaints.

p. Individuals who have been publicly sanctioned or denied a license, registration, or a professional credential by any professional association, professional licensing authority or board, or other professional regulatory body shall self-report by notifying the board in writing within thirty (30) days of the final action or disposition. Such written notification shall consist of a certified copy of the final action, sanction, or disposition.

q. Individuals who have been convicted, been found guilty, or entered a plea of *nolo contendere* to any misdemeanor involving dishonesty, physical harm or the threat of physical harm to the person or property of another, or any felony, shall self-report by notifying the board in writing within thirty (30) days of the conviction, plea, or finding of guilt. Such written notification shall consist of a certified copy of the conviction, plea, *nolo contendere* record, or minute/docket entry.

F. Rules of Ethics for Speech-Language Pathology Assistant and Provisional Speech-Language Pathology Assistant Licensees

1. Principle of Ethics I. Licensees shall honor their responsibility to hold paramount the welfare of persons they serve or who are participants in research and scholarly activities, provide services with honesty and compassion, and respect the rights of those served. The licensee shall take all reasonable precautions to avoid harm to the individual served.

a. Individuals shall provide clinical services and scientific activities competently, and engage only in those activities prescribed by the supervising speech-language pathologist.

b. Individuals shall not discriminate in the delivery of services or in the conduct of research and scholarly activities on the basis of race, ethnicity, citizenship, sex, gender identity/gender expression, sexual orientation, age, religion, national origin, disability, culture, language, or dialect.

c. Individuals shall not misrepresent their credentials and shall fully inform those they serve of their name, role, and credentials.

d. Individuals shall not provide services via telepractice, interpret test or assessment results, guarantee results, make referrals, discharge patients/clients, provide patient/client or family counseling, nor perform clinical tasks without the knowledge and approval of the supervising speech-language pathologist.

e. Individuals shall protect the confidentiality of clinical or personal information about persons served or participants involved in research and scholarly activities, and shall not disclose confidential information orally or in writing to anyone not designated by the supervising speech-language pathologist and without the authorization of the patient/client or their designee.

f. Individuals shall protect the confidentiality and security of records of services rendered, research and scholarly activities conducted, and products dispensed. Access to these records shall not be allowed unless directed by the supervising speech-language pathologist.

g. Individuals shall maintain timely and adequate records of services rendered, shall not charge for services not rendered, and shall not misrepresent services rendered, or research and scholarly activities conducted.

h. Individuals whose services are adversely affected by substance abuse or other health-related conditions are impaired practitioners and shall seek professional assistance and, where appropriate, withdraw from the affected areas of practice.

i. Individuals who have knowledge that a licensee is unable to provide services with reasonable skill and safety shall report this information to the appropriate authority including the licensure board.

2. Principle of Ethics II. Individuals shall honor their responsibility to achieve and maintain the highest level of competence and performance.

a. Individuals shall engage in only those aspects of service provision that are within the scope of their practice and competence, considering their level of licensure, education, training and experience.

b. Individuals shall hold the appropriate qualifications for the area(s) in which they are providing services. Individuals shall engage in lifelong learning throughout their careers.

c. Individuals shall not provide services unless appropriately supervised.

d. Individuals shall not provide services for which the licensee has not been properly prepared.

e. Individuals shall utilize technology and instrumentation as directed by the supervising speech-language pathologist, ensuring that proper working order is maintained and calibration has been established.

3. Principle of Ethics III. Individuals shall honor their responsibility to the public by providing accurate information in all communications.

a. Individuals shall not misrepresent their credentials, competence, education, training or experience.

b. Individuals shall not participate in professional activities that constitute a conflict of interest.

c. Individuals shall not misrepresent research and scholarly activities, services rendered or any information, or engage in any scheme or maneuver to defraud in connection with obtaining payment or reimbursement for services.

d. Individuals shall not make false statements regarding areas of practice, and shall complete all materials honestly and without omission.

4. Principle of Ethics IV. Individuals shall honor their responsibilities and their relationships with colleagues and members of other professions and disciplines. Individuals

shall maintain harmonious interprofessional and intraprofessional relationships and accept the standards delineated for assistants.

a. Individuals' statements to colleagues about services, research, or products shall adhere to prevailing standards and contain no misrepresentations.

b. Individuals shall not engage in dishonesty, negligence, fraud, deceit, or misrepresentation.

c. Applicants for licensure and individuals making disclosures shall not make false statements and shall complete all application and disclosure materials honestly and without omission.

d. Individuals shall not engage in any form of harassment, power abuse, or sexual harassment, or any other form of conduct that adversely reflects on service delivery or on the individual's fitness to serve persons.

e. Individuals shall not engage in sexual activity with a patient/client or research participant.

f. Individuals shall assign credit only to those who have contributed to a publication, presentation, protocol, process, or product. Credit shall be assigned in proportion to the contribution and only with the contributor's consent.

g. Individuals shall not engage in plagiarism and shall reference the source when using other persons' ideas, research, presentations, or products in written, oral, or any other media presentation or summary.

h. Individuals shall not discriminate in their relationships with colleagues and members of other professions and disciplines on the basis of race, ethnicity, citizenship, sex, gender identity/gender expression, sexual orientation, age, religion, national origin, disability, culture, language or dialect.

i. Individuals shall comply with local, state, and federal laws and regulations applicable to practice and research.

j. Individuals shall inform the board of any violations of the practice act or the Rules and Regulations including the Code of Ethics.

k. Individuals shall cooperate fully with the board on matters of professional conduct relative to the practice act or the Rules and Regulations including the Code of Ethics, and shall not make false statements of fact or withhold relevant facts necessary to fairly adjudicate complaints.

l. Individuals who have been publicly sanctioned or denied a license or a professional credential by any professional association, professional licensing authority or board, or other professional regulatory body shall self-report by notifying the board in writing within 30 days of the final action or disposition. Such written notification shall consist of a certified copy of the final action, sanction, or disposition.

m. Individuals who have been convicted, been found guilty, or entered a plea of nolo contendere to any misdemeanor involving dishonesty, physical harm or the threat of physical harm to the person or property of another, or any felony, shall self-report by notifying the board in writing within 30 days of the conviction, plea, or finding of guilt. Such written notification shall consist of a certified copy of the conviction, plea, nolo contendere record, or minute/docket entry.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:2650 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:370 (April 1991), amended LR 22:360 (May 1996), LR 30:2324 (October 2004), LR 33:2201 (October 2007), LR 37:2399 (August 2011), LR 39:1044 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 44:

#### **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 and 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 services, 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 Jolie Jones, Executive Director, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, 37283 Swamp Road, Suite 3B, Prairieville, LA 70769. Mrs. Jones 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 day prior to the hearing.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Friday, September 28, 2018 at 8:30 a.m. in the conference room at the board office, 37283 Swamp Road, Suite 3B, Prairieville, LA 70769. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Jolie Jones  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Speech-Pathology and Audiology**

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

The proposed rule change will result in an estimated one-time SGR expenditure of \$1,600 in FY 19 for the Louisiana Board of Examiners for Speech-Language Pathology and Audiology (LBESPA) to publish the proposed rule changes in the Louisiana Register and upload the rule revisions to the LBESPA website. There are no estimated implementation

savings to state or local governmental units through promulgation of the proposed rule changes. Furthermore, provisions of the proposed rule changes requiring applicants to the LBESPA to undergo a federal fingerprint-based background check will increase expenditures for the Dept. of Public Safety (DPS), however any costs incurred would be defrayed by a \$2 retainage on fees collected by DPS for such background checks (see Part II).

The proposed rule changes add definitions, amend certain rule titles, and make technical revisions to improve grammar, as well as add specificity and clarification regarding qualifications and scope of practice for the various practitioners regulated by LBESPA. These changes fall within the current regulatory scope of the LBESPA and are not anticipated to carry any additional costs. More substantive revisions include revision of the Code of Ethics to mirror current standard of practice, required background checks for applicants, registration guidelines for practitioners wishing to practice telehealth, the creation of a deferred license status, elimination of the unused provisional audiology license, allowing the board the authority to initiate a complaint with cause against a practitioner, and the revision of the LBESPA fee schedule for the purchase of mailing lists for its licensees.

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

The proposed rule changes will increase SGR collections for the LBESPA by an indeterminable aggregate amount. Furthermore, the proposed rule changes will increase collections for the statutorily dedicated Criminal Identification and Information Fund by an indeterminable amount. The revenue increases are derived from amending fee schedules for practitioner mailing lists, creation of fees for telehealth registrations, and the new requirement that LBESPA applicants must undergo federal fingerprint-based background checks.

Proposed rule changes amending fees for practitioner mailing lists will increase SGR collections for LBESPA by an indeterminable, though likely marginal amount estimated to total \$800. LBESPA currently charges \$0.05 per name and mailing address. The proposed rule changes include fees of \$25 for mailing lists for audiologists and speech-language pathology assistants, as well as a \$200 fee for a mailing list of speech-language pathologists. For reference, fees collected from this source totaled approximately \$3,200 in FY 17. LBESPA anticipates the new fee schedule will increase SGR collections for mailing lists by an estimated \$800 annually, from approximately \$3,200 annually to approximately \$4,000 annually based upon historic purchases of mailing lists by continuing education companies.

The addition of telehealth registrations for LBESPA will have an indeterminable effect on SGR collections for the board. To the extent out-of-state licensees choosing to practice telehealth lapse their Louisiana licenses, LBESPA will realize an SGR decrease of \$75 per license associated with initial registrations (\$125 initial registration fee - \$50 initial telehealth registration fee) and \$40 per license associated with renewals (\$65 license renewal - \$25 telehealth license renewal). Any revenue decreases may be offset by new providers registering to practice telehealth who were previously not practicing it in Louisiana, which would increase revenues by \$50 for each initial registration and \$25 for each renewal. Because the number of persons that will enter the telehealth market and those who will lapse their licenses are unknown, the aggregate effect on SGR collections associated with telehealth registration is unknown.

Furthermore, the proposed rule changes will increase revenues for the statutorily dedicated Criminal Identification and Information (CI&I) Fund by an indeterminable amount as a result of performing federal fingerprint-based background checks for LBESPA applicants. For reference, fees for name-

based state background checks total \$26 and fees for federal fingerprint-based background checks total \$12. Of the \$12 fee for federal background checks, DPS retains \$2 that is deposited in the CI&I Fund and forwards the balance to the federal government. Because the number of checks that DPS may perform on LBESPA is unknown, the exact revenue increase that will accrue to the fund is indeterminable.

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

Continuing education providers will realize an increase in fees to purchase mailing lists by an estimated \$800 (see Part II).

The proposed rule changes include provisions requiring persons applying for LBESPA licensure to receive a fingerprint-based background check, which will increase fees for applicants by \$38, the total cost of a state and federal background check (see Part II).

The proposed rule changes include provisions to register as a telehealth provider, which has an indeterminable aggregate impact on practitioners and is dependent upon if they currently have a Louisiana license or if they are not licensed to practice by the LBESPA. To the extent telehealth registrants holding out-of-state licenses are licensed in Louisiana, lapse their Louisiana license, and choose only to practice telehealth, they may realize a savings of \$40. To the extent new persons register as telehealth providers, initial registration costs total \$50 with renewals of \$25. The aggregate impact of the telehealth provision on providers is indeterminable (see Part II).

The proposed rule changes the "inactive license status" for speech-language pathology (SLP) assistants, changing it to a "deferred" status. SLP assistants may only hold this status for 3 years, rather than indefinitely. Furthermore, the proposed rule changes eliminate the provisional audiology license. This proposed rule change is not anticipated to affect practitioners, as that license is no longer issued.

Lastly, the proposed rule changes clarify and specify standards for application, scope of practice, license upgrade, and standard of practice for all licenses administered by the LBESPA. The aggregate impact of these revisions to the administrative rules is indeterminable.

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

The proposed rule change is not anticipated to affect competition and employment.

Jolie Jones  
Executive Director  
1808#001

Greg V. Albrecht  
Chief Economist  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health Bureau of Health Services Financing

Dental Benefits Prepaid Ambulatory Health Plan  
Independent Review Process for Provider Claims  
(LAC 50:I.2117)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:I.2117 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 284 of the 2018 Regular Session of the Louisiana Legislature directed the Department of Health, Bureau of



Health Services Financing to establish a process for review of dental provider claims submitted to Medicaid dental benefit plan managers (DBPMs) when claim payment determinations are adverse to providers and the DBPM's appeal and reconsideration process has been exhausted. This legislation further directed the department to: 1) establish a panel for the selection of the independent dental claims reviewers; 2) provide for claims review procedures and fees for claims review services; and 3) related matters.

In compliance with the provisions of Act 284, the department proposes to amend the Rule governing the dental benefits prepaid ambulatory health plan in order to adopt provisions for the independent process for the review of DBPM provider claims payment determinations that are adverse to dental providers.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part 1. Administration**

#### **Subpart 3. Managed Care for Physical and Behavioral Health**

#### **Chapter 21. Dental Benefits Prepaid Ambulatory Health Plan**

#### **§2117. Independent Review Process for Dental Provider Claims**

##### **A. Right of Dentist Providers to Independent Review of Claims**

1. Pursuant to Act 284 of the 2018 Regular Session of the Louisiana Legislature, for adverse determinations related to dental claims filed on or after November 20, 2018, a dentist/dental provider shall have a right to an independent review of the adverse action of the DBPM.

2. For purposes of these provisions, adverse determinations shall refer to dental claims submitted by healthcare providers for payment for dental services rendered to Medicaid enrollees and denied by the DBPM, in whole or in part, or more than 60 days have elapsed since the claim was submitted and the dentist has received no remittance advice or other written or electronic notice from the DBPM either partially or totally denying the claim.

##### **B. Request for Reconsideration**

1. Prior to submitting a request for independent review, a provider shall submit a written request for reconsideration to the DBPM, as provided for by the DBPM and in accordance with this Section. The request shall identify the claim(s) in dispute, the reasons for the dispute, and any documentation supporting the provider's position or request by the DBPM.

2. The DBPM shall acknowledge in writing its receipt of a reconsideration request submitted in accordance with §2117.B.1, within five calendar days after receipt, and render a final decision by providing a response to the provider within 45 calendar days from the date of receipt of the request for reconsideration, unless another time frame is agreed upon in writing by the dentist/dental provider and the DBPM.

3. If the DBPM reverses the adverse determination pursuant to a request for reconsideration, payment of the claim(s) in dispute shall be made no later than 20 days from the date of the DBPM's decision.

##### **C. Independent Review of Dental Claims Requirements**

1. If the DBPM upholds the adverse determination, or does not respond to the reconsideration request within the

time frames allowed, the provider may file a written notice with the department requesting the adverse determination be submitted to an independent reviewer. The department must receive the written request from the provider for an independent review within 60 days from the date the provider receives the DBPM's notice of the decision of the reconsideration request, or if the DBPM does not respond to the reconsideration request within the time frames allowed, within 10 days of the last date of the time period allowed for the DBPM to respond.

2. The dentist/dental provider shall include a copy of the written request for reconsideration with the request for an independent review. The appropriate address to be used by the provider for submission of the request shall be Medicaid Dental Benefits Independent Review, P.O. Box 91283, Bin 32, Baton Rouge, LA 70821-9283.

3. Upon receipt of a notice of request for independent review and supporting information and documentation, the department shall refer the adverse determination to the dental claims review panel.

4. Subject to approval by the independent reviewer, a dentist/dental provider may aggregate multiple adverse determinations involving the same DBPM when the specific reason for nonpayment of the claims aggregated involve a dispute regarding a common substantive question of fact or law.

5. Within 14 calendar days of receipt of the request for independent review, the independent reviewer shall request to be provided all information and documentation submitted for reconsideration regarding the disputed claim or claims within 30 calendar days.

6. If the independent reviewer determines that guidance on an administrative issue from the department is required to make a decision, the reviewer shall refer this specific issue to the department for review and concise response to the request within 30 calendar days after receipt.

7. The independent reviewer shall examine all materials submitted and render a decision on the dispute within 60 calendar days. The independent reviewer may request in writing an extension of time from the dental claims review panel to resolve the dispute. If an extension of time is granted by the panel, the independent reviewer shall provide notice of the extension to the dental provider and the DBPM.

8. If the independent reviewer renders a decision requiring the DBPM to pay any claims or portion of the claims, within 20 calendar days, the DBPM shall send the provider payment in full along with interest calculated back to the date the claim was originally denied or recouped.

##### **D. Independent Review Costs**

1. The DBPM shall pay the fee for an independent review to the Louisiana State University School of Dentistry. The dentist/dental provider shall, within 10 days of the date of the decision of the independent reviewer, reimburse the DBPM for the fee associated with conducting an independent review when the decision of the DBPM is upheld. If the provider fails to submit payment for the independent review within 10 days from the date of the decision, the DBPM may withhold future payments to the provider in an amount equal to the cost of the independent review, and the department may prohibit that provider from future participation in the independent review process.

2. If the DBPM fails to pay the bill for the independent reviewer's services, the reviewer may request payment directly from the department from any funds held by the state that are payable to the DBPM.

3. The fee for an independent review of a dental claim shall be paid in an amount established in a memorandum of understanding between the department and the Louisiana State University School of Dentistry, not to exceed \$2,000 per review.

**E. Dental Claims Review Panel**

1. The dental claims review panel shall select and identify an appropriate number of independent reviewers to comprise a reviewer pool and continually review the number and outcome of requests for reconsideration and independent reviews on an aggregated basis.

2. The panel shall consist of the secretary or his/her duly designated representative, one representative from each DBPM, a number of dentist representatives equal to the number of representatives from DBPMs and the dean of the Louisiana State University School of Dentistry or his/her designee.

3. The reviewer pool selected by the dental claims review panel shall be comprised of dentists who are on the faculty of the Louisiana State University School of Dentistry and have agreed to applicable terms for compensation, confidentiality, and related provisions established by the department. The reviewer pool shall include:

a. For each of the following specialties, at least one dentist who has completed a residency approved by the Commission on Dental Accreditation in that specialty:

- i. periodontics;
- ii. endodontics;
- iii. prosthodontics; and
- iv. oral and maxillofacial surgery.

b. At least two dentists who have completed a residency approved by the Commission on Dental Accreditation in pediatric dentistry.

4. The reviewer pool shall not include any dentist who is currently performing compensated services for the DBPM, whether the compensation is paid directly or through a contract with the Louisiana State University School of Dentistry or other state entity, or has received any such compensation at any time in the prior 12 months.

5. The reviewer pool shall not include any dentist who has received reimbursement for dental services rendered to Medicaid patients in a private practice setting in the past 60 days.

a. Louisiana State University School of Dentistry clinics, including Louisiana State University School of Dentistry faculty practice, shall not be considered a private practice setting for the purposes of determining eligibility to participate in the reviewer pool.

6. No dentist shall be eligible to submit denied Medicaid claims for independent review while participating in the reviewer pool.

**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, Bureau of Health Services Financing, LR 44:

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.

**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 and 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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

**Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, September 27, 2018 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.

Rebekah E. Gee MD, MPH  
Secretary

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

**RULE TITLE: Dental Benefits Prepaid Ambulatory  
Health Plan**

**Independent Review Process for Provider Claims**

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

It is anticipated that the implementation of this proposed rule will have an indeterminable programmatic impact to the state in FY 18-19, FY 19-20, and FY 20-21 since there is no way to determine how many providers will utilize the process or how many claims payments will be impacted. However, to the extent that this process may result in increased expenses to the dental benefits plan manager (DBPM) through the required administrative reviews and potential payments for reversals of decisions, there is potential for an increase in the monthly capitation rates paid by Medicaid to the DBPM as a result of

the process. It is anticipated that \$972 (\$486 SGF and \$486 FED) will be expended in FY 18-19 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 impact on federal revenue collections in FY 18-19, FY 19-20, and FY 20-21. It is anticipated that \$486 will be collected in FY 18-19 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)

Pursuant to the provisions of Act 284 of the 2018 Regular Session of the Louisiana Legislature, this proposed Rule amends the provisions governing the dental benefits prepaid ambulatory health plan in order to adopt provisions for an independent review process for dental providers who have received an adverse determination on DBPM provider claims payments. It is anticipated that implementation of this proposed rule may have indeterminable administrative and programmatic costs to the Medicaid Program since there is no way to determine how many providers will utilize this process or how many claims payments may be impacted, and may result in an increase in the monthly capitation rates paid by Medicaid to the DBPM if their administrative costs increase. It is also anticipated that implementation of this proposed rule may have an impact to the DBPM and dental providers in FY 18-19, FY 19-20 and FY 20-21, but the impact is indeterminable since there is no way to determine if there will be recoupments or payments made by the DBPM and dental providers as a result of this process.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele  
Medicaid Director  
1808#045

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Bureau of Health Services Financing**

Durable Medical Equipment  
Pharmacy Provider Accreditation  
(LAC 50:XIII.8501)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XIII.8501 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, Bureau of Health Services Financing proposes to amend the provisions governing provider participation in the Home Health Program in order to remove the accreditation requirements for pharmacies that provide medical equipment, supplies and appliances, in compliance with federal regulations mandated by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XIII. Home Health Program**

**Subpart 3. Medical Equipment, Supplies and Appliances**

**Chapter 85. Provider Participation**

**§8501. Accreditation Requirements**

A. - B. ...

C. Pharmacies. These accreditation requirements do not apply to pharmacies that provide medical equipment, supplies and appliances.

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 36:512 (March 2010), amended LR 37:2159 (July 2011), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

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.

**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 as it may increase provider participation for pharmacies that provide medical equipment, supplies and appliances which could result in increased recipient access to pharmacies that provide these 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 as described in R.S. 49:973 as it may increase provider participation locally which will reduce transportation cost and the financial burden on families in need of these pharmacy 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 will have no impact on the staffing level requirements and will not impact the direct or indirect cost to the provider to provide the same level of service. However, this proposed Rule removes the accreditation requirement which may 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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

**Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, September 27, 2018 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.

Rebekah E. Gee MD, MPH  
Secretary

**NOTICE OF INTENT**  
**Department of Health**  
**Bureau of Health Services Financing**

Inpatient Hospital Services  
(LAC 50:V.Subpart 1)

**FISCAL AND ECONOMIC IMPACT STATEMENT**  
**FOR ADMINISTRATIVE RULES**  
**RULE TITLE: Durable Medical Equipment**  
**Pharmacy Provider Accreditation**

The Department of Health, Bureau of Health Services Financing proposes to repeal and replace LAC 50:V.Subpart 1 and the following uncodified Rules in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act:

**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 18-19. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 18-19 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 no effect on revenue collections other than the federal share of the promulgation costs for FY 18-19. It is anticipated that \$216 will be collected in FY 18-19 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 amends the provisions governing provider participation in the Home Health Program in order to remove the accreditation requirements for pharmacies that provide medical equipment, supplies and appliances, in compliance with federal regulations mandated by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services. This proposed rule may be beneficial to recipients and providers as the removal of these accreditation requirements may result in increased pharmacy provider participation in the Medicaid Program. However, an increase in pharmacy providers may have an adverse financial impact to existing pharmacy providers due to increased competition in the pharmacy provider community. It is anticipated that implementation of this proposed Rule will have no administrative or programmatic costs to the Medicaid Program in FYs 18-19, 19-20 and 20-21.

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

This rule has no known effect on employment, but may have an adverse financial impact to exiting pharmacy providers due to a potential increase in competition in the pharmacy provider community.

Jen Steele  
Medicaid Director  
1808#046

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

Register Date	Title	Register Volume, Number	Page Number
July 20, 1977	Policy change to allow hospital reimbursement when dentists admit patients	Vol. 3, No. 7	309
July 20, 1977	Policy change to permit the use of treatment passes	Vol. 3, No. 7	309
August 20, 1978	Extension of hospitalization beyond yearly maximum	Vol. 4, No. 8	296
March 20, 1980	Inpatient hospital benefits for diagnostic procedures	Vol. 6, No. 3	113
April 20, 1982	MAP exception to Medicare reimbursement	Vol. 8, No. 4	189
December 20, 1982	Prior authorization for elective surgery	Vol. 8, No. 12	650
June 20, 1983	Discontinue use of PSROs	Vol. 9, No.6	413
June 20, 1983	Inpatient Hospital Services	Vol. 9, No.6	414-415
August 20, 1983	Title XIX inpatient hospital reimbursement method	Vol. 9, No.8	562
August 20, 1984	Change in in-patient hospital reimbursement methodology	Vol. 10, No. 8	599
October 20, 1984	Hospital Reimbursements	Vol. 10, No. 10	802
June 20, 1985	Hospital Program one-year rate freeze	Vol. 11, No. 6	637
July 20, 1985	Hospital Program one-year freeze	Vol. 11, No. 7	688
October 20, 1985	MAP-Reimbursement for inpatient hospital services: transplant	Vol. 11, No. 10	947

Register Date	Title	Register Volume, Number	Page Number
November 20, 1985	Inpatient hospital, eliminate incentive payments	Vol. 11, No. 11	1080
December 20, 1985	MAP-Delete prior authorizations for surgical procedures	Vol. 11, No. 12	1147
April 20, 1986	MAP-Cap "Carve Out" Units	Vol. 12, No. 4	243-244
October 20, 1986	Hospital program rate freeze	Vol. 12, No. 10	678
February 20, 1987	MAP-Hospital interim per diem reduced	Vol. 13, No. 2	92
October 20, 1987	MAP-Psychiatric hospitals standards for payment	Vol. 13, No. 10	578
June 20, 1988	MAP-Hospital program rate freeze	Vol. 14, No. 6	351
December 20, 1988	Inpatient psychiatric service reimbursement	Vol. 14, No. 12	869
November 20, 1989	MAP-Certification of Need for Psychiatric hospitalization	Vol. 15, No. 11	976
April 20, 1992	MAP-vendor payments	Vol. 18, No. 4	391
October 20, 1992	Inpatient Hospital Services Reimbursement (Infants Under One Year)	Vol. 18, No. 10	1132
June 20, 1993	Inpatient Psychiatric Services - Reimbursement	Vol. 19, No. 6	751
July 20, 1993	Hospital Neurological Rehabilitation Program	Vol. 19, No. 7	893-895
June 20, 1994	Hospital Prospective Reimbursement Methodology	Vol. 20, No. 6	668
June 20, 1994	Pre-admission Certification and Length of Stay Criteria for Inpatient Hospital Services	Vol. 20, No. 6	668-669
June 20, 1995	Inpatient Psychiatric Services	Vol. 21, No. 6	575-582
January 20, 1996	Hospital Program-Median	Vol. 22, No. 1	32-33
January 20, 1996	Out-of-State Services	Vol. 22, No. 1	33
January 20, 1996	Reimbursement Inflation	Vol. 22, No. 1	33
February 20, 1996	Acute Inpatient Hospital Services, Outlier	Vol. 22, No. 2	106

Register Date	Title	Register Volume, Number	Page Number
July 20, 1996	Transplant Services-Reimbursement	Vol. 22, No. 7	584
February 20, 1997	Hospital Prospective Reimbursement Methodology for Rehabilitation Hospitals	Vol. 23, No. 2	202
February 20, 1997	Hospital Prospective Reimbursement Methodology for Long-Term Acute Hospitals	Vol. 23, No. 2	202
September 20, 1997	Hospital Program-Out-of-State Services	Vol. 23, No. 9	1148
December 20, 1997	Long Term Hospital Reimbursement Methodology	Vol. 23, No. 12	1687
May 20, 1999	Hospital Neurological Rehabilitation Program-Reimbursement Methodology	Vol. 25, No. 5	875
May 20, 1999	Inpatient Hospital Psychiatric Services Reimbursement Methodology	Vol. 25, No. 5	875
June 20, 1999	Private Hospital-Reimbursement Methodology.	Vol. 25, No. 6	1099
March 20, 2000	Hospital Prospective Reimbursement Methodology-Teaching Hospitals	Vol. 26, No. 3	498-500
June 20, 2000	Inpatient Hospital Reimbursement-Medicare Part A Claims	Vol. 26, No. 6	1299
November 20, 2000	Inpatient Psychiatric Services-Medicare Part A Claims	Vol. 26, No. 11	2621
November 20, 2000	Inpatient Hospital Services-Medicare Part A Claims	Vol. 26, No. 11	2621
December 20, 2000	Out-of-State Hospitals-Inpatient Services Reimbursement Reduction	Vol. 26, No. 12	2795
June 20, 2001	Inpatient Hospital Services Extensions an Retrospective Reviews of Length of Stay	Vol. 27, No. 6	856
September 20, 2001	Inpatient Hospital Services-Reimbursement Methodology-Well Baby Care	Vol. 27, No. 6	1522
December 20, 2001	Inpatient Psychiatric Services-Reimbursement Increase	Vol. 27, No. 12	2238
February 20, 2002	Inpatient Hospital Services-Medicare Part A	Vol. 28, No. 2	308
August 20, 2002	Public Hospitals-Reimbursement Methodology-Upper Payment Limits	Vol. 28, No. 8	1794
June 20, 2003	Private Hospitals-Outlier Payments	Vol. 29, No. 6	914

Register Date	Title	Register Volume, Number	Page Number
December 20, 2003	Out-of-State Hospitals-Inpatient Services Reimbursement Reduction	Vol. 29, No. 12	2801-2802
December 20, 2003	Public Hospitals-Inpatient Reimbursement Methodology-Target Rate per Discharge	Vol. 29, No. 12	2803-2804
June 20, 2004	Inpatient Hospitals-Private Reimbursement Reduction	Vol. 30, No. 6	1211
June 20, 2004	State Owned or Operated Hospitals-Inpatient Psychiatric Services-Reimbursement Increase	Vol. 30, No. 6	1211
November 20, 2004	Private and Public Non-State Owned and Operated Hospitals-Inpatient Psychiatric Services Reimbursement Increase	Vol. 30, No. 11	2489
March 20, 2005	Hospital Program-Transplant Services	Vol. 31, No. 3	667-668
February 20, 2006	Inpatient Hospital Services-State Hospitals-Reimbursement Methodology	Vol. 32, No. 6	247
February 20, 2007	Inpatient Hospital Services-Private Hospitals-Reimbursement Rate Increase	Vol 33, No. 2	289
February 20, 2007	Inpatient Psychiatric Services-Private Hospitals-Reimbursement Rate Increase	Vol 33, No. 2	289

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, Bureau of Health Services Financing proposes to repeal and replace the Rules governing inpatient hospital services in order to adopt an all patient refined diagnostic related group (APR-DRG) reimbursement methodology and to revise the remaining provisions for inpatient hospital services 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 1. Inpatient Hospitals 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, Bureau of Health Services Financing, LR 44:

**§109. Healthcare-Acquired and Provider Preventable Conditions**

A. The Medicaid Program will not provide reimbursement for healthcare-acquired or provider preventable conditions which result in medical procedures performed in error and have a serious, adverse impact to the health of the Medicaid recipient.

B. Reimbursement shall not be provided for the following healthcare-acquired conditions (for any inpatient hospital settings participating in the Medicaid Program) including:

1. foreign object retained after surgery;
2. air embolism;
3. blood incompatibility;
4. stage III and IV pressure ulcers;
5. falls and trauma, including:
  - a. fractures;
  - b. dislocations;
  - c. intracranial injuries;
  - d. crushing injuries;
  - e. burns; or
  - f. electric shock;
6. catheter-associated urinary tract infection (UTI);
7. vascular catheter-associated infection;
8. manifestations of poor glycemic control, including:
  - a. diabetic ketoacidosis;
  - b. nonketotic hyperosmolar coma;
  - c. hypoglycemic coma;
  - d. secondary diabetes with ketoacidosis; or
  - e. secondary diabetes with hyperosmolarity;
9. surgical site infection following:
  - a. coronary artery bypass graft (CABG)-mediastinitis;
  - b. bariatric surgery, including:
    - i. laparoscopic gastric bypass;
    - ii. gastroenterostomy; or
    - iii. laparoscopic gastric restrictive surgery;
  - c. orthopedic procedures, including:
    - i. spine;
    - ii. neck;
    - iii. shoulder; or
    - iv. elbow; or
  - d. cardiac implantable electronic device procedures;

or

10. deep vein thrombosis (DVT)/pulmonary embolism (PE) following total knee replacement or hip replacement with pediatric and obstetric exceptions; or

11. Iatrogenic pneumothorax with venous catheterization.

C. Reimbursement shall not be provided for the following provider preventable conditions, (for any inpatient hospital settings participating in the Medicaid Program) including:

1. wrong surgical or other invasive procedure performed on a patient;
2. surgical or other invasive procedure performed on the wrong body part; or
3. surgical or other invasive procedure performed on the wrong patient.

D. For discharges on or after July 1, 2012, all hospitals are required to bill the appropriate present-on-admission (POA) indicator for each diagnosis code billed. All claims with a POA indicator with a health care-acquired condition code will be denied payment.

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, Bureau of Health Services Financing, LR 44:

### **§113. Coverage of Long-Acting Reversible Contraceptives**

A. The Medicaid Program shall provide reimbursement to acute care hospitals for long-acting reversible contraceptives (LARCs) provided to women immediately following childbirth and during the hospital stay.

B. Reimbursement. Hospitals shall be reimbursed for LARCs as an add-on service in addition to their per discharge rate for the inpatient hospital stay.

1. Physicians/professional practitioners who insert the device will also be reimbursed an insertion fee in accordance with the reimbursement rates established for this service in the Professional Services Program.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 44:

### **§115. Office of Public Health Newborn Screenings**

A. The Department of Health, Bureau of Health Services Financing shall provide reimbursement to the Office of Public Health (OPH) through the Medical Assistance Program for newborn screenings performed by OPH on specimens taken from children in acute care hospital settings.

#### **B. Reimbursement**

1. Claims submitted by OPH to the Medicaid Program for the provision of legislatively-mandated inpatient hospital newborn screenings shall be reimbursed outside of the acute hospital per discharge rate for the inpatient stay.

a. The hospital shall not include any costs related to newborn screening services provided and billed by OPH in its Medicaid cost report(s).

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, Bureau of Health Services Financing, LR 44:

## **Chapter 5. State Hospitals**

### **§501. General Provisions**

#### **A. Definitions**

*State Hospital*—a hospital that is owned and operated by the state of Louisiana.

*Freestanding Psychiatric State Hospital*—a hospital that is owned and operated by the state of Louisiana and classified as a psychiatric hospital by Medicare per 42 CFR 412.23(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, Bureau of Health Services Financing, LR 44:

### **§531. Acute Care Hospitals**

A. Inpatient hospital services rendered by state-owned acute care hospitals shall be reimbursed at allowable costs and shall not be subject to per discharge or per diem limits.

B. Medicaid rates paid to state-owned acute care hospitals shall be 54 percent of allowable Medicaid costs. Payment shall be made by an interim per diem rate. Final reimbursement is determined from the Medicare/Medicaid cost report.

C. Medical education payments for inpatient services which are reimbursed by a prepaid risk-bearing managed care organization (MCO) shall be paid monthly by Medicaid as interim lump sum payments.

1. Hospitals with qualifying medical education programs shall submit a listing of inpatient claims paid each month by each MCO.

a. *Qualifying Medical Education Programs*—graduate medical education, paramedical education and nursing schools.

2. Monthly payments shall be calculated by multiplying the number of qualifying inpatient days times the medical education costs included in each state hospital's interim per diem rate as calculated per the latest filed Medicaid cost report.

3. Final payment shall be determined based on the actual MCO covered days and allowable inpatient Medicaid medical education costs for the cost reporting period per the Medicaid cost report.

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, Bureau of Health Services Financing, LR 44:

### **§533. Inpatient Psychiatric Services**

A. Payment for inpatient psychiatric services provided by state hospitals shall be made at a prospective per diem rate of \$581.11.

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, Bureau of Health Services Financing, LR 44:

## **Chapter 7. All Patient Refined Diagnostic Related Group**

### **§701. Definitions**

*All Patient Refined Diagnostic Related Group (APR-DRG)*—a classification system developed to categorize inpatient hospital stays into diagnostic categories.

*Base Payment*—the payment made to hospitals in the APR-DRG reimbursement system on a per case basis excluding any add on payments. The base payment shall be the hospital base rate multiplied by the relative weight of the DRG and severity of illness (SOI) that the case is classified under.

*Base Rate*—a fixed value assigned to each hospital for reimbursement in the APR-DRG reimbursement system.

*Capital Add On Payment*—a payment made to a hospital in addition to the base payment to reimburse for capital costs incurred by the hospital.

*Department*—the Louisiana Department of Health (LDH), or its successor, in the role of designated state agency for administration of the Medical Assistance Program under Title XIX of the Social Security Act or any successor Act.

*Direct Graduate Medical Education Add-On Payment*—a payment made to a hospital in addition to the base payment to reimburse for graduate medical education costs incurred by the hospital.

*DRG*—Diagnostic Related Group.

1. APR-DRG and DRG are used interchangeably. The DRG values shown are the DRG numbers used in APR-DRG grouper version 35.

a. *Acute Care DRGs*—cases in DRGs 4, 5, 10 through 427, 441 through 724, 791 through 850, 861, and 863 through 952.

b. *Mental Health and Substance Abuse DRGs*—cases in DRGs 740 through 776.

c. *Physical Rehabilitation DRGs*—cases in DRGs 860 and 862.

d. *Transplant DRGs*—cases in DRGs 1, 2, 6, 7, 8 and 440.

*Fiscal Model*—the model used to assess future payments under the DRG payment methodology.

*Grouper*—the term used for the software that classifies inpatient cases into APR-DRGs.

*High Outlier Hospital*—a hospital which, when tested in the fiscal model, would have received more than 33 percent of its total reimbursement under the DRG reimbursement system as outlier payments.

*Length of Stay Factor*—the value assigned to the number of days in the length of stay for mental health and substance abuse DRGs. The length of stay factors that are used shall be the same across all mental health and substance abuse DRGs. The department shall utilize the length of stay factors published annually by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) for use in its inpatient psychiatric facilities prospective payment system.

*Long-Term Hospital*—a hospital that is classified by Medicare as a long-term hospital per 42 CFR 412.23(e) and does not meet the criteria for placement in peer groups 1 through 9 provided for in this Chapter.

*Medicare/Medicaid Cost Report*—Form CMS-2552-10 or any successor version of this report released by CMS. The Medicare/Medicaid cost report captures the costs for hospitals to deliver patient services. The Medicare/Medicaid cost report is used as the source for annual payment updates to the DRG reimbursement methodology as outlined in this Chapter.

*Outlier Payment*—the payment made when the cost of the case exceeds a threshold amount established for the DRG/SOI.

*Post Acute Care Day*—a day in which a patient who was admitted to a hospital as an inpatient remains in the hospital facility beyond the period in which the patient meets the medical necessity criteria for acute inpatient level of care.

*Payment Year*—the year beginning January 1 of each calendar year. Some pricing components for each hospital are updated at the start of each payment year.

*Public State-Owned Hospital*—a hospital that is owned and operated by the State of Louisiana.

*Relative Weight*—a factor assigned to a DRG/SOI that measures the resources required to care for the case compared to the resources required for the average case. The average relative weight in a DRG payment system is 1.0. A relative weight with a value less than 1.0 means that the DRG/SOI requires resources that are less than the average case. A relative weight with a value greater than 1.0 means that the DRG/SOI requires resources that are greater than the average case.

SOI-severity of illness level. In the APR-DRG classification system, each DRG has four subordinate classifications based on the designation of severity of illness. The SOI designations are one through four, with one meaning the lowest severity and four meaning the highest severity.

**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, Bureau of Health Services Financing, LR 44:

### **§703. General Provisions**

A. Effective with dates of discharge on or after January 1, 2019, the department shall calculate reimbursement for inpatient stays using a diagnostic related group (DRG)-based methodology. This methodology applies to all hospitals, except long-term hospitals and public state-owned hospitals which shall be exempt from the provisions of this Chapter.

**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, Bureau of Health Services Financing, LR 44:

### **§705. Hospital Peer Group and Medicaid Utilization Criteria**

A. The base rate assigned to each hospital paid under the DRG payment system shall be based on two components:

1. the hospital's peer group assignment; and
2. the designation of the hospital of its Medicaid utilization volume.

B. Hospitals paid under the DRG payment system shall be assigned to one of the following nine peer groups.

1. Peer Group 1. Hospitals licensed by the State of Louisiana that are physically located in Louisiana, are recognized by Medicare as teaching hospitals, and that maintain 100 or more full-time equivalent interns and residents positions as reported on the Medicare/Medicaid cost report, Schedule E-4, Line 6, for the fiscal year that ended no less than 12 months prior but no more than 24 month prior to the payment year.

a. For purposes of this Rule, full-time equivalent positions will be calculated as defined in 42 CFR 413.78.

2. Peer Group 2. Hospitals licensed by the State of Louisiana that are physically located in Louisiana, are recognized by Medicare as teaching hospitals, and that maintain at least 10 but no more than 99 full-time equivalent interns and residents as reported on the Medicare/Medicaid cost report, Schedule E-4, Line 6 for the fiscal year that ended no less than 12 months prior but no less than 24 months prior to the payment year.

a. For purposes of this Rule, full-time equivalent positions will be calculated as defined in 42 CFR 413.78.

3. Peer Group 3. Hospitals licensed by the State of Louisiana that are physically located in Louisiana and provide acute care services, but do not meet the criteria for peer group 1, peer group 2, or peer group 4.

4. Peer Group 4. Hospitals licensed by the State of Louisiana that are physically located in Louisiana and meet the definition of a rural hospital as defined by R.S. 40:1189.3.

5. Peer Group 5. Hospitals licensed by the State of Louisiana that are physically located in Louisiana, are classified as a psychiatric hospital by Medicare per 42 CFR 412.23(a), and that restrict their scope of services to the treatment of mental health or substance use disorders.



6. Peer Group 6. Hospitals licensed by the State of Louisiana that are physically located in Louisiana, are classified as a rehabilitation hospital by Medicare per 42 CFR 412.23(b), and that restrict their scope of services to physical rehabilitation care.

7. Peer Group 7. Hospitals outside of the State of Louisiana that have enrolled as an inpatient hospital facility with the department, are located within a 50-mile trade area of the Louisiana state border, and that provided at least 500 inpatient hospital days to Louisiana Medicaid beneficiaries in the fiscal model.

8. Peer Group 8. Hospitals located outside of the State of Louisiana that have enrolled as an inpatient hospital facility with the department, are exempt from the Medicare inpatient prospective payment system, and that restrict their scope of services to pediatric care.

9. Peer Group 9. Hospitals located outside of the State of Louisiana that have enrolled as an inpatient hospital facility with the department and do not meet the criteria of peer group 7 or 8.

C. Certain hospitals shall also be assigned a Medicaid utilization designation as follows:

1. Hospitals in utilization group A are hospitals in peer groups 1, 2, 3, 5 or 6 that have either:

a. forty percent or more of their patient days paid by Medicaid as reported on the most recent filed Medicare/Medicaid cost report, Worksheet S-3, for the fiscal year that ended no less than 12 months prior but no more than 24 months prior to the payment year; or

b. five percent or more of all paid Louisiana Medicaid days among in-state acute care hospitals paid under DRG in the fiscal model.

2. Hospitals in utilization group B are hospitals in peer groups 1, 2, 3, 5 or 6 that have more than 20 percent but less than 40 percent of their patient days paid by Medicaid as reported on the most recent filed Medicare/Medicaid cost report, Worksheet S-3, for the fiscal year that ended no less than 12 months prior but no more than 24 months prior to the payment year.

3. Hospitals in Utilization Group C are:

a. hospitals in peer groups 1, 2, 3, 5 or 6 that have less than 20 percent of their patient days paid by Medicaid as reported on the most recent filed Medicare/Medicaid cost report, Worksheet S-3, for the fiscal year that ended no less than 12 months prior but no more than 24 months prior to the payment year; or

b. hospitals in peer groups 4, 7, 8 and 9.

4. For purposes of assigning hospitals to Medicaid utilization groups A, B or C, the department may round a hospital's percentage up to the nearest integer if the hospital's rounding digit is 5 or greater.

D. Effective with dates of discharge on or after January 1, 2019, the data used to test for eligibility in utilization group A, B or C under the Medicaid payer mix test shall be compiled from each hospital's Medicare/Medicaid cost report filed with the department as of June 30, 2018.

1. The Medicaid utilization formula shall be calculated by the department based upon data from Worksheet S-3 Part I. Medicaid utilization shall be equal to the sum of Medicaid days in column 7 (including managed care and subprovider, but excluding observation) divided by

the sum of all patient days in column 8 (including managed care and subprovider, but excluding observation).

2. On an annual basis, the department shall compute the utilization group for each hospital for the next payment year using data from the Medicare/Medicaid cost report for the fiscal year that ended no less than 12 months prior but no more than 24 months prior to the payment year.

E. Effective with dates of discharge on or after January 1, 2019, the data used to test for eligibility in utilization group A under the percent of statewide Medicaid acute care days test shall be calculated from data compiled for the fiscal model stored in the department's claims data warehouse as of March 31, 2018 of all paid Louisiana Medicaid days among in-state acute care hospitals for the 12-month state fiscal year period that ended June 30, 2017.

1. The percent of statewide acute care days formula for a hospital is the hospital's Louisiana Medicaid acute care days divided by the sum of all hospital acute care days in the data warehouse.

2. On an annual basis, the department shall compute the percent of statewide acute care days for each hospital using data stored in the department's claims data warehouse as of March 31 of the year prior to the payment year. The data used in the calculation shall be from discharges in the state fiscal year that ended 18 months prior to the payment year.

F. If a hospital's proportion of Medicaid days as reported on the Medicare/Medicaid cost report used in the calculation changes upward or downward by more than five percentage points from the prior year value, then the department may use additional data sources to validate the results from the Medicare/Medicaid cost report or ask the hospital to validate the values reported on its Medicare/Medicaid cost report.

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, Bureau of Health Services Financing, LR 44:

#### **§707. Base Rate Calculations and Values**

A. With the exception of transplant cases, the cases assigned to acute care DRG/SOIs shall be paid using a peer group case rate. For peer groups 1, 2 and 3, the computation of the peer group base rate shall be as follows.

1. Compute the average inflated cost per case (excluding capital and graduate medical education) for all inlier cases in the relative weight database for the peer group.

2. Sum the relative weight values of all inlier cases in the peer group.

3. Compute a peer group case mix score by dividing the sum of the relative weight values by the number of inlier cases.

4. Compute the average inflated cost per case adjusted for case mix by dividing the average inflated cost per case for the peer group by its peer group case mix score.

5. The peer group base rate equals case mix adjusted average cost per case multiplied by .65.

B. Effective with discharges on or after January 1, 2019, the peer group base rates shall be as follows:

1. peer group 1, \$4,682.51;

2. peer group 2, \$4,581.37; and

3. peer group 3, \$4,337.33.

C. Hospitals assigned to utilization group C receive 100 percent of their peer group base rate. Hospitals assigned to

utilization group B receive 110 percent of their peer group base rate. Hospitals assigned to utilization group A receive 120 percent of their peer group base rate.

D. For peer group 4, the computation of the peer group base rate shall be in accordance with the Rural Hospital Preservation Act and calculated as follows.

1. Sum the relative weight values of all inlier cases for each hospital in the peer group.

2. Compute the hospital case mix score by dividing the sum of the relative weight values by the number of inlier cases for each hospital.

3. Compute the average inflated cost per case (excluding capital and graduate medical education) for all inlier cases in the relative weight database for each hospital in the peer group.

4. Compute the average inflated cost per case adjusted for case mix for each hospital by dividing the average inflated cost per case for each hospital by its case mix score.

5. Determine the median value within the peer group among all hospitals' case mix adjusted average cost per case.

6. The peer group base rate equals 110 percent of the median value of the case mix adjusted average cost per case within the peer group.

E. Effective with discharges on or after January 1, 2019, the base rate established for hospitals in peer group 4 shall be \$9,145.88.

1. Notwithstanding other changes that may be made for all hospitals in the DRG payment methodology, the base rate established for hospitals in peer group 4 shall be rebased at least once every two years. The new base rate will be effective at the start of the payment year.

2. In the years in which the peer group 4 base rate is not rebased, the peer group 4 base rate will be increased for cost inflation. The new base rate will be effective at the start of the payment year. The inflation factor applied is the inpatient hospital four quarter moving average value for quarter 1 of the start of the payment year as published by CMS on June 30 of the year prior to the effective date.

F. Effective with discharges on or after January 1, 2019, the base rate established for hospitals in peer groups 7 and 8 shall be equal to the base rate set for hospitals in peer group 3.

G. Effective with discharges on or after January 1, 2019, the base rate established for hospitals in peer group 9 shall be equal to 90 percent of the base rate set for hospitals in peer group 3.

H. A transitional base rate shall be established by the department for hospitals that meet criteria as determined in the fiscal model. The transitional base rate applies to cases in acute care DRGs only.

1. Hospitals in peer groups 1, 2 and 4 are eligible for a transitional base rate.

2. To be eligible for a transitional base rate, the fiscal model developed by the department showed that the hospital would receive payment for less than 70 percent of their costs through the modeled DRG payment system.

3. If the hospital met the criteria for a transitional base rate, then a transitional base rate has been set for the hospital such that the payments in the fiscal model are equivalent to 70 percent of the hospital's costs.

4. The transitional base rate is effective for the hospital with discharges on or after January 1, 2019 and will

be in force until such time as the base rates for peer groups 1, 2 and 4 are updated.

I. Effective with discharges on or after January 1, 2019, cases assigned to mental health and substance use disorders DRGs shall be paid using a psychiatric per diem rate for all peer groups. This applies to hospitals in all peer groups and shall be as follows:

1. The psychiatric per diem rate established for hospitals in peer groups 1, 2, 3, 5, 6, 7 and 8 is \$950.

- a. Hospitals in peer groups 1, 2, 3, 5 and 6 assigned to utilization group B shall receive 110 percent of their peer group psychiatric per diem rate.

- b. Hospitals in peer groups 1, 2, 3, 5 and 6 assigned to utilization group A shall receive 120 percent of their peer group psychiatric per diem rate.

2. The psychiatric per diem rate established for hospitals in peer group 4 is \$1,140.

3. The psychiatric per diem rate established for hospitals in peer group 9 is \$855.

J. Effective with discharges on or after January 1, 2019, cases assigned to rehabilitation DRGs shall be paid using a rehabilitation per diem rate for all peer groups. This applies to hospitals in all peer groups and shall be as follows.

1. The rehabilitation per diem rate established for hospitals in peer groups 1, 2, 3, 5, 6, 7 and 8 is \$500.

- a. Hospitals in peer groups 1, 2, 3, 5 and 6 assigned to utilization group B shall receive 110 percent of their peer group rehabilitation per diem rate.

- b. Hospitals in peer groups 1, 2, 3, 5 and 6 assigned to utilization group A shall receive 120 percent of their peer group rehabilitation per diem rate.

2. The rehabilitation per diem rate established for hospitals in peer group 4 is \$600.

3. The rehabilitation per diem rate established for hospitals in peer group 9 is \$450.

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, Bureau of Health Services Financing, LR 44:

#### **§709. Capital Add-On Values**

A. Effective with discharges on or after January 1, 2019, hospitals in peer groups 1, 2, 3, 4, 7, 8 and 9 shall be eligible for a capital add-on payment for all acute care DRG cases. The add-on payment is added to the hospital's base payment and is specific to each hospital.

B. The computation of the hospital capital add-on value for hospitals in peer groups 1, 2, 3 and 4 shall be computed from each hospital's Medicare/Medicaid cost report as follows.

1. Sum the capital costs from Worksheet D part I, column 1, line 200 and Worksheet D part II, column 1, line 200.

2. Obtain total acute discharges from Worksheet S-3, part I, column 15, line 14.

3. The capital cost per discharge is the capital costs divided by the total acute discharges.

4. The hospital capital add on value shall equal the capital cost per discharge multiplied by .65.

C. Hospitals shall be subject to a ceiling or floor value on their hospital capital add-on value within their peer group. The floor and ceiling values shall be computed separately for the hospitals in peer groups 1, 2, 3 and 4 as follows:

1. Compute the straight average capital add-on value within each peer group.

2. Multiply the straight average capital add-on value by .65.

3. Compute the standard deviation value within each peer group based on the values in C.2 above.

4. Identify the hospitals that have values that are two standard deviations above the peer group average value in C.2 above. These hospitals are deemed high outlier hospitals.

5. Remove the high outlier hospitals from the calculation and recompute the straight average capital add-on value within each peer group using the remaining values computed in C.2 above.

6. Compute the floor and ceiling value for each peer group. The floor value is defined as the value that is one standard deviation below the mean computed in C.5 above. The ceiling value is defined as the value that is one standard deviation above the mean computed in C.5 above.

7. Assign the floor value to hospitals that have a computed hospital capital add-on value below the floor for their peer group.

8. Assign the ceiling value to hospitals with a hospital capital add-on value above the ceiling for their peer group.

D. Effective January 1, 2019, hospitals in peer groups 7, 8 and 9 shall receive the same capital add-on value. For hospitals in peer groups 7 and 8, the value shall be equal to the straight average capital add-on value for peer group 3. For hospitals in peer group 9, the value shall be equal to 90 percent of the straight average capital add-on value for peer group 3.

E. Hospital capital add-on values shall be updated on an annual basis. The effective date for updated values shall be with discharges on or after January 1 in each calendar year. The source data used to compute the updated values shall be the most recent filed Medicare/Medicaid cost report, submitted by each hospital in peer groups 1, 2, 3 and 4, for the fiscal year that ended no less than 12 months prior but no more than 24 months prior to the effective date.

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, Bureau of Health Services Financing, LR 44:

#### **§711. Direct Graduate Medical Education Add-On Values**

A. Effective with discharges on or after January 1, 2019, hospitals in peer groups 1 and 2 shall be eligible for a direct graduate medical education add-on payment for all acute care DRG cases. The add-on payment is added to the hospital's base payment. The direct graduate medical education add-on payment shall be specific to each hospital. When the payment for an acute care DRG case is made by a prepaid risk-bearing managed care organization (MCO), the direct graduate medical education add-on payment associated with the case will be paid directly by the department.

1. Payments will be made by the department to each hospital in peer groups 1 and 2 on a quarterly basis.

2. The hospital will submit a report to the department by the last day of each calendar quarter.

3. The report will itemize inpatient cases paid by the MCOs to the hospital during the calendar quarter prior to the calendar quarter in which the report is due.

4. The payment to the hospital shall be calculated by multiplying the number of discharges submitted on the quarterly report times the hospital's direct graduate medical education add-on value.

5. Payment amounts shall be verified by the department using reports of MCO paid inpatient discharges generated from encounter data. Payment adjustments and recoupments shall be made as necessary up to one year after the initial claim payment is made by the department.

B. The direct graduate medical education add-on value shall be computed from each hospital's Medicare/Medicaid cost report as follows:

1. Sum the direct graduate medical education costs from Worksheet B part I, column 21, line 118 and Worksheet B part I, column 22, line 118.

2. Obtain total acute discharges from Worksheet S-3, part I, column 15, line 14.

3. The direct graduate medical education cost per discharge is the direct graduate medical education costs divided by the total acute discharges.

4. The hospital direct graduate medical education add-on value shall equal the direct graduate medical education cost per discharge multiplied by .65.

C. Hospital direct graduate medical education add-on values shall be updated on an annual basis. The effective date for updated values shall be for discharges on or after January 1 in each calendar year. The source data used to compute the updated values shall be the most recent filed Medicare/Medicaid cost report, for the fiscal year that ended no less than 12 months prior but no more than 24 months prior to the effective date.

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, Bureau of Health Services Financing, LR 44:

#### **§713. Calculation of Relative Weight Values**

A. Effective with discharges on or after January 1, 2019, the department shall use the designated APR-DRG grouper software to set the relative weight values for DRG/SOIs that are used for payment.

B. Each DRG/SOI level shall be assigned a relative weight value that is multiplied by the hospital's base rate to compute the base payment for the case. However, DRG 955 and 956 shall be assigned a relative weight value of zero.

C. The steps for computing the DRG/SOI relative weight values shall be as follows.

1. All cases with the same DRG/SOI assignment from the APR-DRG are grouped together.

2. The cost values assigned to all cases in the same DRG/SOI are summed and an average cost per case within each DRG/SOI is computed.

3. Trim points are set for cost values on the low and high side around the average cost. The low and high cost trim values are set within each DRG/SOI at two standard deviations above or below the mean cost within the DRG/SOI.

4. Any claims with a cost value below the low trim point or above the high trim point are removed from the relative weight calculation.

5. A revised average cost per case for the cases inside the trim points within each DRG/SOI is computed.

6. The average cost per case among all cases inside the trim points of every DRG/SOI is computed.

7. The provisional relative weight value for each DRG shall be the average cost per case for the DRG/SOI divided by the average cost per case among all DRG/SOIs.

D. After the provisional relative weight values are computed, two tests shall be conducted by the department to determine the stability of each relative weight.

1. The DRG must have at least ten cases.

2. There must be statistical confidence in the level of variance allowed between the costs of the cases assigned to the DRG/SOI. The formula for this test shall be the number of claims being less than  $[(1.645/0.25) \times (\text{standard deviation}/\text{mean cost})]^2$ .

E. DRG/SOIs that do not meet both of the tests set forth in Paragraph D above shall be deemed to have unstable relative weight values.

1. If a DRG has one or more unstable relative weight values, the cases in the DRG/SOI level with the unstable relative weight shall be merged with the cases of an adjoining DRG/SOI with a stable relative weight.

2. A new average cost per case and new relative weight value shall be computed using the joined data and the new relative weight value shall be assigned to both DRG/SOI levels.

3. The tests for stability are rerun. If the tests for stability pass, then the new relative weight value shall be used.

4. If the new relative weight is not deemed to be stable, the process shall be repeated to merge the cases of three SOI levels or as many as four SOI levels under the DRG/SOI until the relative weight value is determined to be stable.

F. Within a DRG, the relative weight values are intended to increase as the SOI increases. The one exception to this is the relative weight values in DRG 588. If, upon initial computation of the relative weight values do not increase when the SOI level increases, an illogical progression has occurred.

1. When an illogical progression is found, then the cases from the adjoining SOIs inside the DRG shall be merged and a new average cost per case shall be computed for the two combined SOIs.

2. An updated relative weight shall be computed and assigned to both SOIs. The test for illogical progressions shall be rerun.

G. All relative weights shall be recalibrated so that the average relative weight equals 1.0.

H. For the relative weight values that were developed for use with discharges on or after January 1, 2019, three years of cases shall be utilized in the calculations. Paid Medicaid cases with discharges from July 1, 2014 to June 30, 2017 shall be used as well as uninsured patient claims reported by hospitals with dates of discharge July 1, 2014 to December 31, 2016.

I. The cost value assigned to each case in the relative weight development database shall utilize cost data from each hospital that had cases in the relative weight database. The cost assigned shall be the cost values from each hospital's Medicare/Medicaid cost report that matched to the year in which the discharge occurred. The cost for each case in the relative weight database shall be inflated to December 31, 2018. The inflation factors used to inflate claim costs shall be derived from the CMS' economic index (Inpatient

Hospital PPS). A four-quarter moving average percent change value shall be assigned for each month in the 36-month database of claims from July 1, 2014 through June 30, 2017.

J. The department may choose to update the version of the APR-DRG grouper it uses upon the release of subsequent versions. If the department chooses to update to another APR-DRG grouper version, the department will set relative weight values to any new DRG/SOIs in place in the new grouper version.

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, Bureau of Health Services Financing, LR 44:

### **§713. Payment Formulas**

A. Effective with discharges on or after January 1, 2019, four payment formulas shall be utilized for cases paid under the APR-DRG system. The formula that is applied shall be dependent upon the DRG that the discharge is assigned by the DRG grouper.

B. The payment formula for acute care DRG cases shall be the base payment plus the capital add-on payment plus the direct graduate medical education add-on payment (if the hospital is eligible) plus the outlier payment (if the case meets the criteria).

1. The outlier payment shall be made when the cost of the case is greater than the sum of the base DRG payment plus the capital add-on plus the direct graduate medical education add on plus the fixed threshold value.

a. The cost of the case shall equal the charges billed on the case multiplied by a hospital-specific cost-to-charge ratio.

b. The hospital-specific cost-to-charge ratio shall be computed for each hospital in peer groups 1, 2, 3 and 4 using the hospital's most recent filed Medicare/Medicaid cost report, for the fiscal year that ended no less than 12 months prior but no more than 24 months prior to the payment year. The cost-to-charge ratio shall be computed as the total costs on Worksheet C, part I, column 5, line 200 divided by the total charges on Worksheet C, part I, column 8, line 200. Each hospital's cost-to-charge ratio shall be updated on an annual basis effective January 1 of each year.

c. The fixed threshold value varies based on hospital or DRG attribution. The fixed threshold value assigned is:

i. \$10,000 for all cases for any hospital that meets the definition of a high outlier hospital;

ii. \$10,000 for cases for all other hospitals assigned to burn DRGs 841, 842, 843 and 844; or

iii. \$30,000 for DRGs for all other hospitals other than burn DRGs.

d. If the cost of the case exceeds the calculated threshold value, then the costs above the threshold value shall be multiplied by an outlier payment percentage. The outlier payment shall equal the costs above the threshold multiplied by:

i. 1.0 for hospitals deemed a high outlier hospital;

ii. 0.96 for hospitals assigned to utilization group A;

iii. 0.88 for hospitals assigned to utilization group B; or

iv. 0.80 for hospitals assigned to utilization group C.

2. For acute care DRG cases, where the discharge status code on the case equals 02, a transfer payment shall be made that equals the lesser of the cost of the case or the regular DRG payment, respectively calculated as follows:

a. The cost of the case equals the charges billed on the case multiplied by a hospital-specific cost-to-charge ratio.

b. The regular DRG payment equals the base rate multiplied by relative weight plus the capital add-on plus the direct graduate medical education add-on (if hospital is eligible) plus the outlier payment (if the case meets the criteria).

C. The payment formula for mental health and substance use disorder DRG cases shall be the psychiatric per diem rate multiplied by the relative weight then multiplied by the length of stay factor.

D. The payment formula for physical rehabilitation DRG cases shall be the rehabilitation per diem rate multiplied by the relative weight.

E. The payment formula for transplant DRG cases shall be the per diem payment plus the ancillary payment plus the organ acquisition payment.

1. The per diem payment equals the number of days in the length of stay multiplied by a hospital-specific per diem rate.

2. The ancillary payment equals the charges on the claim excluding room and board and organ acquisition multiplied by a hospital-specific ancillary cost-to-charge ratio.

3. The organ acquisition payment shall be a set payment that is specific to the hospital and to the organ or organs. If the transplant case involves multiple organs, the hospital will be eligible for payment for the acquisition costs of each organ transplanted.

4. The source for the data used in this formula shall be derived from each hospital's Medicare/Medicaid cost report. The values used in the payment formula shall be updated annually with an effective date of January 1. The Medicare/Medicaid cost report used in the calculation shall be the cost reports submitted by hospitals to the department for the fiscal year that ended no less than 12 months prior but no more than 24 months prior to the effective date.

5. The sources for each payment component shall be as follows.

a. For the per diem rate, the cost value shown on Worksheet D-1, line 43 or 46 for intensive care unit per diem shall be multiplied by .90.

b. For the ancillary cost-to-charge ratio, costs from Worksheet C, part I, column 5, lines 50 through 92 shall be divided by the charges from Worksheet C, part I, column 8, lines 50 through 92.

c. For the organ acquisition cost, the cost from Worksheet D-4 line 61 shall be divided by the total usable organs on line 62.

d. A separate Worksheet D-4 shall be maintained for each organ. In the case of bone marrow, if the hospital did not record the specific acquisition cost of bone marrow on a separate Worksheet D-4, the payment for the acquisition of bone marrow shall be bone marrow acquisition charges multiplied by the ancillary cost-to-charge ratio.

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, Bureau of Health Services Financing, LR 44:

### §915. Post Acute Payments

A. Effective with discharges on or after January 1, 2019, a hospital shall not be denied payment for the post-acute days unless the department or MCO can provide the services necessary to ensure the continued safety of the patient in a setting other than the hospital. When the following conditions are met, the hospital shall be paid a post-acute payment in addition to the DRG case payment for each post-acute day that the patient remains in the care of the hospital:

1. The hospital is assigned to peer group 1, 2, 3 or 4;
2. The patient is assigned to an acute care DRG;
3. The hospital has given 36 hours advance notice to the department, or the MCO, that the patient no longer requires inpatient level acute care; and
4. The hospital has provided documentation to the department, or the MCO, showing that inpatient level of care is no longer necessary for the patient.

B. Payment shall be made to the hospital for post-acute days at a rate of \$700 per day upon submission of the claim by the hospital if all conditions are met. The department or the MCO may choose to conduct a post-payment review on payments made under this payment formula to determine if, in fact, the patient no longer met medical necessity criteria for acute inpatient level of care starting with the day that post-acute payment was requested. The department or the MCO may seek recoupment of payment from the hospital on a retrospective basis when the following situations occur:

1. if it has been determined through nationally recognized clinical guidelines that the patient still met medical necessity criteria for acute inpatient level of care for some or all days paid under the post-acute payment policy; or
2. payment was made under the post-acute payment methodology for days within the published average length of stay for the DRG/SOI level that the patient was ultimately classified into using the APR-DRG grouper.

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, Bureau of Health Services Financing, LR 44:

## Chapter 9. Non-Rural, Non-State Hospitals

### Subchapter A. General Provisions (Reserved)

### Subchapter B. Reimbursement Methodology

#### §951. Acute Care Hospitals

A. Low Income and Needy Care Collaboration. Quarterly supplemental payments will be issued to qualifying non-rural, non-state acute care hospitals for inpatient services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a low income and needy care collaboration agreement.

a. *Non-State Hospital*—a hospital which is owned or operated by a private entity.

b. *Low Income and Needy Care Collaboration Agreement*—an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the inpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's inpatient Medicaid billed charges and Medicaid payments the hospital receives for covered inpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

3. All parties that participate in supplemental payments under this Section, either as a qualifying hospital by receipt of supplemental payments, or as a state or local governmental entity funding supplemental payments, must meet the following conditions during the period of their participation.

a. Each participant must comply with the prospective conditions of participation in the Louisiana Private Hospital Upper Payment Limit Supplemental Reimbursement Program.

b. A participating hospital may not make a cash or in-kind transfer to their affiliated governmental entity that has a direct or indirect relationship to Medicaid payments and would violate federal law.

c. A participating governmental entity may not condition the amount it funds the Medicaid Program on a specified or required minimum amount of low income and needy care.

d. A participating governmental entity may not assign any of its contractual or statutory obligations to an affiliated hospital.

e. A participating governmental entity may not recoup funds from an affiliated hospital that has not adequately performed under the low income and needy care collaboration agreement.

f. A participating hospital may not return any of the supplemental payments it receives under this Section to the governmental entity that provides the non-federal share of the supplemental payments.

g. A participating governmental entity may not receive any portion of the supplemental payments made to a participating hospital under this Section.

4. Each participant must certify that it complies with the requirements of §951.A.3 by executing the appropriate certification form designated by the department for this purpose. The completed form must be submitted to the Department of Health, Bureau of Health Services Financing.

5. Each qualifying hospital must submit a copy of its low income and needy care collaboration agreement to the department.

6. The supplemental payments authorized in this Section shall not be considered as interim Medicaid inpatient payments in the determination of cost settlement amounts

for inpatient hospital services rendered by children's specialty hospitals.

**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, Bureau of Health Services Financing, LR 44:

### **§953. Outlier Payments**

A. Pursuant to §1902(s)(1) of title XIX of the Social Security Act, additional payments called outlier payments shall be made to hospitals for catastrophic costs associated with inpatient services provided to:

1. children less than six years of age who receive services in a disproportionate share hospital setting; and

2. infants less than one year of age who receive services in any acute care hospital setting.

B. The marginal cost factor for outlier payments is considered to be 100 percent of costs after the costs for the case exceed the sum of the hospital's prospective payment and any other payment made on behalf of the patient for that stay by any other payee.

C. To qualify as a payable outlier claim, a deadline of not later than six months subsequent to the date that the final claim is paid shall be established for receipt of the written request for outlier payments.

D. A catastrophic outlier pool shall be established with annual payments limited to \$10,000,000. In order to qualify for payments from this pool, the following conditions must be met:

1. the claims must be for cases for:

a. children less than six years of age who received inpatient services in a disproportionate share hospital setting; or

b. infants less than one year of age who receive inpatient services in any acute care hospital setting; and

2. the costs of the case must exceed \$150,000.

a. The hospital specific cost to charge ratio utilized to calculate the claim costs shall be calculated using the Medicaid neonatal intensive care unit (NICU) or pediatric intensive care unit (PICU) costs and charge data from the most current cost report. E. The outlier pool will cover eligible claims with admission dates during the state fiscal year (July 1-June 30) and shall not exceed \$10,000,000 annually. Payment shall be the costs of each hospital's eligible claims less the prospective payment, divided by the sum of all eligible claims costs in excess of payments, multiplied by \$10,000,000.

F. Beginning with SFY 2020, the outlier pool will cover eligible claims through dates of service on or before December 31, 2018 and shall not exceed \$5,000,000.

G. The claim must be submitted no later than six months subsequent to the date that the final claim is paid and no later than September 15 of each year.

H. Qualifying cases for which payments are not finalized by September 1 shall be eligible for inclusion for payment in the subsequent state fiscal year outlier pool.

I. Outliers are not payable for:

1. transplant procedures; or

2. services provided to patients with Medicaid coverage that is secondary to other payer sources.

**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, Bureau of Health Services Financing, LR 44:

## **§955. Long-Term Hospitals**

A. Qualifying Criteria. Hospitals licensed by the state of Louisiana that are physically located in Louisiana and are classified by Medicare as a long-term hospital per 42 CFR 412.23(e).

B. Reimbursement. Payment for inpatient services provided in a long-term hospital shall be at a prospective per diem rate of \$826.54.

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, Office of the Secretary, Bureau of Health Services Financing, LR 44:

## **§957. Public Hospitals**

A. Non-Rural, non-state public hospitals shall be reimbursed up to the Medicare inpatient upper payment limits as determined in accordance with 42 CFR §447.272.

B. Quarterly supplemental payments will be issued to qualifying non-rural, non-state public hospitals for inpatient services rendered during the quarter. Payment amounts shall be reimbursed up to the Medicare inpatient upper payment limits as determined in accordance with 42 CFR §447.272.

1. Qualifying Criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must:

a. be designated as a major teaching hospital by the department as of July 1, 2015 and have at least 300 licensed acute hospital beds; or

b. for dates of service on or after August 1, 2012, be located in a city with a population of over 300,000 as of the 2010 U.S. Census.

C. Each qualifying hospital shall receive quarterly supplemental payments for the inpatient services rendered during the quarter. Quarterly payments shall be the difference between each qualifying hospital's inpatient Medicaid billed charges and Medicaid payments the hospital receives for covered inpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department.

D. With respect to qualifying hospitals that are enrolled in Medicaid after December 1, 2013, projected Medicaid utilization and claims data submitted by the hospital and confirmed by the department as reasonable will be used as the basis for making quarterly supplemental payments during the hospital's start-up period.

1. For purposes of these provisions, the start-up period shall be defined as the first three years of operation.

2. During the start-up period, the department shall verify that supplemental payments do not exceed the inpatient charge differential based on each state fiscal year's claims data and shall recoup amounts determined to have been overpaid.

E. In the event that there is allowable non-state public upper payment limit that is not utilized, additional non-state public hospitals as defined by the department may be qualified for this payment.

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, Bureau of Health Services Financing, LR 44:

## **§959. Children's Specialty Hospitals**

A. Effective for dates of service on or after February 1, 2012 through a discharge date on or before December 31, 2018, medical education payments for inpatient services which are reimbursed by a prepaid risk-bearing MCO shall be paid by Medicaid monthly as interim lump sum payments.

1. Hospitals with qualifying medical education programs shall submit a listing of inpatient claims paid each month by each MCO.

a. *Qualifying Medical Education Programs*—graduate medical education, paramedical education, and nursing schools.

2. Monthly payments shall be calculated by multiplying the number of qualifying inpatient days times the medical education costs included in each children's specialty hospital's interim per diem rate as calculated per the latest filed Medicaid cost report.

3. Final payment shall be determined based on the actual MCO covered days and medical education costs for the cost reporting period per the Medicaid cost report. Reimbursement shall be at the same percentage that is reimbursed for fee-for-service covered Medicaid costs after application of reimbursement caps.

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, Bureau of Health Services Financing, LR 44:

## **Chapter 11. Rural, Non-State Hospitals**

### **Subchapter A. General Provisions (Reserved)**

### **Subchapter B. Reimbursement Methodology**

#### **§1125. Small Rural Hospitals**

A. Low Income and Needy Care Collaboration. Quarterly supplemental payments shall be issued to qualifying non-state acute care hospitals for inpatient services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-state hospital must be affiliated with a state or local governmental entity through a low income and needy care collaboration agreement.

a. *Non-State Hospital*—a hospital which is owned or operated by a private entity.

b. *Low Income and Needy Care Collaboration Agreement*—an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the inpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's inpatient Medicaid billed charges and Medicaid payments the hospital receives for covered inpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid DSH Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

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, Bureau of Health Services Financing, LR 44:

### **Chapter 13. Teaching Hospitals**

#### **Subchapter A. General Provisions (Reserved)**

#### **Subchapter B. Reimbursement Methodology**

##### **§1331. Acute Care Hospitals**

A. Effective for dates of service on or after February 1, 2012 through a date of discharge on or before December 31, 2018, medical education payments for inpatient services which are reimbursed by a prepaid risk-bearing MCO shall be paid monthly by Medicaid as interim lump sum payments.

1. Hospitals with qualifying medical education programs shall submit a listing of inpatient claims paid each month by each MCO.

a. Qualifying medical education programs are defined as graduate medical education, paramedical education, and nursing schools.

2. Qualifying hospitals must have a direct medical education add-on component included in their prospective Medicaid per diem rates as of January 31, 2012 which was carved-out of the per diem rate reported to the MCOs.

3. Monthly payments shall be calculated by multiplying the number of qualifying inpatient days submitted by the medical education costs component included in each hospital's fee-for-service prospective per diem rate. Monthly payment amounts shall be verified by the department semi-annually using reports of MCO covered days generated from encounter data. Payment adjustments or recoupments shall be made as necessary based on the MCO encounter data reported to 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, Bureau of Health Services Financing, LR 44:

### **Chapter 17. Public-Private Partnerships**

#### **§1701. Baton Rouge Area Hospitals**

A. Qualifying Criteria. The department shall provide supplemental Medicaid payments for inpatient hospital services rendered by non-state privately owned hospitals in the Baton Rouge Area that meet the following conditions.

1. The hospital must be a non-state privately owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health 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.

#### **B. Reimbursement Methodology**

1. Payments shall be made quarterly based on the annual upper payment limit calculation per state fiscal year.

2. Payments shall not exceed the allowable Medicaid charge differential. The Medicaid inpatient charge differential is the Medicaid inpatient charges less the Medicaid inpatient payments (which includes both the base payments and supplemental payments).

a. The payments will be made in four equal quarterly payments based on 100 percent of the estimated charge differential for the state fiscal year.

3. The qualifying hospital will provide quarterly reports to the department that will demonstrate that, upon implementation, the annual Medicaid inpatient payments do not exceed the annual Medicaid inpatient charges per 42 CFR 447.271. The department will verify the Medicaid claims data of these interim reports using the state's MMIS system. When the department receives the annual cost report as filed, the supplemental calculations will be reconciled to the cost report.

4. If there is additional cap room, an adjustment payment will be made to assure that supplemental payments are the actual charge differential. The supplemental payments will also be reconciled to the final cost report.

5. The annual supplemental payments will not exceed the allowable Medicaid inpatient charge differential per 42 CFR 447.271, and the maximum inpatient Medicaid payments shall not exceed the upper limit per 42 CFR 447.272.

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, Bureau of Health Services Financing, LR 44:

### **§1703. Reimbursement Methodology**

A. A major teaching hospital that enters into a cooperative endeavor agreement with the Department of Health to provide acute care hospital services to Medicaid and uninsured patients and which assumes providing services that were previously delivered and terminated or reduced by a state-owned and operated facility shall be reimbursed as follows.

1. The inpatient reimbursement shall be reimbursed at 95 percent of allowable Medicaid costs. The interim reimbursement may be adjusted not to exceed the final reimbursement of 95 percent of allowable Medicaid costs.

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, Bureau of Health Services Financing, LR 44:

### **Chapter 19. Medicare Part A Claims**

#### **§1901. Inpatient Hospital Services**

A. Medicaid reimbursement on Medicare Part A claims for inpatient hospital services is limited to the Medicaid maximum payment by comparing the Medicare payment to the amount that Medicaid would have paid. If the Medicare payment amount exceeds the amount that Medicaid would pay on the claim, the claim is adjudicated as a paid claim with a zero payment. If the amount that Medicaid would have paid exceeds the Medicare payment, the claim is reimbursed at the lesser of the coinsurance and deductible or up to the Medicaid maximum. If the Medicaid payment is reduced or eliminated as a result of applying the limit of the Medicaid maximum payment, the amount of the Medicare payment plus the amount of the Medicaid payment (if any)



is considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

B. Medicare Part A claims for inpatient services in small rural hospitals, and skilled nursing units located in small rural hospitals, are excluded from the Medicaid maximum payment limitation provision. Small rural hospitals are defined in R.S. 40:1189.3.

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, Bureau of Health Services Financing, LR 44:

### **§1903. Inpatient Psychiatric Services**

A. Medicaid reimbursement on Medicare Part A claims for inpatient psychiatric services is limited to the Medicaid maximum payment by comparing the Medicare payment to the amount that Medicaid would have paid. If the Medicare payment amount exceeds the amount that Medicaid would pay on the claim, the claim is adjudicated as a paid claim with a zero payment. If the amount that Medicaid would have paid exceeds the Medicare payment, the claim is reimbursed at the lesser of the coinsurance and deductible or up to the Medicaid maximum. If the Medicaid payment is reduced or eliminated as a result of applying the limit of the Medicaid maximum payment, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) is considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

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, Bureau of Health Services Financing, LR 44:

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.

#### **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 and 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 cost 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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, September 27, 2018 at 9:30 a.m. in Room 173, 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.

Rebekah E. Gee MD, MPH  
Secretary

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

### **RULE TITLE: Inpatient Hospital Services**

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

It is anticipated that implementation of this proposed rule will result in estimated state general fund net savings of approximately \$2,635,367 for FY 18-19, \$4,713,209 for FY 19-20 and \$5,430,031 for FY 20-21. The required state general fund match will be offset by the anticipated revenue collections from the Medicaid Assistance Trust Fund premium taxes in the amount of approximately \$16,085,152 in FY 19-20 and \$12,185,721 in FY 20-21. It is anticipated that \$6,804 (\$3,402 SGF and \$3,402 FED) will be expended in FY 18-19 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 64.67 percent in FY 18-19 for the projected non-expansion population, and an FMAP rate of 93.5 percent in FY 18-19, 91.5 percent in FY 19-20 and 90.0 in FY 20-21 percent for the projected expansion population.

#### **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 \$23,267,409 for FY 18-19, \$83,412,356 for FY 19-20 and \$79,838,338 for FY 20-21. The proposed rule will also increase revenue collections by approximately \$16,085,152 in FY 19-20 and \$12,185,721 in FY 20-21 from the Medicaid Assistance Trust Fund premium taxes. It is anticipated that \$3,402 will be expended in FY 18-19 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 64.67 percent in FY 18-19 for the projected non-expansion population, and an FMAP rate of 93.5 percent in FY 18-19, 91.5 percent in FY 19-20 and 90.0 in FY 20-21 percent for the projected expansion population.

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

This proposed rule repeals and replaces the Rules governing inpatient hospital services in order to adopt an all patient refined diagnostic related group (APR-DRG) reimbursement methodology and to revise the remaining provisions for inpatient hospital services to ensure that these provisions are appropriately promulgated in a codified format

for inclusion in the Louisiana Administrative Code. It is anticipated that implementation of this proposed rule will result in a net increase in programmatic expenditures for inpatient hospital services by approximately \$20,625,238 for FY 18-19, \$94,784,299 for FY 19-20 and \$86,594,029 for FY 20-21.

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

This rule has no known effect on competition and employment.

Jen Steele  
Medicaid Director  
1808#047

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Health Bureau of Health Services Financing

##### Medicaid Employee Criminal History Records Checks (LAC 50:I.103)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:I.103 as authorized by R.S. 36:254 and 254.3, 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 147 of the 2017 Regular Session of the Louisiana Legislature mandated that the Department of Health perform criminal history records checks of current and prospective employees, contractors and subcontractors within the Medicaid eligibility section with access to federal tax information (FTI) in accordance with the procedures provided in R.S. 15:587.5.

In compliance with the requirements of Act 147, the Department of Health, Bureau of Health Services Financing, proposes to amend the provisions governing the administrative procedures for the administration of the Medical Assistance Program in order to adopt provisions which require current or prospective employees, contractors or subcontractors, within the Medicaid eligibility section that have access to FTI or criminal history record information, to submit to criminal history records checks.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part I. Administration

##### Subpart 1. General Provisions

#### Chapter 1. Administrative Procedures

##### §103. Employee Criminal History Records Checks

A. Pursuant to Act 147 of the 2017 Regular Session of the Louisiana Legislature, the Department of Health (the "department") shall perform criminal history records checks of current and prospective employees, contractors or subcontractors, within the Medicaid eligibility section, that have access to federal tax information (FTI) and/or criminal history record information.

1. In compliance with the requirements of R.S. 15.587.5, current or prospective employees, contractors or subcontractors within the Medicaid eligibility section shall be required to submit to a criminal history records check to be conducted by the Louisiana Bureau of Criminal Identification and Information.

a. Fingerprints and other identifying information shall be submitted to the Louisiana Bureau of Criminal Identification and Information by the current or prospective employee, contractor or subcontractor.

2. The department shall also request local criminal history records checks for current or prospective employees, contractors or subcontractors within the Medicaid eligibility section with access to FTI and/or criminal history record information.

a. The local criminal history records checks request shall be sent to any jurisdiction where the current or prospective employee, contractor or subcontractor has lived, worked or attended school within the last five years.

3. Fingerprinting and national, state and local criminal history records checks shall be used by the department to determine the suitability of current or prospective employees, contractors or subcontractors within the Medicaid eligibility section to access federal tax information and records.

a. Prospective employees shall be subject to fingerprinting and national, state and local criminal history records checks only after a conditional offer of employment has been made.

b. Current employees, contractors and subcontractors shall be subject to fingerprinting and national, state and local criminal history records checks at a minimum of every 10 years.

4. The costs of providing the criminal history records check for current employees, contractors or subcontractor within the Medicaid Eligibility Section shall be charged to the department by the Louisiana Bureau of Criminal Identification and Information for furnishing information contained in its criminal history and identification files, including any additional costs of providing the national and local criminal history records checks, which pertains to the current or prospective employee, contractor or subcontractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 254.3 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 44:

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.

#### 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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

#### Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, September 27, 2018 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.

Rebekah E. Gee MD, MPH  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Medicaid Employee Criminal History Records Checks

#### 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 18-19. However, the proposed rule is anticipated to have a minimal administrative fiscal impact associated with the costs of the criminal history records checks for this specific category of Medicaid eligibility employees. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 18-19 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 Medicaid Program revenue collections other than the federal share of the promulgation costs for FY 18-19; however, this proposed rule will increase revenue collections to the Louisiana Bureau of Criminal Identification and Information by approximately \$450 in FY 18-19. It is anticipated that \$270 will be collected in FY 18-19 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 amends the provisions governing the administrative procedures for the administration of the Medical Assistance Program in order to adopt provisions which require current or prospective employees, contractors or subcontractors, within the Medicaid eligibility section that have access to federal tax information (FTI) and/or criminal history record information, to submit to criminal history records

checks. Since the provisions of this proposed rule are administrative in nature, there will be no programmatic fiscal impact to Medicaid services, providers or recipients. It is anticipated that implementation of this proposed rule will have a minimal administrative fiscal impact to the Medicaid Program of approximately \$450 in FY 18-19 due to the \$50 administrative cost of the criminal history records checks for each of the 9 Medicaid eligibility employees that currently have access to FTI (total cost, \$450).

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

This rule has no known effect on competition and employment.

Jen Steele  
Medicaid Director  
1808#048

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Health Bureau of Health Services Financing

Pharmacy Benefits Management Program  
Managed Care Supplemental Rebates  
(LAC 50:XXIX.1103)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:XXIX.1103 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, Bureau of Health Services Financing proposes to amend the provisions governing The Optimal PDL Solution (TOP\$) State Supplemental Rebate Agreement Program in order to include pharmacy utilization of managed care organizations (MCOs) that participate in the Healthy Louisiana Program and implement a single state managed preferred drug list to maximize supplemental rebates on MCO utilization.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XXIX. Pharmacy

#### Chapter 11. State Supplemental Rebate Agreement Program

#### §1103. Managed Care Organization Utilization

A. Effective January 1, 2019, the TOP\$ State Supplemental Rebate Agreement Program shall include pharmacy utilization of managed care organizations (MCOs) that participate in the Healthy Louisiana Program for state supplemental drug rebates.

1. The Healthy Louisiana Program's contracts with the participating MCOs shall:

a. allow inclusion of the pharmacy utilization data for supplemental rebate purposes; and

b. mandate that each participating MCO shall align their respective formulary(ies) and/or preferred drug list (PDL), as applicable, to the fee-for-service (FFS) preferred drug list. MCO prior authorization criteria shall not be more restrictive than FFS.

B. The Department of Health shall implement a single state-managed PDL for all participating MCOs in order to

maximize the supplemental and federal rebates on MCO utilization.

1. The MCOs shall not enter into agreements with manufacturers of drugs listed in the single PDL to acquire discounts or rebates.

C. Supplemental rebates on MCO utilization shall be excluded from best price or average manufacturer price (AMP) calculations.

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, Bureau of Health Services Financing, LR 44:

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.

#### **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 and 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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, September 27, 2018 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.

Rebekah E Gee MD, MPH  
Secretary

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

### **RULE TITLE: Pharmacy Benefits Management Program—Managed Care Supplemental Rebates**

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

It is anticipated that implementation of this proposed rule will result in estimated state general fund net programmatic costs of approximately \$4,755,634 for FY 18-19 and net savings of \$2,051,000 for FY 19-20 and \$2,051,000 for FY 20-21. The required state general fund match will be offset by the anticipated revenue collections from the Medicaid Assistance Trust Fund premium taxes in the amount of approximately \$1,100,000 in FY 18-19, \$2,700,000 in FY 19-20, \$2,700,000 in FY 20-21. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 18-19 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 64.67 percent in FY 18-19 for the projected non-expansion population, and an FMAP rate of 93.5 percent in FY 18-19, 91.5 percent in FY 19-20 and 90.0 in FY 20-21 percent for the projected expansion population.

#### **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 \$8,704,798 for FY 18-19 and reduce federal revenue collections by approximately \$3,809,000 for FY 19-20 and \$3,809,000 for FY 20-21. The proposed rule will also increase revenue collections by approximately \$1,100,000 for FY 18-19, \$2,700,000 for FY 19-20 and FY 20-21 from the Medicaid Assistance Trust Fund premium taxes. It is anticipated that \$216 will be expended in FY 18-19 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 64.67 percent in FY 18-19 for the projected non-expansion population, and an FMAP rate of 93.5 percent in FY 18-19, 91.5 percent in FY 19-20 and 90.0 in FY 20-21 percent for the projected expansion population.

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

This proposed rule amends the provisions governing The Optimal PDL Solution (TOPS) State Supplemental Rebate Agreement Program in order for the state to invoice for supplemental rebates on pharmacy services covered under the Managed Care Program and paid by managed care organizations (MCOs). This proposed rule will also implement a statewide single preferred drug list (PDL) to maximize the supplemental rebates collected by the state. The single PDL will align preferred drugs across all MCOs and fee-for-service delivery models. The proposed rule will be beneficial to prescribers and recipients because it will simplify the process. The proposed rule will have no net impact to MCOs because although they will lose revenue from the loss of the rebates, they will be reimbursed at a higher capitation rate (PMPM) which will offset the revenue loss from the rebates. It is anticipated that implementation of this proposed rule will result in a net increase in programmatic expenditures in the pharmacy benefits management program by approximately \$13,460,000 for FY 18-19 and a net reduction in expenditures by approximately \$5,860,000 for FY 19-20 and \$5,860,000 for FY 20-21.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

This rule has no known effect on competition and employment.

Jen Steele  
Medicaid Director  
1808#049

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Licensed Professional Counselors Board of Examiners**

Diagnosing for Serious Mental Illnesses  
(LAC 46:LX.505 and 3107)

The Louisiana Department of Health and Hospitals, Louisiana Licensed Professional Counselors Board of Examiners proposes to rescind rules relative to the Practice of Mental Health Counseling, designated as Section 505 and 3107 of Board Rules. Previously, Section 505 and Section 3107 of Board Rules was promulgated due to Act 736/636 which limited the scope of practice by requiring consultation and collaboration regarding certain identified “serious mental illnesses”. On June 14, 2017 Act 235 repealed this portion of Act 736/636 and now enables LPCs and LMFTs to practice without required consultation and collaboration. The proposed goal to rescind these two sections is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS REVISED**

**Part LX. Licensed Professional Counselors Board of  
Examiners**

**Subpart 1. Licensed Professional Counselors**

**Chapter 5. License and Practice of Counseling**

**§505. Serious Mental Illnesses**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1105(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 39:1784 (July 2013), amended LR 41:711 (April 2015), repealed LR 44:

**§3107. Serious Mental Illness**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 43:1981 (October 2017), repealed LR 44:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of amending these Sections on family has been considered. This proposal to amend §§505 and 3107 has a positive impact on family functioning, stability, or autonomy as described in R.S. 49:972 by allowing licensed professional counselors and marriage family therapists to diagnose serious mental illness without collaboration from a medically licensed professional.

**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 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.

**Provider Impact Statement**

The proposed change 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 to Jamie S. Doming, Licensed Professional Counselors Board of Examiners, 8631 Summa Avenue, Baton Rouge, LA 70809. She is responsible for responding to inquiries in regard to removing these rules. Comments must be received by close of business, September 9, 2018.

Jamie S. Doming  
Executive Director

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

**RULE TITLE: Diagnosing for Serious Mental Illnesses**

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

The proposed rule change will not result in additional expenditures nor savings for state or local governmental units. The proposed rule change rescinds rules limiting the scope of practice for Licensed Professional Counselors (LPCs) and Licensed Marriage and Family therapists (LMFTs) in regard to “serious mental illnesses.”

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

The proposed rule change will not affect revenue collections for state or local governmental units.

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

The proposed rule change benefits LPCs and LMFTs by expanding their scope of practice. Revisions to the administrative rules allow the aforementioned practitioners to treat individuals diagnosed with a serious mental illness when medication may be indicated without collaborating with a practitioner licensed or permitted by the LA State Board of Medical Examiners (LSME) or the LA State Board of Nursing (LSBN).

There may be an economic impact on licensees practicing under LSBME or LSBN authority, as they may collect fees for collaborating with LPCs and LMFTs. As a result of the proposed rule changes no longer requiring LPCs and LMFTs to collaborate with LSBME or LSBN licensees, these licensees may no longer be able to collect these fees. The aggregate impact to such licensees is indeterminable.

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

The proposed rule change is not anticipated to affect competition or employment.

Jamie S. Doming  
Executive Director  
1806#039

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Insurance Office of the Commissioner

#### Rule 12—Transmission of Forms and Documents (LAC 37:XI.901)

In accordance with the Administrative Procedure Act, and through the authority granted under R.S. 22:1 and 22:11 et seq., the Department of Insurance hereby gives notice of its intent to promulgate an amended Rule 12. These amendments serve to relieve those who transmit forms and documents to the Department of Insurance by any electronic means from the burdensome and costly task of sending the filing again by United States Mail.

#### Title 37 INSURANCE Part XI. Rules

#### Chapter 9. Rule Number 12—Transmission of Forms and Documents

#### §901. Transmission of Forms and Documents Filed with the Department of Insurance

A. All forms, documents, applications, filings, financial reports, and any and all other forms and types of documents required by law or voluntarily filed with the Commissioner of Insurance by any company regulated by the Office of the Commissioner shall be filed by depositing the same in the United States mail, postage prepaid, and/or electronic transmission. Payment of fees, including license fees, and premium taxes shall be exempt from this Rule.

B. No document of any sort or kind described in §901.A will be accepted or received by the personnel of the department as filed with the department unless the same is transmitted to the department via the United States mail and/or electronic transmission.

C. Upon receipt of such documents mailed to the department, the employees of the department charged with the duty of receiving the same shall cause the envelope in which the document was mailed to the department to be attached to the document received in such a way that it shall remain permanently attached to the same, and no employee of the department may remove said envelope for any reason, except as provided for by law.

D.I. Transmission of documents by private courier service or hand delivery is permissible as long as the documents are:

a. mailed in the United States Postal Service and received by the Department of Insurance on or before the twentieth day after receipt of the private courier delivery, or hand delivery; or

b. sent via electronic transmission such that the transmission is received by the Department of Insurance on or before the twentieth day after receipt of the private courier delivery or hand delivery.

2. A document received in accordance with §901 shall be deemed received on the date of the receipt of the original private courier delivery or hand delivery. Any departmental approval shall be indicated on the initial private courier delivery, or hand delivery.

E. Notwithstanding §901.A through D, requests for public records shall be in accordance with procedures established for public records requests and record management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22.2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 17:1210 (December 1991), amended LR 18:620 (June 1992), amended by the Department of Insurance, Office of the Commissioner, LR 29:41 (January 2003), amended LR 44:

#### Family Impact Statement

1. Describe the effect of the proposed regulation on the stability of the family. The proposed amended Rule should have no measurable impact upon the stability of the family.

2. Describe the effect of the proposed regulation on the authority and rights of parents regarding the education and supervision of their children. The proposed amended Rule should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the effect of the proposed regulation on the functioning of the family. The proposed amended Rule should have no direct impact upon the functioning of the family.

4. Describe the effect of the proposed regulation on family earnings and budget. The proposed amended Rule should have no direct impact upon family earnings and budget.

5. Describe the effect of the proposed regulation on the behavior and personal responsibility of children. The proposed amended Rule should have no impact upon the behavior and personal responsibility of children.

6. Describe the effect of the proposed regulation on the ability of the family or a local government to perform the function as contained in the Rule. The proposed amended Rule should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the Rule.

#### Poverty Impact Statement

1. Describe the effect on household income, assets, and financial security. The proposed amended Rule should have no effect on household income assets and financial security.

2. Describe the effect on early childhood development and preschool through postsecondary education development. The proposed amended Rule should have no

effect on early childhood development and preschool through postsecondary education development.

3. Describe the effect on employment and workforce development. The proposed amended Rule should have no effect on employment and workforce development.

4. Describe the effect on taxes and tax credits. The proposed amended Rule should have no effect on taxes and tax credits.

5. Describe the effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance. The proposed amended Rule should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

#### **Small Business Analysis**

The impact of the proposed regulation 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 regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and estimate of the number of the small businesses subject to the proposed Rule. The proposed amended Rule should have no measurable impact upon small businesses.

2. The projected reporting, record keeping, and other administrative costs required for compliance with the proposed Rule, including the type of professional skills necessary for preparation of the report or record. The proposed amended Rule should have no measurable impact upon small businesses.

3. A statement of the probable effect on impacted small businesses. The proposed amended Rule should have no measurable impact upon small businesses.

4. Describe any less intrusive or less costly alternative methods of achieving the purpose of the proposed Rule. The proposed amended Rule should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

#### **Provider Impact Statement**

1. Describe the effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed amended Rule will have no effect.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. The proposed amended Rule will have no effect.

3. The overall effect on the ability of the provider to provide the same level of service. The proposed amended Rule will have no effect.

#### **Public Comments**

Interested persons may submit written comments on the amended Rule 12 until 5 p.m., September 20, 2018, to Barry Ingram, Division of Legal Services, Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804.

James J. Donelon  
Commissioner

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

### **RULE TITLE: Rule 12—Transmission of Forms and Documents**

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

The proposed rule will not result in any additional costs or savings to state or local governmental units. The proposed rule change allows entities regulated by the LA Dept. of Insurance the option of submitting forms by electronic means.

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

The proposed rule will not affect revenue collections for state or local governmental units.

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

The proposed rule change may result in a marginal economic benefit for insurers by giving them the option to file forms electronically rather than by mail.

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

The proposed rule will not affect competition or employment.

Nicholas Lorusso  
Chief Deputy Commissioner  
1808#010

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Insurance Office of the Commissioner**

#### **Rule 13—Special Assessment to Pay the Cost of Investigation, Enforcement, and Prosecution of Insurance Fraud (LAC 37:XI.Chapter 23)**

In accordance with the Administrative Procedure Act, and through the authority granted under R.S. 22:1 and 22:11 et seq., the Department of Insurance hereby gives notice of its intent to promulgate an amended Rule 13. Rule 13 was originally promulgated in 2000, in accordance with the authority provided through R.S. 40:1428 and 1429. Since Rule 13 was originally published, R.S. 40:1428 and 1429 have been amended by Act 369 of the 2001 Regular Session; Act 293 of the 2003 Regular Session; Act 1013 of the 2010 Regular Session; Act 193 of the 2016 Regular Session, and Act 147 of the 2018 Regular Session. These amendments reflect the changes in the law as stated by current law under R.S. 40:1428 and 1429.

#### **Title 37**

#### **INSURANCE**

#### **Part XI. Rules**

#### **Chapter 23. Rule 13—Special Assessment to Pay the Cost of Investigation, Enforcement, and Prosecution of Insurance Fraud**

Editor's Note: Refer to Act No. 369 of the 2001 Regular Legislative Session, Act 293 of the 2003 Regular Legislative Session; Act 1013 of the 2010 Regular Legislative Session; and Act 193 of the 2016 Regular Legislative Session.

#### **§2301. Purposes**

A. The purpose of this rule is to implement the provisions of R.S. 40:1428 by assessing a fee on insurers to

pay the cost of investigation, enforcement, public education and public awareness, and prosecution of insurance fraud in this state as more fully described in R.S. 40:1421-1429 and this rule. This rule shall be effective upon final publication in the *Louisiana Register*.

B. The fees collected shall be used solely for the purposes of Subpart B of Part III of Chapter 6 of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:1421 through 1429, entitled "Insurance Fraud Investigation Unit".

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 40:1428.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:323 (February 2000), amended LR 44:

### **§2303. Fee Assessment**

A. As authorized by R.S. 40:1428, and subject to the limitations provided therein and in this rule, there is hereby assessed an annual fee not to exceed 0.000375 multiplied times the direct premiums received by each insurer licensed by the Department of Insurance to conduct business in this state.

B. The fee shall be assessed for each fiscal year, and shall be based on premiums received in the previous calendar year. The Commissioner of Insurance will notify insurers in writing of the fee assessment owed each fiscal year.

C. The total fees assessed for any year shall not exceed the amount necessary to pay the costs of investigation, enforcement, public education and public awareness, and prosecution of insurance fraud in this state by the programs to which funds are allocated in §2307 of this Rule.

D. Prior to making the allocations specified in §2307 of this Rule, the Commissioner of Insurance is authorized to withhold the sum of \$30,000 per year from the fees collected to defray the expense of collection of the fees, enforcement of this Subpart, and operation of the Department of Insurance and shall withhold \$187,000 to fund the Louisiana Automobile Theft and Insurance Fraud Prevention Authority pursuant to R.S. 22:2134.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 40:1428.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:323 (February 2000), amended LR 44:

### **§2305. Limitations on the Fee Assessment**

A. The fee shall not be assessed on premiums received on life insurance policies, annuities, credit insurance, crop and livestock insurance, federal flood insurance policies, reinsurance contracts, reinsurance agreements, or reinsurance claims transactions. The fee shall not be assessed on 50 percent of the premiums received on health and accident insurance policies.

B. If the fee assessed for the previous year exceeds by five percent of the cumulative costs of the previous year of operating the insurance fraud programs to which the funds are allocated, the fee assessment for the next year shall be reduced by the amount of the excess in proportion to the assessment, however, any entity listed in §2307(A) of this Rule that expends its allocation shall receive at least the same allocation for the next year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 40:1428.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:323 (February 2000), amended LR 44:

### **§2307. Allocation of the Fee Assessment**

A. Except as otherwise provided in §2303(D) of this rule, fees shall be allocated as follows.

1. Seventy-five percent of the fees collected shall be allocated to the Insurance Fraud Investigation Unit within the Office of State Police.

2. Fifteen percent of the fees collected shall be allocated to the Department of Justice to be used solely for the Insurance Fraud Support Unit.

3. Ten percent of the fees collected shall be allocated to the Department of Insurance to be used solely for the Section of Insurance Fraud.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 40:1428.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:323 (February 2000), amended LR 44:

### **§2309. Payment of the Fee Assessment**

A. The fee established in R.S. 40:1428 and in this rule shall be paid to the Commissioner of Insurance as required by R.S. 40:1428(B).

B. After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, an amount equal to that deposited as required by R.S. 40:1428(B) shall be credited to the Insurance Fraud Investigation Fund in the state treasury. The monies shall be irrevocably dedicated and deposited in the Insurance Fraud Investigation Fund and shall be used solely as provided in R.S. 40:1428(A) and only in the amounts appropriated by the legislature. Monies in the fund shall be appropriated, administered, and used solely and exclusively for the purposes of the fraud unit, fraud support unit, insurance fraud section, LATIFPA, and as further provided in R.S. 40:1428. All unexpended and unencumbered monies in this fund at the end of the fiscal year shall be refunded to each insurer licensed by the Department of Insurance to conduct business in this state assessed a fee pursuant to R.S. 40:1428 on a pro-rata basis based on each insurer's proportionate share of the total fees collected pursuant to this section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 40:1428.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:323 (February 2000), amended LR 44:

### **§2311. Fines**

A. The Commissioner of Insurance may levy a fine on any insurer who fails to pay the fee assessed pursuant to this Section when due. Such fine shall not exceed five percent of the fee per month; however, no fine shall be less than \$100 per month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 40:1428 and R.S. 40:1429.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:323 (February 2000), amended LR 44:

### **§2313. Sunset**

A. This rule shall be null, void, and unenforceable on July 1, 2018 in accordance with the sunset provision of R.S. 40:1429, unless legislative authorization for this rule is



reenacted prior to July 1, 2018. If such legislation authorization is reenacted prior to July 1, 2018, then this rule shall continue in full force in effect without need for a reenactment, amendment, or re-promulgation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:2 R.S. 40:1428 and R.S. 40:1429.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:323 (February 2000), LR 44:

#### **Family Impact Statement**

1. Describe the effect of the proposed regulation on the stability of the family. The proposed amended Rule should have no measurable impact upon the stability of the family.

2. Describe the effect of the proposed regulation on the authority and rights of parents regarding the education and supervision of their children. The proposed amended Rule should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the effect of the proposed regulation on the functioning of the family. The proposed amended Rule should have no direct impact upon the functioning of the family.

4. Describe the effect of the proposed regulation on family earnings and budget. The proposed amended Rule should have no direct impact upon family earnings and budget.

5. Describe the effect of the proposed regulation on the behavior and personal responsibility of children. The proposed amended Rule should have no impact upon the behavior and personal responsibility of children.

6. Describe the effect of the proposed regulation on the ability of the family or a local government to perform the function as contained in the Rule. The proposed amended Rule should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the Rule.

#### **Poverty Impact Statement**

1. Describe the effect on household income, assets, and financial security. The proposed amended Rule should have no effect on household income assets and financial security.

2. Describe the effect on early childhood development and preschool through postsecondary education development. The proposed amended Rule should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the effect on employment and workforce development. The proposed amended Rule should have no effect on employment and workforce development.

4. Describe the effect on taxes and tax credits. The proposed amended Rule should have no effect on taxes and tax credits.

5. Describe the effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance. The proposed amended Rule should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

#### **Small Business Analysis**

The impact of the proposed regulation 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 regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and estimate of the number of the small businesses subject to the proposed Rule. The proposed amended Rule should have no measurable impact upon small businesses.

2. The projected reporting, record keeping, and other administrative costs required for compliance with the proposed Rule, including the type of professional skills necessary for preparation of the report or record. The proposed amended Rule should have no measurable impact upon small businesses.

3. A statement of the probable effect on impacted small businesses. The proposed amended Rule should have no measurable impact upon small businesses.

4. Describe any less intrusive or less costly alternative methods of achieving the purpose of the proposed Rule. The proposed amended Rule should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

#### **Provider Impact Statement**

1. Describe the effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed amended Rule will have no effect.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. The proposed amended Rule will have no effect.

3. The overall effect on the ability of the provider to provide the same level of service. The proposed amended Rule will have no effect.

#### **Public Comments**

Interested persons may submit written comments on the amended Rule 12 until 5 p.m., September 20, 2018, to Barry Ingram, Division of Legal Services, Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804.

James J. Donelon  
Commissioner

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

#### **RULE TITLE: Rule 13—Special Assessment to Pay the Cost of Investigation, Enforcement, and Prosecution of Insurance Fraud**

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

The proposed rule change will not result in any additional savings or expenditures for state or local governmental units. The proposed rule changes codify provisions of R.S. 40:1428 and 1429 that assesses a fee on insurers to pay the cost of investigation, enforcement, public education and public awareness, and prosecution of insurance fraud in this state. The proposed rule changes conform to present administrative

practice for the LA Dept. of Insurance, as the assessment is presently collected and entities subject to the fee are remitting revenues associated with the fee.

The proposed changes codify existing law in regards to the insurance fraud assessment as amended by Act 369 of the 2001 Regular Session, Act 293 of the 2003 Regular Session, Act 1013 of the 2010 Regular session, Act 193 of the 2016 Regular Session, and Act 147 of the 2018 Regular Session.

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

The proposed rule change will not affect collections of state or local governmental revenues. The LA Dept. of Insurance has levied the insurance fraud assessment since 2001 and the current disposition of the assessment has been in law since passage of Act 1013 of the 2010 Regular Session.

For reference, the LA Dept. of Insurance has assessed an insurance fraud fee since implementation of Act 369 of the 2001 Regular Legislative Session. The assessment collected is presently allocated as follows: 1.) 75% of the fees collected are allocated to the Insurance Fraud Investigation Unit within the Office of State Police 2.) 15% of the fees collected are allocated to the Department of Justice to be used solely for the Insurance Fraud Support Unit for the section of Insurance Fraud 3.) 10% of the fees collected are allocated to the LDI to be used solely for the section of insurance fraud.

Prior to making the aforementioned allocations, the Commissioner of Insurance is authorized to withhold the sum of thirty thousand dollars per year from the fees collected to defray the expense of collection of the fees, and the LDI shall withhold one hundred eighty-seven thousand dollars to fund the Louisiana Automobile Theft and Insurance Fraud Prevention Authority pursuant to R.S. 22:2134.

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

The proposed rule changes will not result in any additional costs or economic benefits for entities regulated by the LA Dept. of Insurance. The department is currently authorized by R.S. 40:1428 to levy an annual fee assessed on insurers, not to exceed .000375 multiplied times the direct premiums received by each insurer. LDI has been collecting this assessment since 2001.

For reference, the fee is not assessed on premiums received on life insurance policies, annuities, credit insurance, crop and livestock insurance, federal flood insurance policies, reinsurance contracts, reinsurance agreements, or reinsurance claims transactions. Furthermore, the fee is not assessed on 50% of the premiums received on health and accident insurance policies.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amended rule will not affect competition or employment.

Nicholas Lorusso  
Chief Deputy  
1808#011

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-18/19 (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-17/18.

**Title 43**

**NATURAL RESOURCES**

**Part XIX. Office of Conservation—General Operations  
Subpart 2. Statewide Order No. 29-R**

**Chapter 7. Fees**

**§701. Definitions**

\* \* \*

*BOE*—annual barrels oil equivalent. Gas production is converted to BOE by dividing annual mcf by a factor of 18.0.

\* \* \*

**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), 40:2266 (November 2014), LR 41:2376 (November 2015), LR 42:1957 (November 2016), LR 43:2191 (November 2017), LR 44:

**§703. Fee Schedule for Fiscal Year 2016-2017 and Thereafter**

A. ...

\* \* \*

B. Regulatory Fees. \$2,187,500 CAP divided by a number equal to (number of non-exempt class II wells + number of Class III wells + number of storage wells) + (number of Type A facilities X 10 plus number of Permits to Construct Type A facilities X 5) + (number of Type B facilities X 5 plus number of Permits to Construct Type B facilities X 2.5)

1. The resulting value will equal the annual regulatory fee for non-exempt Class II wells, Class III wells, and storage wells.

2. The annual regulatory fee for Type A facilities will be the non-exempt Class II well, Class III well, and storage well regulatory fee times a factor of 10.

3. The annual regulatory fee for Type A facility Permits to Construct will be the non-exempt Class II well, Class III well, and storage well regulatory fee times a factor of 5.

4. The annual regulatory fee for Type B facilities will be the non-exempt Class II well, Class III well, and storage well regulatory fee times a factor of 5.

5. The annual regulatory fee for Type B facility Permits to Construct will be the non-exempt Class II well, Class III well, and storage well regulatory fee times a factor of 2.5.

6. Conservation will perform this calculation annually and will post the individual Regulatory Fee Amount on the DNR Website.

C. Class I Well Fees: Operators of permitted Class I wells are required to pay

1. \$1,000,000 CAP divided by a number equal to the number of active Class I wells plus the number of Permits to Construct Class I wells X 0.5.

2. Conservation will perform this calculation annually and will post the individual Regulatory Fee Amount on the DNR Website.

D. - D.5. ...

E. 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	26
Tier 2	1 - 5,000	154
Tier 3	5,001 - 15,000	439
Tier 4	15,001 - 30,000	734
Tier 5	30,001 - 60,000	1,151
Tier 6	60,001 - 110,000	1,601
Tier 7	110,001 - 9,999,999	2,004

F. - G.1. ...

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 40:2267 (November 2014), LR 41:2378 (November 2015), LR 42:1958 (November 2016), LR 43: 2191 (November 2017), LR 44:

**§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-18/19 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-18/19) supersedes Statewide Order No. 29-R-17/18 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 40:2267 (November 2014), LR 41:2379 (November 2015), LR 42:1959 (November 2016), LR 43: 2191 (November 2017), LR 44:

**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 Analysis**

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 interest parties will be afforded the opportunity to submit data, views, or arguments, in writing. Written comments will be accepted by hand delivery or USPS only, until 4:30 p.m., September 10, 2018, at the Office of Conservation, Executive Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; or Office of Conservation, Executive Division, 617 North Third Street, Room 931, Baton Rouge, LA 70802. Reference Docket No. 18-214. All inquiries should be directed to Todd Keating at the above addresses or by phone to (225) 342-5507. No preamble was prepared.

Richard P. Ieyoub  
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 proposal provides for changes in the definitions, the capable oil and gas tiers, and the severability and effective date of the Office of Conservation General Operations Statewide Order No. 29-R. Proposed Statewide Order No. 29-R-18/19 establishes the Louisiana Office of Conservation Fee Schedule for the collection of application, production, and regulatory fees by the Office of Conservation and will replace the existing Statewide Order No. 29-R-17/18.

The agency will retain the maximum revenue caps authorized by R.S. 30:21 et seq. The proposed rule changes do not modify the authorized maximum revenue caps for FY19. The severability and effective date of the proposed rule is November 20, 2018.

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

The proposed rule changes are anticipated to have a net zero impact on the Office of Conservation. The proposed rule changes the per well annual production fees for operators of capable oil wells and capable gas wells. These decreases are as follows: Tier 1 from \$28 to \$26; Tier 2 from \$165 to \$154; Tier 3 from \$474 to \$439; Tier 4 from \$788 to \$734; Tier 5 from \$1,241 to \$1,151; Tier 6 from \$1,727 to \$1,601; and Tier 7 from \$2,162 to \$2,004. It is anticipated operators will pay an average 7.2% less for the annual well production fees. The

reduction in production fees will be offset as a result of the increase in Tiers 5, 6 & 7 wells (295). The FY 18 estimated revenue from production fees is \$3,674,998. After accounting for increases number of wells in Tiers 5, 6 & 7, the FY 19 estimated revenue from production fees is \$3,674,998.

The proposed rule changes the definition, the fee schedule, the severability, and effective date of the Office of Conservation General Operations Statewide Order No. 29-R. The change to the definitions was the BOE-annual barrels oil equivalent from 20.0 to 18.0 that is based on a three-year average (FY 15 - 17) of the cost of oil and gas. Change to the Fee Schedule 703.B & C removes the language "no later than July 20th of each year" which is an arbitrary date which may not represent the wells' status at the time of invoicing.

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

The proposed rule change is anticipated to have an indeterminable economic impact on oil and gas operators. Due to an increase of the number of wells in Tiers 5, 6 & 7, operators will pay less for the annual well production fees. The per well annual production fees for operators of capable oil wells and capable gas wells are decreased as follows: Tier 1 from \$28 to \$26; Tier 2 from \$165 to \$154; Tier 3 from \$474 to \$439; Tier 4 from \$788 to \$734; Tier 5 from \$1,241 to \$1,151; Tier 6 from \$1,727 to \$1,601; and Tier 7 from \$2,162 to \$2,004.

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

The proposed rule change is not anticipated to have an impact on competition and employment in the public and private sector.

Gary P. Ross  
Assistant Commissioner  
1808#023

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Public Safety and Corrections Gaming Control Board

Casino Computer Systems  
(LAC 42:III.2717, 2723, and Chapter 28)

The Department of Public Safety and Corrections, Louisiana Gaming Control Board, in accordance with R.S. 27:15, R.S. 27:24, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice that it intends to adopt LAC 42:III.Chapter 28, Casino Computer Systems. This will include a regulation reorganization by consolidating Subsection N of §2717, Subsection Q of §2723, and §4205, all located in LAC 42:III, within the new Chapter 28 of LAC 42:III, as the changes are intended to create uniformity so that all data breach and information systems information can be in a consolidated Chapter.

The Gaming Control Board also gives notice that it intends to amend LAC 42:III.2717 by repealing Subsection N and replacing Subsection O as the new Subsection N. The proposed amendment will maintain the division's access to all of information pertaining to table games that is maintained by the licensees. Further, the Gaming Control Board gives notice that it intends to amend LAC 42:III.2723 by repealing Subsection Q and replacing Subsection R as the

new subsection Q and by replacing Subsection S as the new Subsection R. Additionally, the Gaming Control Board gives notice that it intends to repeal LAC 42:III.4205 to it being part of the regulation reorganization into LAC 42:III.Chapter 28.

The proposed Sections in Chapter 28 are being promulgated in order to protect patron data from data breaches. With the advancements in technology, riverboat licensees and the casino operator are using computer systems to keep track of all player data and rewards, and credit information when issuing markers. Due to this, they are collecting massive amounts of confidential data on patrons. The rules do not currently address how the licensees should protect this data and what system protections they should have. Considering recent data breaches among companies nationwide, the board and division deem it necessary to implement rules to safeguard the confidential information.

## Title 42 LOUISIANA GAMING

### Part III. Gaming Control Board

#### Chapter 27. Accounting Regulations

#### §2717. Internal Controls; Table Games

A - M.1. ...

N. Table Games Records

1. Each licensee and casino operator shall maintain records and reports reflecting drop, win and drop hold percentage by table and type of game by day, cumulative month-to-date, and cumulative year-to-date. The reports shall be presented to and reviewed by management independent of the pit department on at least a monthly basis. The independent management shall investigate any unusual statistical fluctuations with pit supervisory personnel. At a minimum, investigations are performed for all statistical percentage fluctuations from the base level for a month in excess of plus or minus three percentage points. The base level is defined as the licensee's or casino operator's statistical win to statistical drop percentage for the previous business year. The results of such investigations shall be documented in writing and maintained for at least five years by the licensee.

2. The division shall have access to all information pertaining to table games.

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 38:1635 (July 2012), amended LR 44:

#### §2723. Internal Controls; Slots

A. - P.1. ...

Q. The accounting department shall perform the following audit procedures relative to slot operations:

1. collect jackpot and hopper fill slips, computerized and manual, and other paperwork daily from the locked accounting box and the cashier cage or as otherwise approved by the division;

2. review jackpot and fill slips daily for continuous sequence. Ensure that proper procedures were used to void slips. Investigate all missing slips and errors. Document the investigation and retain the results for a minimum of five years;

3. manually add, on a daily basis, all jackpot and fill slips and trace the totals from the slips to the system-generated totals. Document all variances and retain the documentation for five years;

4. collect the hard count and currency acceptor count results from the count teams and compare the actual count to the system-generated meter reports on a daily basis;

5. prepare reports of their daily comparisons by device, by denomination, and in total of the actual count for hard and soft count to system-generated totals. Report variance(s) of \$100 or greater to the slot department for investigation. Maintain a copy of these reports for five years;

6. compare a listing of slot machine numbers scheduled to be dropped to a listing of slot machine numbers actually counted to ensure that all drop buckets and currency acceptors are accounted for during each drop period;

7. immediately investigate any variance of 2 percent or more per denomination between the weigh or count and wrap. Document and maintain the results of such investigation for five years;

8. compare 10 percent of jackpot and hopper fill slips to signature cards for proper signatures one day each month;

9. compare the weigh tape to the system-generated weigh, as recorded in the slot statistical report at least one drop period per month. Resolve any discrepancies prior to generation and distribution of slot reports to management;

10. review the weigh scale tape of one gaming day each quarter to ensure that:

a. all electronic gaming device numbers were properly included;

b. only valid identification numbers were accepted;

c. all errors were investigated and properly documented, if applicable;

d. the weigh scale correctly calculated the dollar value of coins; and

e. all discrepancies are documented and the documentation is maintained for a minimum of five years;

11. verify the continuing accuracy of the coin-in meter readings as recorded in the slot statistical report at least monthly;

12. compare the "bill-in" meter reading to the currency acceptor drop amount at least monthly. Discrepancies shall be resolved prior to the generation and distribution of slot statistical reports to management;

13. maintain a personnel access listing for all computerized slot systems which includes, at a minimum:

a. employee name;

b. employee identification number, or equivalent; and

c. listing of functions the employee can perform or equivalent means of identifying same;

14. review sensitive key logs. Investigate and document any omissions and any instances in which these keys are not signed out and signed in by the same individual;

15. on a daily basis, review exceptions, jackpot overrides, and verification reports for all computerized slot systems, including tokens, coins and currency acceptors, for propriety of transactions and unusual occurrences. These exception reports shall include the following:

a. cash variance which compares actual cash to metered cash by machine, by denomination and in total;

b. drop comparison which compares the drop meter to weigh scale by machine, by denomination and in total.

#### R. Slot Department Requirements

1. The slot booths, change banks, and change banks incorporated in beverage bars (bar banks) shall be counted down and reconciled each shift utilizing appropriate accountability documentation.

2. The wrapping of loose slot booth and cashier cage coin shall be performed at a time or location that does not interfere with the hard count process or the accountability of that process.

3. A record shall be maintained evidencing the transfers of unwrapped coin.

4. Slot booth, change bank, and bar bank token and chip storage cabinets and drawers shall be constructed to provide maximum security of the chips and tokens.

5. Each station shall have a separate lock and shall be keyed differently.

6. Slot booth, change bank, and bar bank cabinet and drawer keys shall be maintained by the supervisor and issued to the change employee assigned to sell chips and tokens. Issuance of these keys shall be evidenced by a key log, which shall be signed by the change employee to whom the key is issued. All slot booth, change bank, and bar bank keys shall be returned to the supervisor at the end of each shift. The return of these keys shall be evidenced on the key log, which shall be signed by the cage employee to whom the key was previously issued. The key log shall include:

a. the change employee's employee number and signature;

b. the date and time the key is signed out; and

c. the date and time the key is returned.

7. At the end of each shift, the outgoing and incoming change employee shall count the bank. The outgoing employee shall fill out a count sheet, which shall include opening and closing inventories listing all currency, coin, tokens, chips and other supporting documentation. The count sheet shall be signed by both employees.

8. In the event there is no incoming change employee, the supervisor shall count and verify the closing inventory of the slot booth, change bank, and bar bank.

9. Increases and decreases to the slot booths, change banks, and bar banks shall be supported by written documentation signed by the cage cashier and the slot booth, change bank, or bar bank employee.

10. The slot department or MIS shall maintain documentation of system-related problems, including, but not limited to, system failures, extreme values for no apparent reason, and problems with data collection units, and document the follow-up procedures performed. Documentation shall include at a minimum:

a. date the problem was identified;

b. description of the problem;

c. name and position of person who identified the problem;

d. name and position of person(s) performing the follow up;

e. date the problem was corrected; and

f. how the problem was corrected.

11. The slot department shall investigate all meter variances received from accounting. Copies of the results of

the slot department's investigation shall be retained by the accounting department for five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1641 (July 2012), amended LR 44:

## **Chapter 28. Casino Computer Systems**

### **§2801. Protection and Security of Information and Information Systems**

A. This Chapter applies to all systems of an operation that includes a casino and common ownership, except that any non-gaming systems that are segregated from any and all gaming systems and from which one cannot access any gaming systems shall be exempt from the provisions of this section. The requirements in this Chapter are in addition to existing state and Federal regulations. Unrelated third party operating systems independent from the licensee, casino operator, and other related businesses are responsible for protecting patron information in accordance with state and federal laws and regulations.

B. Each licensee and casino operator shall:

1. implement an information security program that addresses the managerial, operational, and technical aspects of protecting information and information systems; and

2. develop, document, audit, and enforce an information security plan consisting of policies, guidelines, standards, processes, and procedures in accordance with the law and regulation. The policy shall include a risk assessment designed to, among other things, identify threats and vulnerabilities and methods to mitigate the associated risks. Additionally, the policy shall include controls over both timing (preventive, detective, and corrective) and nature (administrative, technical, and physical).

C. Computer systems shall be designed and implemented to safeguard the security, confidentiality, integrity, and availability of information systems and the information processed, stored, and transmitted by those systems to prevent security incidents. A security incident is any attempted or successful occurrence that jeopardizes the security, confidentiality, integrity, or availability of information systems and the information processed, stored, or transmitted by those systems. A security incident includes, but is not limited to: the unauthorized release of data (including personal patron data) collected, stored, and/or maintained by a licensee and casino operator; unavailability or degradation of services; misappropriation or theft of information or services; and modification or destruction of systems or information.

D.1. A licensee and casino operator shall:

a. identify and correct information and information system defects in a timely manner;

b. provide protection from malicious code at appropriate locations within the casino's information systems; and

c. monitor information system security alerts and advisories and take appropriate actions in response thereto.

2. The network system shall have the capacity to detect and display the following conditions:

a. power reset or failure of any network component;

b. communication loss between any network components; and

c. authentication failure.

3. Any defects or anomalous conditions shall be recorded in an error log that shall be displayed or printed upon demand by the board or division and shall be maintained for a period of three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 44:

### **§2803. Assessment Audits**

A. A licensee and casino operator shall develop and maintain computer systems and procedures in compliance with standards recognized as industry accepted "information security standard" as selected by the licensee or casino operator.

B. A licensee and casino operator shall, no later than 36 months from its last assessment, submit the results of an independent network security risk assessment to the division for review, subject to the following requirements:

1. the testing organization must be independent of the licensee and casino operator;

2. results from the network security risk assessment shall be submitted to the division no later than 90 days after the assessment is conducted.

C. At the discretion of the division, additional network security risk assessments may be required.

D. A licensee and casino operator shall periodically, but no later than 36 months from its last assessment, assess the risk to operations, assets, patrons, employees, and other individuals or entities resulting from the operation of the casino's computer systems and the processing, storage, or transmission of information and data. The assessment shall be documented and recorded in a manner that can be displayed or printed upon demand by the board or division and shall be maintained for a period of five years. Licensees and casino operators shall assess the collection of personnel and patron data annually to ensure that only information necessary for the operation of the business is collected and maintained. No unnecessary personal information shall be retained.

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 44:

### **§2805. Notification and Response Time**

A. A licensee and casino operator shall provide written notice of the following to the division within 24 hours:

1. discovery that a system or data has been compromised;

2. suspicion or notification from outside sources that a system or data may have been compromised; or

3. determination that a system or data has been otherwise accessed or released without proper authorization.

B. Confirmed breaches of any systems related to the Louisiana properties or any other company owned by common ownership shall be disclosed to the board with 24 hours of confirmation. The notification shall provide all known details at the time of notification including, but not limited to, the location(s) affected and the process that will be used to move forward with the investigation.

C. Upon confirming any release of personal patron data, the licensee and casino operator shall notify the patron(s) affected in accordance with R.S. 51:3074 and notify the board immediately.

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 44:

#### **§2807. Incident Response Plan**

A. To ensure that computer systems and network security threats are responded to in a timely and effective manner, an operational incident response plan shall be developed, implemented, and maintained. Licensees and casino operators shall reference the incident response plan in their internal controls, but the plan shall be maintained outside the internal controls to ensure it is updated.

B. The incident response plan shall:

1. detail adequate preparation, detection, analysis, containment, recovery, and response activities;
2. define roles and responsibilities in the event of a security incident;
3. include measures for tracking, documenting, and reporting security incidents to appropriate officials and/or authorities and the division;
4. have a definitive communication plan including both internal and external communication; and
5. be formally documented and tested every three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 44:

#### **§2809. Limited Access to Information Systems and Networking Devices**

A. A licensee and casino operator shall:

1. ensure that individuals occupying positions with access to sensitive computer hardware, software, or business personnel or patron data including, but not limited to, third-party service providers meet documented security criteria for such positions;
2. ensure that information and information systems remain protected during and after all personnel actions including, but not limited to, terminations and transfers; and
3. implement formal sanctions for the failure of personnel to comply with security policies and procedures.

B. Access to systems, data, and information shall be restricted by job functions. A licensee and casino operator shall establish security groups to ensure that access to computer systems shall be granted to authorized users only and be used solely for the types of transactions and functions that an authorized user is permitted to exercise.

1. A licensee's or casino operator's information technology (IT) department shall review the system access logs at the end of each month. Discrepancies shall be investigated, documented, and maintained for a period of five years.

2. A licensee and casino operator shall maintain personnel access listings that include, at a minimum, the employee's name, position, identification number, and a list of functions the employee is authorized to perform, including the date that authorization is granted. These files shall be updated as employees or the functions they perform change.

3. All changes to the system and the name of the individual who made the change shall be documented.

4. Reports and all other output generated from the system(s) shall only be available and distributed to authorized personnel.

C. All access to the server areas shall be documented on a log maintained by IT. Such logs shall be available at all times. The logs shall contain entries with the following information:

1. name of each person entering the room;
2. reason each person entered the room;
3. date and time each person enters and exits the room;
4. date, time, and type of any equipment malfunction in the room;
5. a description of any unusual events occurring in the room; and
6. such other information required in the internal controls.

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 44:

#### **§2811. Protection of Communications**

A. A licensee and casino operator shall:

1. monitor, control, and protect all communication and information transmitted or received by the casino's computer systems at the external and internal boundaries of those systems; and
2. employ software development techniques, architectural designs, and systems engineering principles that promote effective information security within the casino's information systems.

B. To the extent possible and practical, all network communications and storage of confidential or sensitive data shall be encrypted. At a minimum, personal patron data shall be considered confidential. Personal patron data shall include, but not be limited to, any non-public patron information collected by the casino, such as date of birth, social security number, credit card number, bank account information, and driver's license number. The importance of additional data may vary as a function of how critical that data is to the integrity of the network and/or the needs of the casino. A licensee and casino operator must assess the type of data that the network carries or stores and determine the relative sensitivity of such information. This assessment shall then serve as a guide to the types of security measures that are appropriate for the network.

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 44:

#### **§2813. Training**

A. All personnel with access to information systems for any purpose shall be trained to understand how these systems can be compromised by outside agents through personal contact and misrepresentations by those agents as to their identity and need for access to any information concerning the systems or the information they protect. All such attempts by anyone to gain information about information systems including passwords or access should be reported to the person in charge of information security immediately. This training shall be documented.

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 44:

**§2815. Audit of System and User Activities**

A. A licensee and casino operator shall:

1. create, protect, and retain information system audit records to the extent necessary to enable the monitoring, analysis, investigation, and reporting of unlawful, unauthorized, or inappropriate information system activity; and
2. ensure that the actions of individual information system users can be uniquely traced to those users so that they may be identified and held accountable for their actions.

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 44:

**§2817. Backup and Recovery**

A. IT shall backup system data daily. Backup and recovery procedures shall be written and distributed to all applicable personnel. These policies shall include information and procedures that detail, at a minimum, a description of the system, access to system manuals, and other procedures that ensure the timely restoration of data in order to resume operations after a hardware or software failure.

B. Licensees and the casino operator shall maintain system-generated edit reports, exception reports, and transaction logs.

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 44:

**§2819. Application Controls**

A. Application controls shall include procedures that provide assurance of the accuracy of the data input, the integrity of the processing performed, and the verification and distribution of the output generated by the system. Examples of proper controls include:

1. proper authorization prior to data input, for example, passwords;
2. use of parameters or reasonableness checks; and
3. use of control totals on reports and comparison of them to amounts input.

B. Documents created from the above procedures shall be maintained for a period of five years.

C. Computer Control

1. The delete option within an individual program shall be secured so that only authorized users can execute it. The delete option shall not allow for the deletion of any gaming transaction or void.

2. A licensee and casino operator shall require employees and vendors to change passwords in accordance with documented password security best practices, as specified in the internal controls. Password complexity shall be of sufficient strength to ensure security against false entry by unauthorized personnel.

3. The secured copies, restricted copies, and other electronically stored documents required by these rules and those necessary to calculate gaming revenue and expenses shall be retained for five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 44:

**§2821. Remote Access Requirements**

A. Each licensee and casino operator shall establish and maintain a remote access policy that controls access to the slot monitoring system (SMS), casino management system (CMS), gaming equipment, and other related systems. This includes, but is not limited to, computer controlled key control devices and ticket cashing kiosks. Access shall be controlled from any terminal that is not physically located within or adjacent to the casino property. Write access to gaming systems shall only be provided to gaming permitted employees or controlled on a per access basis by a gaming permitted employee. "Read only" access is not prohibited by this policy. A help desk may remotely login to other user accounts in accordance with corporate IT policies to provide assistance as necessary. The remote access policy shall, at a minimum, contain these requirements:

1. login and transaction security shall be in accordance with a licensee or casino operator's remote access policy;

2. all remote access must be traceable to an authorized individual. there shall be no sharing of accounts or passwords that would result in ambiguity as to which person was involved in any remote access;

3. accounts shall be set up to allow only access to those applications, functions, or accounts necessary. selective access shall be as specific and limited as the operating system or security system will allow;

4. all security related events shall be logged, and any unusual event must be investigated including, but not limited to, failed login attempts and attempts to access restricted assets; and

5. access shall be blocked immediately when it is no longer required by an individual to complete the job function.

B. A record shall be made and kept of any and all changes made and actions taken during each remote access. IT help desk activity shall be in accordance with the company's IT policy and help desk logs (help tickets, help desk activity reports, etc.) shall meet the requirements of this Section. The record shall be clear, comprehensible, and thorough, and shall record all configuration and activity details of remote access connectivity. If remote access activity is related to normal system transactions, audit logs of the transactions will meet the requirement of recording activity. The record shall be reviewed quarterly by appropriate personnel to confirm that the authorized task was completed. Discrepancies shall be investigated.

C. The system access log, change log, security log, and investigation results shall be documented in a way that can be displayed or printed upon request by the board or division and shall be maintained for a period of five years.

D. A backup of system data, gaming data, and software shall be completed prior to remote access if any anticipated action is expected to endanger the system or data. The backup shall contain no less than the previous day's data.

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 44:



**§2823. Disaster Recovery Plan**

Licenses and casino operators shall establish a documented contingency plan to mitigate loss or harm and ensure that all critical data is retrievable and that it can be restored to a usable format as quickly and efficiently as possible in the event that a system or service becomes unavailable. The contingency plan shall be updated regularly and shall remain current with system changes and developments.

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 44:

**§2825. Computer Monitoring Requirements of Electronic Gaming Devices**

A. Each licensee and casino operator shall have a system connected to all EGDs in the casino that are activated for patron play that records and monitors the activities of such devices. No EGDs shall be operated unless it is connected to the system. Licensees and casino operators shall use a system approved by a designated gaming laboratory specified by the division or board. Such system shall provide on-line, real-time monitoring, and data acquisition capabilities.

1. Licensees and casino operators shall immediately report any occurrence of malfunction or interruption of communication between the EGDs and the system to the division. These malfunctions include, but are not limited to, a system down for maintenance or malfunctions, zeroed meters, and invalid meters.

2. Prior written approval from the division is required before implementing any changes to the computerized EGD monitoring system. Licensees and casino operators shall notify the division when transitioning to manual procedures when the EGD monitoring system is down. Changes to the operating system of the EGD monitoring system recommended by the operating system vendor may be made after notification of the operating system upgrade to the division, and do not require prior written approval.

3. Each modification of the application software shall be approved by a designated gaming laboratory specified by the division or board.

B. The system required in Subsection A of this Section shall be designed and operated to automatically perform and report functions relating to EGD meters, and other functions and reports including, but not limited to:

1. record the number and total value of cash equivalents placed in the EGD for the purpose of activating play;

2. record the total value and number of each value of currency and tickets received from the currency acceptor for the purpose of activating play;

3. record the number and total value of cash equivalents deposited in the drop bucket of the EGD;

4. record the number and total value of cash equivalents automatically paid by the EGD as the result of a jackpot;

5. record the number and total value of cash equivalents to be paid manually as the result of a jackpot. The system shall be capable of logging in this data if such data is not directly provided by EGD;

6. have an on-line computer alert and alarm monitoring capability to ensure direct scrutiny of conditions detected and reported by the EGD including any device malfunction, any type of tampering, and any open door to the drop area. Any person opening the EGD or the drop area, except the drop team, shall complete the machine entry authorization log including time, date, machine identity, and reason for entry;

7. be capable of logging in and reporting any revenue transactions not directly monitored by the token meter, including tokens placed in the EGD as a result of a fill and any tokens removed from the EGD in the form of a credit;

8. record date, time, and EGD identification number of any EGD taken off-line or placed on-line; and

9. report the time, date, and location of open doors or events specified in §4201.G.2 of this Part by EGD.

C. All date and time generators shall be based on a synchronized central or master clock.

D. A licensee and casino operator shall store, in machine-readable format, all information required by Subsection B of this Section for a period of five years. A licensee and casino operator shall store all information in a secure area and certify that this information is complete and unaltered. This information shall be available upon request by a division agent in the format and media approved by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 44:

**Chapter 42. Electronic Gaming Devices  
§4205. Computer Monitoring Requirements of Electronic Gaming Devices**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1674 (July 2012), repealed LR 44:

**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.2717 and LAC 42:III.2723, repealing LAC 42:III.4205, and consolidating and reenacting LAC 42:III.2717.N, LAC 42:III.2723.Q, and LAC 42:III.4205 into Chapter 28 of Part III of Title 42 of the Louisiana Administrative Code as the changes are intended to create uniformity so that all data breach and information systems information can be in a consolidated chapter.

It is accordingly concluded that amending LAC 42:III.2717 and LAC 42:III.2723, repealing LAC 42:III.4205, and consolidating and reenacting LAC 42:III.2717.N, LAC 42:III.2723.Q, and LAC 42:III.4205 into Chapter 28 of Part III of Title 42 of the Louisiana Administrative Code 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.2717 and LAC 42:III.2723, repealing LAC 42:III.4205, and consolidating and reenacting LAC 42:III.2717.N, LAC 42:III.2723.Q, and LAC 42:III.4205 into Chapter 28 of Part III of Title 42 of the Louisiana Administrative Code.

It is accordingly concluded that amending LAC 42:III.2717 and LAC 42:III.2723, repealing LAC 42:III.4205, and consolidating and reenacting LAC 42:III.2717.N, LAC 42:III.2723.Q, and LAC 42:III.4205 into Chapter 28 of Part III of Title 42 of the Louisiana Administrative Code 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 Analysis**

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.2717 and LAC 42:III.2723 are amended, LAC 42:III.4205 is repealed, and LAC 42:III.2717.N, LAC 42:III.2723.Q, and LAC 42:III.4205 are consolidated and reenacted into Chapter 28 of Part III of Title 42 of the Louisiana Administrative Code as the changes 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.2717 and LAC 42:III.2723, repealing LAC 42:III.4205, and consolidating and reenacting LAC 42:III.2717.N, LAC 42:III.2723.Q, and LAC 42:III.4205 into Chapter 28 of Part III of Title 42 of the Louisiana Administrative Code.

It is accordingly concluded that amending LAC 42:III.2717 and LAC 42:III.2723, repealing LAC 42:III.4205, and consolidating and reenacting LAC 42:III.2717.N, LAC 42:III.2723.Q, and LAC 42:III.4205 into Chapter 28 of Part III of Title 42 of the Louisiana Administrative Code 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**

Interested persons may submit written comments to Earl G. Pitre, Jr., Assistant Attorney General, Louisiana Department of Justice, Gaming Division, 1885 North Third Street, Fifth Floor, Baton Rouge, LA 70802. All comments must be submitted no later than September 10, 2018.

Ronnie Jones  
Chairman

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

**RULE TITLE: Casino Computer Systems**

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

The proposed rule change will not result in any costs or savings to state or local governmental units. The proposed rule change eliminates the rules related to Management Information Systems (MIS) for table games and slots machines, eliminates the computer monitoring requirements for electronic gaming devices, and creates a new chapter related to the governance of all casino computer systems. The proposed rule change provides for the security, protection, auditing, and monitoring of all casino computer systems for riverboat licensees and casino operators.

The proposed repeal of LAC 42:III.4205 is due to it being part of the consolidated chapter [Chapter 28].

**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 may result in additional costs for riverboat licensees and casino operators. The proposed rule change requires specific security measures and protocols for all casino computer systems. Each riverboat licensee and casino operator has a computer system, but the capacity of each system to meet the specific security measures and protocols is unknown. To the extent a riverboat licensee or casino operator's computer system is unable to meet the specific requirements listed in the proposed rule change, additional expenditures may be necessary.

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

The proposed rule changes will have no effect on competition or employment.

Ronnie Jones  
Chairman  
1808#039

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of Motor Vehicles**

Administrative Hearing Requests for Suspensions  
and Disqualifications Arising from  
Tests for Suspected Drunken Drivers (LAC 55:III.113)

Under the authority of R.S. 32:667(A), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and

Corrections, Public Safety Services, Office of Motor Vehicles (department), hereby gives notice of its intent to promulgate a Rule regarding Administrative Hearing Requests for Suspensions and Disqualifications Arising from Tests for Suspected Drunken Drivers. This notice repeals and overwrites the existing §113 as the duration of a driver's license is address in R.S. 32:412. This §113 is new and implements the provisions of Act 291 of the 2018 Regular Session of the Louisiana Legislature which provide for an extension of the time for which to request an administrative hearing. This proposed Section is intended to be adopted and effective on November 20, 2018.

#### **Title 55**

### **PUBLIC SAFETY**

## **Part III. Motor Vehicles**

### **Chapter 1. Driver's License**

#### **Subchapter A. General Requirements**

#### **§113. Administrative Hearing Requests for Suspensions and Disqualifications Arising from Tests for Suspected Drunken Drivers**

A. All administrative hearing requests in accordance with R.S.32:667 or R.S. 32:414.2, for suspensions or disqualification, based upon a submission, or refusal to submit, to the chemical test for intoxication, that are submitted to the Department of Public Safety & Corrections, Office of Motor Vehicles, shall be received by the close of business on the thirtieth day after the date of arrest, or shall be post-marked no later than 30 days from the date of arrest to be deemed timely.

B. In the event the arrested person was unable to make a timely request in regards to R.S.32:667 for an administrative hearing during the 30 day period due to incarceration, hospitalization, deployment to the military or due to a Gubernatorial Declaration of Emergency, the person may submit such documentation to the department, post-marked no later than 90 days from the date of arrest, which shall establish the person's inability to timely request the administrative hearing.

C. The written request for a hearing, or for an extension on a hearing request due to one of the above reason, together with the supporting documentation, shall be mailed to: Department of Public Safety and Corrections, Office of Motor Vehicles, Hearing Request, P. O. Box 64886, Baton Rouge, LA 70896-4886; or delivered to the Office of Motor Vehicle Headquarters, 7979 Independence Blvd., Baton Rouge, LA 70806.

D. Requests under this Section which are received by the Department of Public Safety and Corrections, Office of Legal Affairs within the time periods provided in Subsections A or B of this Section shall be deemed to be timely.

E. Requests under this section should not be sent directly to the Division of Administrative Law. Sending requests to the Division of Administrative Law may result in such request being untimely when delivered to the Department of Public Safety and Corrections, Office of Motor Vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:667(A).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 44:

#### **Family Impact Statement**

1. The effect of this Rule on the stability of the family. This Rule should not have any effect on the stability of the family.
2. The effect of this Rule on the authority and rights of parents regarding the education and supervision of their children. This Rule should not have any effect on the authority and rights of parents regarding the education and supervision of their children.
3. The effect of this Rule on the functioning of the family. This Rule should not have any effect on the functioning of the family.
4. The effect of this Rule on family earnings and family budget. This Rule should not have any effect on family earnings and family budget.
5. The effect of this Rule on the behavior and personal responsibility of children. This Rule should not have any effect on the behavior and personal responsibility of children.
6. The effect of this Rule on the ability of the family or local government to perform the function as contained in the proposed Rule. This Rule should not have any effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

#### **Poverty Statement**

1. The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in the R.S. 49:973.
2. The agency has considered economic welfare factors 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 poverty.

#### **Small Business Analysis**

1. The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act.
2. 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 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 to Harrietta J. Bridges, Stephen Quidd, or Jennifer Del Murray, by mail at Post Office Box 66614, Baton Rouge, LA 70896, by fax at (225) 925-4624. Written comments will be accepted through the close of business, September 14, 2018.

#### Public Hearing

A public hearing is tentatively scheduled for September 20, 2018 at 10 a.m. at 7979 Independence Blvd. Suite 301, Baton Rouge, LA 70806. Please call in advance to confirm the time and place of meeting, as the meeting will be cancelled if the requisite number of comments are not received.

Lt. Col. Jason Starnes  
Chief Administrative Officer

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Administrative Hearing Requests for Suspensions and Disqualifications Arising from Tests for Suspected Drunken Drivers

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

The proposed rule will not result in any costs or savings to state or local governmental units. The proposed rule allows the Office of Motor Vehicles (OMV) to grant a sixty (60) day extension, in addition to the existing thirty (30) days already in statute, for anyone requesting an administrative hearing in accordance with R.S.32:667 when the arrested person was unable to make a timely hearing request due to incarceration, hospitalization, deployment to the military, or due to a Gubernatorial Declaration of Emergency. The person must submit the documentation supporting the reason above along with their hearing request. The rule also provides for the manner of the delivery of the request.

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

The proposed rule will have no effect on revenue collections for state or local governmental units.

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

The proposed rule will have no effect on costs to directly affected persons or non-governmental groups. Individuals may realize economic benefits if qualifying for a sixty day extension under certain circumstances.

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

The proposed rule will have no effect on competition or employment.

Lt. Col. Jason Starnes  
Chief Administrative Officer  
1808#054

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Public Safety and Corrections Office of Motor Vehicles

Digitized Driver's License or Special ID Card  
(LAC 55:III.161)

Under the authority of R.S. 32:411(F)(1) and (3)(d) and (f), and R.S. 40:1321(B) and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles (department), hereby gives notice of its intent to amend §161 on digitized driver's licenses to provide for digitized special identification cards, and to provide for other matters. The amendment to §161 implements the provisions of Act 552 of the 2018 Regular Session of the Louisiana Legislature which provides for issuance of a digitized special identification card and to establish a fee to install the application to display a digitized special identification card. This proposed Section is intended to be adopted and effective on November 20, 2018.

#### Title 55

#### PUBLIC SAFETY

#### Part III. Motor Vehicles

#### Chapter 1. Driver's License

#### Subchapter A. General Requirements

#### §161. Digitized Driver's License or Special ID Card

A. As used in this Section, digitized driver's license shall have the meaning assigned to it as in Title 32 of the 1950 *Louisiana Revised Statutes*.

B. As used in this Section, a *digitized special identification card* shall mean a data file available on any mobile device which has connectivity to the internet through an application that allows the mobile device to download the data file from the department or an authorized representative of the department and contains all of the data elements visible on the face and back of the special identification card, displays the current status of the identification card that complies with the standard of REAL ID. For purposes of the Subparagraph, "current status" shall include but is not limited to valid, expired, or cancelled. A digital copy, photograph, or image of a special identification card which is not downloaded through the application on a mobile device shall not be considered a valid digitized special identification card as provided by this Subsection.

C. A licensee may obtain a digitized driver's license or special identification card by purchasing the digitized driver's license or special identification card application from the department or its authorized representative. The fee to initially install the application to display a digitized driver's license or special identification card on a mobile device shall be \$6. The \$6 fee will also be charged if the holder of a driver's license or special identification card desires to continue using the application upon renewal of the credential.

D. The application shall be installed upon initial purchase and upon renewal of a driver's license or special identification card.

E. The number of active applications per driver's license or special identification card is limited to one unless the capability to add additional devices is approved by the commissioner.

F. In the case of lost, stolen, or replaced mobile devices, the holder of a digitized driver's license or special identification card shall re-assign the application to another mobile device and terminate use of the application on the lost, stolen, or replaced mobile device.

G. The licensee utilizing the digitized driver's license or special identification card is responsible for the successful operation of the application. If the person to whom the licensee is presenting the digitized driver's license or special identification card to is unable to read the digitized driver's license or special identification card, it will be as if the licensee did not present a driver's license at all.

H. Acceptance of the digitized driver's license or special identification card by individuals, businesses, and governmental entities is subject to the applicable state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:411(F)(1) and (3)(d) and (f) and R.S. 40:1321(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 43:1419 (July 2017), amended LR 44:

#### **Family Impact Statement**

1. The effect of this Rule on the stability of the family. This Rule should not have any effect on the stability of the family.

2. The effect of this Rule on the authority and rights of parents regarding the education and supervision of their children. This Rule should not have any effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect of this Rule on the functioning of the family. This Rule should not have any effect on the functioning of the family.

4. The effect of this Rule on family earnings and family budget. This Rule should not have any effect on family earnings and family budget.

5. The effect of this Rule on the behavior and personal responsibility of children. This Rule should not have any effect on the behavior and personal responsibility of children.

6. The effect of this Rule on the ability of the family or local government to perform the function as contained in the proposed Rule. This Rule should not have any effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

#### **Poverty Statement**

1. The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in the R.S. 49:973.

2. The agency has considered economic welfare factors 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 poverty.

#### **Small Business Analysis**

1. The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act.

2. 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 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 to Harrietta J. Bridges, Stephen Quidd, or Jennifer Del Murray, by mail at Post Office Box 66614, Baton Rouge, LA 70896, by fax at (225) 925-4624. Written comments will be accepted through the close of business, September 14, 2018.

#### **Public Hearing**

A public hearing is tentatively scheduled for September 20, 2018 at 10 a.m. at 7979 Independence Blvd. Suite 301, Baton Rouge, LA 70806. Please call in advance to confirm the time and place of meeting, as the meeting will be cancelled if the requisite number of comments are not received.

Lt. Col. Jason Starnes  
Chief Administrative Officer

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Digitized Driver's License or Special ID Card**

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

The proposed rule will not result in any costs or savings to state or local governmental units. The proposed rule allows the Office of Motor Vehicles (OMV) to supply a digital special ID card to persons statewide pursuant to Act 552 of the 2018 Regular Legislative Session. The digital special identification card is optional and will consist of an application that persons can download and install on mobile devices. OMV has amended an existing contract with Envoc to include the special identification card on the existing driver's license application with no costs borne by the OMV, as persons downloading the application must pay a \$6 fee to Envoc.

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

The proposed rule will have no effect on revenue collections for state or local governmental units. The fee for the digital special identification card application will be paid directly to Envoc.

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

The proposed rule creates a cost of \$6 for persons who choose to obtain an optional digitized special ID card. Additionally, persons will pay the \$6 fee to re-install the application upon renewal of a special ID card. As digitized identification becomes accepted, individuals will have the convenience of having identification on the same device as other things such as methods of payment and airline boarding passes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no effect on competition and employment.

Lt. Col Jason Starnes  
Chief Administrative Officer  
1808#053

Evan Brasseaux  
Staff Director  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of Motor Vehicles**

**Military Surplus Motor Vehicles (LAC 55:III.337)**

Under the authority of R.S. 32: 299.5 and 47:471, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles (department), hereby gives notice of its intent to promulgate a Rule regarding military surplus motor vehicles. This §337 is new and implements the provisions of Act 675 of the 2018 Regular Session of the Louisiana Legislature which provide for titling and registration of military surplus motor vehicles. This proposed Section is intended to be adopted and effective on November 20, 2018.

**Title 55**

**PUBLIC SAFETY**

**Part III. Motor Vehicles**

**Chapter 3. License Plates and Removal of Plates, Registrations, and Title Transactions**

**Subchapter A. Types of License Plates and Removal of Plates**

**§337. Military Surplus Motor Vehicles**

A. Eligibility. Applicants for the military surplus motor vehicles specialty plate must be at least 21 years of age and possess a valid driver’s license.

B. Requirements. To obtain a military surplus motor vehicles specialty plate, the applicant shall submit a certification form that the vehicle is capable of being safely operated on the highways of this state. Any military surplus motor vehicle found to be non-compliant to the requirements in R.S. 47:471, or otherwise deemed unsafe to be operated on the highways of this state are subject to the registration being suspended. A military surplus license plate shall be issued to military surplus vehicles. Military surplus vehicles registered to a public entity shall be issued a public plate.

Military surplus plates used in a commercial capacity shall be issued the appropriate plate for the class as defined in R.S. 47:462. An affidavit of physical inspection will be required when there is an invalid character in the vehicle identification number or if the vehicle identification number fails the edit check. Any military surplus motor vehicle operated upon the highway of this state shall have liability insurance with the same minimum limits as required by the provisions of R.S. 32:900(B). A photocopy of the registration certificate of the vehicle on which the plate will be placed if the vehicle is currently registered. If the vehicle is not registered, proper title documentation and fees must be submitted along with the request for the military surplus motor vehicles specialty license plate.

C. Fee. The fee for issuance of a military surplus motor vehicles specialty license plate shall be the standard motor vehicle license tax imposed by article VII, section 5 of the constitution of Louisiana, based upon the make and model of the military surplus vehicle. The plates are subject to regular renewal requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:667(A).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 44:

**Family Impact Statement**

1. The effect of this Rule on the stability of the family. This Rule should not have any effect on the stability of the family.

2. The effect of this Rule on the authority and rights of parents regarding the education and supervision of their children. This Rule should not have any effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect of this Rule on the functioning of the family. This Rule should not have any effect on the functioning of the family.

4. The effect of this Rule on family earnings and family budget. This Rule should not have any effect on family earnings and family budget.

5. The effect of this Rule on the behavior and personal responsibility of children. This Rule should not have any effect on the behavior and personal responsibility of children.

6. The effect of this Rule on the ability of the family or local government to perform the function as contained in the proposed Rule. This Rule should not have any effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

**Poverty Impact Statement**

1. The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in the R.S. 49:973.

2. The agency has considered economic welfare factors 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 poverty.

**Small Business Analysis**

1. The impact of the proposed rule on small businesses has been considered and it is estimated that the

proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act.

2. 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 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 to Harrietta J. Bridges, Stephen Quidd, or Jennifer Del Murray, by mail at Post Office Box 66614, Baton Rouge, LA 70896, by fax at (225) 925-4624. Written comments will be accepted through the close of business, September 14, 2018.

#### **Public Hearing**

A public hearing is tentatively scheduled for September 20, 2018 at 10 a.m. at 7979 Independence Blvd. Suite 301, Baton Rouge, LA 70806. Please call in advance to confirm the time and place of meeting, as the meeting will be cancelled if the requisite number of comments are not received.

Lt. Col. Jason Starnes  
Chief Administrative Officer

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Military Surplus Motor Vehicles**

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

The proposed rule will not result in any costs or savings to state or local governmental units. The proposed rule codifies the process by which an individual may obtain a Military Surplus Motor Vehicles specialty plate. There is no additional fee for the issuance of the Military Surplus Motor Vehicles specialty plate.

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

The proposed rule will have no effect on revenue collections for state or local governmental units. Standard motor vehicle registration fees, title fees, and handling fees will apply to vehicles issued the Military Surplus Motor Vehicles specialty plate.

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

The proposed rule will have no effect on costs or economic benefits to directly affected persons or non-governmental units.

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

The proposed rule will have no effect on competition and employment.

Lt. Col. Jason Starnes  
Chief Administrative Officer  
1808#055

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Revenue Policy Services Division**

Commercial Farmer Definition for Sales and Use Tax  
Exemption for Feed, Seed and Fertilizer  
(LAC 61:I.4301, 4404, and 4408)

Under the authority of R.S. 47:301(10)(2), 47:301(30), 47:305.3, 47:305.8, 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4301, 4404 and 4408.

The purpose of these proposed amendments is to implement Act 378, of the 2017 Regular Session, which set forth the definition of commercial farmer at R.S. 47:301(30) and limited the exemptions found at R.S. 47:301(10)(e), 47:305.3 and 47:305.8 to commercial farmers.

#### **Title 61**

#### **REVENUE AND TAXATION**

#### **Part I. Taxes Collected and Administered by the Secretary of Revenue**

#### **Chapter 43. Sales and Use Tax**

#### **§4301. Uniform Sales and Local Sales Tax Definitions**

A. - B. ...

C. All examples included in the text of these rules and regulations are for illustration only and in no case should they be construed to impose a limitation.

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#### *Commercial Farmer—*

a. Commercial Farmer is defined by R.S. 47:301(30) to mean persons, partnerships or corporations who:

i. are occupationally engaged in producing food or agricultural commodities for sale or for further use in producing food or such commodities for consumption or sale;

ii. regularly engage in the commercial production for sale of vegetables, fruits, crops, livestock and other food or agricultural products; and

iii. report farm income and expenses on a federal Schedule F or similar federal tax form, including but not limited to, Forms 1065, 1120 and 1120S under a North American Industry Classification System (NAICS) Code beginning with 11.

b. For purposes of this definition, agricultural products shall mean any agronomic, aquacultural, floricultural, horticultural, maricultural, silvicultural, or viticultural crop, livestock or product.

c. For purposes of this definition livestock means any animal, except dogs and cats. This definition includes bees, cattle, buffalo, bison, oxen, and other bovine; horses, mules, donkeys and other equine; sheep; goats; swine; domestic rabbits; fish, turtles, and other animals identified with aquaculture that are located in artificial reservoirs or enclosures that are both on privately owned property and constructed so as to prevent, at all times, the ingress and egress of fish life from public waters; imported exotic deer and antelope, elk, farm-raised white tailed deer, farm-raised raptures, and other farm-raised exotic animals; chickens, turkeys, and other poultry; and animals placed under the jurisdiction of the commissioner of agriculture and forestry and any hybrid, mixture, or mutation of any such animal.

d. A person, partnership or corporation shall not be considered a commercial farmer if their livestock or crops are produced or maintained for reasons other than commercial use, such as recreational or personal consumption.

e. In order to file a Schedule F or similar federal tax form, a farm must be operated for profit. If farming activity is not carried on for profit, as defined in 26 CFR 1.183-2, then expenses must be itemized on a Schedule A.

f. The department will issue certifications to commercial farmers upon application and satisfaction of all legal requirements.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:301 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 27:1703 (October 2001), LR 28:348 (February 2002), LR 28:1488 (June 2002), LR 28:2554, 2556 (December 2002). LR 29:186 (February 2003), LR 30:1306 (June 2004), LR 30:2870 (December 2004), LR 31:697 (March 2005), LR 32:111 (January 2006), LR 32:865 (May 2006), LR 44:

#### **Chapter 44. Sales and Use Tax Exemptions**

##### **§4404. Seeds Used in Planting Crops**

A. The sale at retail of seeds for use by a commercial farmer in the planting of crops of any kind is exempt from state and local sales or use tax. Crops do not include the planting of a garden to produce food for the personal consumption of the planter and his family. Neither is it intended to cover seed used in the planting of growth for landscape purposes unless the commercial farmer is engaged in the business of harvesting those plants and selling them in the commercial market.

B. It is not necessary that the farm operation result in a net profit or that a given acreage of any particular crop be planted. The only requirement is that the planting be made by a commercial farmer.

C. A commercial farmer must present a valid commercial farmer certification certificate and applicable exemption certificate at the time of the purchase. The seller must keep a record of the presentation of such documentation. If the dealer fails to retain evidence of the valid certification and exemption certificate then the dealer will be liable for the sales tax on such purchase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.3, R.S. 47:337.2, R.S. 47:337.9 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:99 (January 2005), LR 44:

##### **§4408. Pesticides Used for Agricultural Purposes**

A. General. R.S. 47:305.8 provides an exemption from state and local sales or use tax for the sale at retail to commercial farmers of pesticides used for agricultural purposes. This exemption includes, but is not limited to, insecticides, herbicides, and fungicides used for agricultural purposes.

##### **B. Definitions**

\* \* \*

C. Dealer Requirements. A commercial farmer must present a valid commercial farmer certification certificate and applicable exemption certificate at the time of the purchase. The seller must keep a record of the presentation of such documentation. If the dealer fails to retain evidence of the presentation of valid certification and exemption certificate then the dealer will be liable for the sales tax on such purchase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.8, R.S. 47:337.2, R.S. 47:337.9 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:401 (April 1995), amended by the Department of Revenue, Policy Services Division, LR 31:95 (January 2005), LR 44:

##### **Family Impact Statement**

This Family Impact Statement is provided as required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature. 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, the implementation of this proposed Rule will have no known or foreseeable effect on:

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

##### **Poverty Impact Statement**

The proposed Rule will have no known impact on poverty as described in R.S. 49:973.

##### **Small Business Analysis**

It is anticipated that these proposed amendments should 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 these proposed amendments to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

##### **Provider Impact Statement**

The proposed regulation will have no known or foreseeable effect on:



1. the staffing levels 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.
3. the overall effect on the ability of the provider to provide the same level of service.

**Public Comments**

Interested persons may submit written data, views, arguments, or comments regarding this proposed rule to Stacey Gréaud, Attorney, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. Written comments will be accepted until 4:30 p.m., September 21, 2018.

**Public Hearing**

A public hearing will be held on September 24, 2018 at 10:30 a.m. in the LaBelle Room, on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Kimberly Lewis Robinson  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Commercial Farmer Definition for Sales  
and Use Tax Exemption for Feed, Seed and Fertilizer**

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

This proposal adopts rules implementing Act 378 of 2017 Regular Session of the Louisiana Legislature, which provides a definition of “commercial farmer” and restricts the sales tax exemptions on certain agricultural inputs to purchases made by commercial farmers. Act 378 defines commercial farmer as persons occupationally engaged in producing food or agricultural commodities for sale. It limits the term to those regularly engaged in commercial production who report farm income and expenses on a federal Schedule F or similar tax form such as Form 1065, 1120 or 1120S with a North American Industry Classification System (NAICS) code beginning with 11. Act 378 provides that the sales tax exemptions for feed, seed, fertilizer, pesticides, insecticides, herbicides, fungicides, diesel fuel, butane, propane and other liquefied petroleum gases are limited to purchases made by a commercial farmer.

LDR will require farmers to apply for certification and will initiate a farmer certification process similar to the one currently administered for the manufacturing machinery and equipment exemption. The applicant will need to provide a copy of the federal form, such as a Schedule F, where they claim farm income and expenses, or in the case of beginning farmers, an attestation that they are a beginning farmer and will claim farm income and expenses on the current year’s tax return. Approved applications will receive a certification from LDR. Act 378 became effective on January 1, 2018. However, LDR will honor existing farmer exemption certificates until July 1, 2019.

LDR will develop forms for application and certification and will require minor software modifications to document the exemption in current tax software. There is no anticipated direct material effect on governmental expenditures as a result of this measure. Costs for implementation of this proposal will be absorbed within the current LDR budget allocation.

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

This rule limits the availability of sales tax exemptions for certain agricultural inputs to commercial farmers only.

Collections may increase to the extent that such purchases were being made by entities who do not meet the definition of commercial farmers or who do not chose to comply with the application process. The revenue impact should be an increase for both the general fund and local funds. LDR has no readily-available data on the amount of purchases under these conditions, so an estimate of the revenue impact is not feasible. However, it seems likely that transactions falling outside of this definition of commercial farmer are relatively small, and that the revenue increase will be small as well.

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

Commercial farmers will be required to complete an application process and provide a copy of the federal form used to report farm income and expenses. Taxpayers are already required to provide similar data when applying for the manufacturing machinery and equipment exemption which applies to items such as tractors and attachments. Taxpayers are not currently required to apply for the exemptions for feed, seed, fertilizer, pesticides, insecticides, herbicides, fungicides, diesel fuel, butane, propane and other liquefied petroleum gases. Persons who do not qualify for commercial farmer certification, or who do not apply for a commercial farmer certification will be required to pay sales tax on their purchases.

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

This proposed rule should not affect competition or employment.

Kimberly L. Robinson  
Secretary  
1808#025

Greg Albrecht  
Chief Economist  
Legislative Fiscal Office

**NOTICE OF INTENT  
Department of Revenue  
Policy Services Division**

**Louisiana Rehabilitation of Historic Structures Tax Credit  
(LAC: 61:I.1917)**

Under the authority of R.S. 47:6019 and 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.1917 relative to the Historic Rehabilitation Tax Credit.

Revised Statute 47:6019 authorizes a credit for the eligible costs and expenses incurred during the rehabilitation of a historic structure located in a downtown development district or a cultural district. The purpose of this regulation is to further define relative to eligible costs and expenses and to provide for an application procedure as it pertains to the historic rehabilitation credit. In addition, the proposed regulation provides relative to transfer fees, as authorized by R.S. 47:6019.

**Title 61  
REVENUE AND TAXATION**

**Part I. Taxes Collected and Administered by the  
Secretary of Revenue**

**Chapter 19. Miscellaneous Tax Exemptions, Credits  
and Deductions**

**§1917. Louisiana Rehabilitation of Historic Structures  
Tax Credit**

**A. General Description**

1. Revised Statute 47:6019 authorizes an income and corporation franchise tax credit for eligible costs and expenses incurred during the rehabilitation of a historic structure located in a downtown development district or a cultural district. Eligible structures must be nonresidential real property or residential rental property.

2. The tax credit for QRE's is earned only in the year in which the property attributable to the expenditures is placed in service. However, regardless of the year in which the property is placed in service, the amount of the credit shall equal 25 percent of the eligible costs and expenses of the rehabilitation incurred prior to January 1, 2018, and twenty percent of the eligible costs and expenses of the rehabilitation incurred on or after January 1, 2018.

3. No taxpayer, or any entity affiliated with such taxpayer, shall claim more than \$5,000,000 of credit annually for any number of structures rehabilitated within a downtown development district or cultural district.

4. The credit shall be allowed against the income tax for the taxable period in which the credit is earned and against the franchise tax for the taxable period following the period in which the credit is earned. If the tax credit allowed pursuant to R.S. 47:6019 exceeds the amount of such taxes due, any unused credit may be carried forward as a credit against subsequent tax liability for a period not to exceed five years. The credit may be used in addition to the twenty percent federal tax credit for such purposes.

5. The tax credit shall not be allowed for the rehabilitation costs and expenses that are paid for with state or federal funds, unless the state or federal funds are reported as taxable income or are structured as repayable loans.

#### B. Definitions

*Assistant Secretary*—the Assistant Secretary of the Office of Legal Affairs, Louisiana Department of Revenue, or, in the absence of such official, another designee as authorized by the secretary.

*CPA*—certified public accountant.

*Cultural District*—a district designated by a local governing authority in accordance with law for the purpose of revitalizing a community by creating a hub of cultural activity, including affordable artist housing and workspace, which has been determined by the Department of Culture, Recreation and Tourism to meet the criteria established to be so designated.

*Department*—the Louisiana Department of Revenue.

*Downtown Development District*—a downtown development district or central business development district created by law, or by ordinance adopted prior to January 1, 2002, in a home rule charter municipality.

*Eligible Costs and Expenses*—qualified rehabilitation expenditures as defined in section 47(c)(2)(A) of the Internal Revenue Code of 1986, as amended, except that “substantially rehabilitated shall mean that the qualified rehabilitation expenditures must exceed \$10,000.

*Phased Projects*—a project which is completed in multiple phases.

*QRE's*—qualified rehabilitation expenses.

*SHPO*—State Historic Preservation Office.

*SOI-Compliant*—work performed in accordance with the Secretary of the Interior's Standards for Rehabilitation.

*Transfer*—for purposes of the fee requirement, an assignment, disposition, transfer or allocation of tax credits.

#### C. Application Procedure

##### 1. Initial Determination of Eligibility by the SHPO

a. The SHPO determines whether the structure, before and after the work is performed, qualifies as contributing to the historical significance of the district. Specifically, the SHPO determines whether work was performed on an eligible structure and whether such work performed was SOI-compliant. A project is determined to be a certified rehabilitation if the building itself meets eligibility requirements and the work is SOI-compliant.

b. The SHPO makes a determination as to whether a project is determined to be a certified rehabilitation through a three-part application process administered by an architectural historian.

i. In Part 1, the SHPO certifies whether the structure is eligible for the Program.

ii. In Part 2, the SHPO certifies whether the work, as proposed by the applicant, is SOI-compliant.

iii. In Part 3, the SHPO confirms that the actual work performed by the applicant was indeed SOI-compliant.

c. If the project is determined by SHPO to be a certified rehabilitation, the SHPO shall provide to the applicant, with copies to the department, an approved “part 3-request for certification of completed work”, and an executed section 1 of Form R-6121B.

##### 2. Approval of the Credit by the Department of Revenue

a. An applicant shall submit the following to the department:

i. a certified audit report or examined cost certification prepared by an independent auditor, which report and auditor meet the following minimum qualifications as set forth by the department:

(a) the auditor must be a CPA licensed in the State of Louisiana or in compliance with the CPA Mobility Act and must be an independent third party not related to the applicant;

(b) the CPA must be listed on the legislative auditor approved listing, or, if not licensed in Louisiana, in compliance with the CPA Mobility Act;

(c) the auditor's opinion must be addressed to the party which has engaged the auditor, but may expressly permit others to rely on the same;

(d) the name of the auditor's firm, address, and telephone number must be evident on the report;

(e) the auditor's opinion must be dated no earlier than the completion of the audit fieldwork;

(f) the certified audit report or examined cost certification must be performed in accordance with auditing standards set forth by the American Institute of Certified Public Accountants, the auditor must have sufficient knowledge of accounting principles and the SOI standards for rehabilitation. The auditor's opinion should be accompanied by the cost report of QRE's, the notes to the cost report, and a completed CPA certification form;

(g) the period during which qualified rehabilitation costs were incurred must be noted;

(h) the certified audit report or examined cost certification must provide a breakdown of all related party

transactions, as defined by the Statement of Financial Accounting Standards No. 57 and include the following:

(i). the name and address of the related party;

(ii). the nature of the relationship between the related party and the applicant;

(iii). the nature and amount of the transaction;

(iv). the federal and state tax identification numbers of the related party for total payments equal to \$10,000 or greater, and payment schedule if there are remaining outstanding balances;

(v). if there are no related party transactions, the cost report must include a note indicating such;

(i). a reasonableness/fairness opinion shall be submitted, if applicable, comparing the amounts charged on related party transactions to what an independent party would have charged for similar work and/or services;

(j). for any total payments \$100,000 or greater, the report or certification must include the following:

(i). name and address of the payee;

(ii). federal and state tax numbers of the payee;

(iii). any state/and/or local license numbers of the payee (i.e. contractor's license); and

(iv). total amount paid (Form R-6122).

b. For those applicants whose total project cost is \$500,000 or less, the following information may be submitted in lieu of the requirements contained in Subparagraph C.2.a of this Section. Projects submitted in multiple phases, "phased projects", where the estimated total costs of all phases of a project is greater than \$500,000 must submit the information required in Subparagraph C.2.a of this Section, regardless of whether the specific cost for any particular phase being submitted for review is \$500,000 or less. For qualifying projects, an applicant must submit the following information:

i. an itemized listing of all QRE's as well as all non-QRE's, detailing all costs and eligible expenses as defined in Section 47(c)(2)(A) of the Internal Revenue Code of 1986, as amended. The itemized listing must conform to the requirements of Subclause C.2.a.i.(f) of this Section, as provided, and contain an arms-length comparison for each expenditure submitted as well as the period during which the rehabilitation costs were incurred. Column headings for the list must include: category of work, method of payment, date paid, name of payee/contractor, description of expenditure, total amount of expenditure and amount of QRE's. The department may require documentation to verify whether the expenses claimed were actually incurred during the rehabilitation;

ii. an invoice for each QRE totaling \$2,500 or more. Where the aggregate payments to a single payee are equal to or greater than \$100,000, the federal and state tax numbers as well as any state and/or local license numbers (i.e. contractor's license) must be submitted;

iii. a notarized statement attesting that the expenditures submitted were incurred in connection with the rehabilitation of a "certified historic structure" that is properly chargeable to a capital account. Such expenditures include: architectural and engineering fees; construction

interest and taxes; developer's fees; general administrative fees; legal and professional fees; and rehabilitation costs. Common expenditures which do not qualify as QRE's include, but are not limited to: acquisition costs; appliances; appraisal costs; cabinets; carpeting (when tacked and not glued to floor); demolition costs; financing fees; furniture; leasing expenses; marketing costs; moving costs; parking lot; paving and landscape costs; and signage.

c. The department shall review the certified audit report, examined cost certification, or itemized listing of all QRE's and non-QRE's. The department may request additional documentation from the applicant as it determines necessary. Further, the department may rely on the SHPO for any technical assistance, as determined necessary during the review process. This assistance includes, but is not limited to, interpretations of the Secretary of the Interior standards for rehabilitation. For projects with a placed in service date occurring on or after January 1, 2018 that have expenditures incurred both before and after January 1, 2018, the audit report, examined cost certification or itemized listing submitted for review shall segregate such expenditures by date so as to allow the proper credit rate to be determined. Failure to so segregate such expenditures will result in credit being applied at a blanket rate of 20 percent.

d. After all supporting documentation is received and approved, the department shall complete and provide to the applicant Section 2 of Form R-6121-B, thereby confirming the certified amount of the tax credit earned by the applicant. With the exception of phased projects, the final year of the placed in service date shall be the first year the credit may be utilized. Issuance of the tax credit certificate shall be delayed by any outstanding tax balances of the applicant until all such tax balances are resolved.

#### D. Internal Appeal Process

1. Applicants may appeal the denial of the certification of expenditures to the assistant secretary.

a. Written notice of the intent to appeal must be received by the department within ten business days from the date of the denial letter.

b. The full appeal must be received by the department no later than 30 calendar days from the date of the denial letter. Appeals must be in writing and must detail specific reasons the denial should be partially or completely reconsidered or overturned.

i. Upon a showing of reasonable cause, the assistant secretary may extend the deadline for submission of the full appeal.

c. The assistant secretary, at his discretion, may hold a hearing in connection with the appeal.

2. Upon review of the appeal and consideration of the hearing, if applicable, the assistant secretary shall take one of the following actions:

a. sustain, in full or in part, the denial;

b. overturn, in full or in part, the denial.

3. The assistant secretary's final written decision to any appeal must be issued no later than 90 days after receiving the full appeal.

#### E. Claiming or Transferring the Tax Credit

1. All tax credits issued pursuant to R.S. 47:6019 must be registered and conform to all requirements of the Tax Credit Registry, as provided in R.S. 47:1524, in order to be claimed on a return or transferred.

2. Persons who are awarded tax credits may elect to sell their unused tax credits to one or more individuals or entities. The tax credits may be transferred or sold by a taxpayer or any subsequent transferee an unlimited number of times. However, the transfer of the credit does not extend the carry forward period of the credit.

3. Transferors and transferees shall submit to the department in writing a notification of any transfer or sale of tax credits within ten business days after the transfer or sale of such credits. The notification shall be accompanied by a tax credit transfer processing fee of \$200. The notification shall include the transferor's tax credit balance prior to transfer, the credit identification number assigned by the state historic preservation office, the remaining balance after transfer, all federal and Louisiana tax identification numbers for both transferor and transferee, the date of transfer, the amount transferred, and any other information requested by the department. Failure to comply with this notification provision will result in the disallowance of the tax credit until the parties are in full compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and R.S. 47:6019.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 44:

#### **Family Impact Statement**

The proposed adoption of LAC 61:I.1917, regarding Louisiana Rehabilitation of Historic Structures tax credits, 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, the implementation of this proposed rule will have no known or foreseeable effect on:

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

#### **Poverty Statement**

This proposed regulation will have no impact on poverty as described in R.S. 49:973.

#### **Small Business Analysis**

It is anticipated that this proposed amendment should 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 this proposed amendment to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

#### **Provider Impact Statement**

The proposed amendment will have no known or foreseeable effect on:

1. The staffing levels 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.
3. The overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Any interested person may submit written data, views, arguments or comments regarding these proposed amendments to Bradley Blanchard, Attorney, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be received no later than 4:00 p.m., Friday, September 21, 2018.

#### **Public Hearing**

A public hearing will be held on Monday, September 24, 2018, at 9:30 a.m. in the LaBelle Room, on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Kimberly Lewis Robinson  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Louisiana Rehabilitation of Historic Structures Tax Credit**

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

The proposed rule provides for an application procedure and to further define eligible costs and expenses pertaining to the Rehabilitation of Historic Structures credit. The rule also establishes the credit transfer fee and provides for an internal appeal process for expenses that are determined to be ineligible for the credit.

There is no anticipated direct material effect on governmental expenditures as a result of the proposed rule. The department has implemented application procedures, and no additional resources are needed to collect the transfer fee or to provide an internal appeal process.

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

The proposed rule provides for a fee of \$200 to be collected by Department of Revenue (LDR) whenever the Rehabilitation of Historic Structures credit is transferred. This fee will be used to pay for the administrative and other costs necessary to record the transfer of the credit in the Tax Credit Registry. LDR estimates approximately 2,100 transfers will occur per year based on transfers completed in FYE 2017. With a fee at \$200 per transfer, LDR could see a projected increase of \$210,000 for FYE 2019 and \$420,000 per year thereafter in self-generated revenues. Fees will not begin to be collected until this rule is promulgated, which is anticipated to occur approximately halfway through FYE 2019.

This proposal should have no impact on the revenue collections of local governmental units.

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

Taxpayers purchasing or selling credits will be affected due to the proposed transfer fee. Also, brokers in the business of facilitating the sale of tax credits will be affected by this proposal since additional fees may be associated with transfer transactions. These impacts are directly related to the fees collected in Section II.

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

The proposed rule has no effect on competition or employment.

Kimberly Lewis Robinson  
Secretary  
1808#040

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Louisiana Workforce Commission Office of Unemployment Insurance Administration

#### Background Check for Access to Federal Tax Information (LAC 40:IV.379)

Pursuant to the authority granted by R.S. 15:587.5, 23:1657.1, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Workforce Commission proposes to promulgate LAC 40:IV.379. The purpose of the promulgation of this Rule is to allow the Workforce Commission to delineate procedures for the background checks mandated by Act 147 of the 2017 Regular Session.

#### Title 40

#### LABOR AND EMPLOYMENT

#### Part IV. Employment Security

#### Subpart 1. Board of Review

#### Chapter 3. Employment Security Law

#### §379. Criminal History Background Check for Access to Federal Tax Information

##### A. Definitions

*Criminal History Background Checks*—a review of an individual's criminal history on the national level through the use of fingerprints sent to the Federal Bureau of Investigation (FBI), the state level, through the use of fingerprints sent to the Louisiana Bureau of Criminal Identification and Information and the local level, through various local law enforcement agencies.

*Federal Tax Information (FTI)*—consists of federal tax returns and return information (and information derived from it) that is in the Louisiana Workforce Commission's possession or control which is covered by the confidentiality protections of the Internal Revenue Code and subject to its safeguarding requirements, including IRS oversight.

##### B. Applicability

1. All prospective Louisiana Workforce Commission employees who will be expected to handle FTI and have signed a conditional job offer, all prospective Louisiana Workforce Commission contractors and subcontractors expected to handle FTI, and all current employees, contractors and subcontractors that handle FTI will submit fingerprints and other identifying information and undergo the following criminal history background checks:

- a. state criminal history record check;
- b. national criminal history record check from the F.B.I.;

c. check of all local law enforcement agencies where the subject has lived, worked and/or attended school in the last five years.

##### C. General Provisions for Criminal History Background Checks

1. Every current employee, prospective employee, contractor or subcontractor employee identified as having or who will have access to FTI, shall sign a written authorization to have fingerprinting and criminal history background checks performed.

2. Criminal history background checks will be completed, at minimum, every 10 years.

3. Criminal history background checks will only be done on prospective employees after a conditional offer of employment is signed by prospective employee.

4. Criminal history background checks on prospective employees of contractors and subcontractors must be done prior to beginning work on the contract.

##### D. Suitability Determination

1. Unless otherwise excluded from employment under federal or state laws, all criminal conduct revealed by the criminal history background checks will be considered based upon the following criteria:

- a. relevance of criminal record or conduct to the position sought or held;
- b. the nature of the work to be performed;
- c. the time that has elapsed since the conviction or conduct;
- d. the seriousness and specific circumstances of the offense/conduct, including the type of harm caused, and/or the legal elements involved in the specific crime committed;
- e. the number of offenses;
- f. whether the candidate has pending charges;
- g. whether the individual is likely to have committed the offense/conduct;
- h. the nature and gravity of the offense/conduct;
- i. any evidence of rehabilitation or contrition; and
- j. any other relevant information, including that submitted by or on behalf of the final candidate, current employee, contractor or subcontractor, or other information obtained by LWC.

2. If no criminal conduct is revealed by the criminal history background checks, the prospective employee or current employee will be deemed suitable to handle FTI based on the criminal background checks only if the prospective or current employee also is a citizen or legally authorized to work in the U.S. and no other issues involving the trustworthiness of the prospective or current employee arise. Contractors and subcontractors will be determined suitable relevant to the background checks if no criminal conduct is found and all other requirements under IRS Publication 1075 are met.

3. If criminal conduct is discovered by the criminal history background checks, the Louisiana Workforce Commission will consider the criteria and make a suitability determination. If an unfavorable determination is made, the prospective employee, current employee, contractor's employee or subcontractor's employee will be notified in writing and will be given 30 days from the date of mailing, as evidenced by the date indicated on the letter, to present documentation to refute the suitability determination. If no documentation is submitted within 30 days, then the suitability determination will be final. If documentation is presented within 30 days, the Louisiana Workforce Commission will review the documentation and either affirm or reverse its original suitability determination. The Louisiana Workforce Commission's reconsidered determination shall be final. Even if a contractor's employee or subcontractor's employee receives a favorable suitability determination or redetermination, if all other requirements provided for by IRS Publication 1075 are not met, the contractor employee's or subcontractor employee's access to FTI will be denied or terminated.

E. Consequences of Unsuitability Determinations

- 1. access or use of FTI will be immediately denied, suspended, or terminated;
- 2. job offer will be rescinded for prospective employees if unsuitability determination is final;
- 3. contract may be terminated;
- 4. contractor’s employee or subcontractor’s employee will be removed or prohibited from performing work;
- 5. a current employee that receives a determination of unsuitability will have access suspended, and a current employee that receives a final determination of unsuitability will have access to FTI terminated;
- 6. current employees with access to FTI that receive a final determination of unsuitability may be reassigned or face disciplinary action depending upon the specific circumstances.

F. Nothing in this Rule shall prohibit the Louisiana Workforce Commission from taking adverse action against a prospective employee, or current employee with access to FTI based upon factors other than the outcome of the criminal background checks including, but not limited to, falsifying information on the application, unusual delay in completing or delivering required forms, or any action indicating the individual is unfit for a position of trust. All actions against a classified civil service employee will be taken in accordance with civil service rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.5 and R.S. 23:1657.1.

HISTORICAL NOTE: Promulgated by the Workforce Commission, Office of Unemployment Insurance Administration, LR 44:

**Family Impact Statement**

Implementation of the proposed Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on the six criteria set forth in R.S. 49:972(B).

**Poverty Impact Statement**

The proposed Rule will have no known impact on poverty as described in R.S. 49:973.

**Small Business Analysis**

The proposed Rule’s impact on small businesses has been considered in accordance with R.S. 49:965.6, and it is estimated that the proposed action will have negligible impact on small businesses as defined in the Regulatory Flexibility Act.

**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, it is anticipated that this proposed Rule will have no known or foreseeable effect 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**

All interested parties are invited to submit views, arguments, information, or comments on the proposed Rule to Renita Williams, Office of Unemployment Insurance

Administration, Workforce Commission, P.O. Box 94094, Baton Rouge, LA 70804-9094. The deadline for receipt of all written comments is 4 p.m. on September 25, 2018. No preamble was prepared.

**Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, September 27, 2018, at 10 a.m. at the LWC Training Center, 2155 Fuqua Street, Baton Rouge, LA 70802.

Ava M. Dejoie  
Secretary

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

**RULE TITLE: Background Check for Access to Federal Tax Information**

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

The proposed rule adds criminal background checks for Louisiana Workforce Commission (LWC) employees, contractors, and subcontractors that have access to federal tax information. This rule is being proposed to comply with Act 147 of the 2017 RLS, which requires background checks every ten years of LWC employees, contractors, and subcontractors who have access to federal tax information.

The proposed rule change is estimated to increase expenditures for the LWC by approximately \$1,008 in FY 19 and an indeterminable, though likely marginal, amount in subsequent years as new LWC employees, contractors, and subcontractors are granted access to federal tax information. The estimated cost for LWC to obtain a local, state, and federal criminal background check is \$63 per person. LWC anticipates requesting background checks on 16 individuals in FY 19. Therefore, the total implementation cost is estimated to be \$1,008 (16 individuals x \$63 per background check).

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

The proposed rule will increase revenue in the statutorily dedicated Criminal Identification and Information Fund by an estimated \$608 for 16 state and national background checks in FY19, and an indeterminable, though likely marginal, amount in subsequent years as new LWC employees, contractors, and subcontractors are granted access to federal tax information. The Office of State Police will administer the state and federal background checks that include fingerprinting at an anticipated charge of \$48 each, of which \$38 will be deposited into the Criminal Identification and Information Fund (16 individuals x \$38 = \$608) and \$10 will be remitted to the federal government.

The proposed rule will also increase revenue for local government by an estimated \$240 for 16 local background checks in FY19, and an indeterminable, though likely marginal, amount in subsequent years as new LWC employees, contractors, and subcontractors are granted access to federal tax information. Local jurisdictions will administer local background checks at an anticipated charge of \$15 each

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

There may be an economic cost to LWC employees that have adverse findings on their criminal record, as this may deem the employee unsuitable to handle federal tax information, which will impact their ability work for LWC.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

The degree to which the rule will affect competition and employment is indeterminable. Prospective employees, contractors, and subcontractors will be notified of this requirement during the application process. People who do not believe they can meet this requirement will likely remove

themselves from the pool of candidates without LWC's knowledge.

Ava Dejoie  
Secretary  
1808

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

# Potpourri

## POTPOURRI

### Department of Economic Development Office of Entertainment Industry Development

#### Motion Picture Production Tax Credit Program—Qualified Entertainment Company Payroll Tax Credit Program (LAC 61:I.1623-1628)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development published a Notice of Intent in the November 20, 2017 edition of the *Louisiana Register* (LR 42:2207-2210) to amend the Rules for the Motion Picture Production Tax Credit Program (LA R.S. 47: 6007). This Notice of Intent proposed to provide guidance for the newly created qualified entertainment company payroll tax credit provided by Act 309 of the 2017 Regular Session of the Louisiana Legislature.

The department conducted a public hearing on this Notice of Intent on January 3, 2018 to solicit comments and testimony of the proposed Rule. Upon further consideration, the department subsequently determined that revisions were necessary, which resulted in the following non-technical, substantive changes: 1) the addition of a definition for approved rehire employees, 2) a revision to the baseline jobs definition and 3) procedural changes relating to administration of the program.

Taken together, these proposed revisions will better align the proposed Rule with the department's original intent and the concerns brought forth by public comment. No fiscal or economic impact will result from the amendments proposed in this notice.

#### Title 61

#### REVENUE AND TAXATION

#### Part I. Taxes Collected and Administered by the Secretary of Revenue

#### Chapter 16. Louisiana Entertainment Industry Tax Credit Programs

#### Subchapter E. Motion Picture Production Tax Credit Program—Qualified Entertainment Company Payroll Tax Credit Program

#### §1623 General

A. Purpose. The purpose of this sub-chapter is to implement the Qualified Entertainment Company Payroll Tax Credit Program as established by Act 309 of the 2017 Regular Session of the legislature, contained within the Motion Picture Production Tax Credit Program, pursuant to the provisions of R.S. 47:6007.

B. Program Description. The Qualified Entertainment Company Payroll Tax Credit Program provides payroll tax credits as an inducement for qualified entertainment companies ("QEC"s) to permanently locate new or expand existing operations in Louisiana.

C. No other LED incentives for QEC payroll expenditures. A QEC shall not receive any other incentive administered by LED that is based directly upon any QEC

Payroll, for which the QEC is obligated or has received benefits under the QEC Contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development LR 44:

#### §1624 Definitions

A. Terms not otherwise defined in this sub-chapter shall have the same meaning given to them in R.S. 47:6007, unless the context clearly requires otherwise.

B. In this sub-chapter, the following terms shall have the meanings provided herein, unless the context clearly indicates otherwise.

#### *Affiliate*—

a. any business entity that is:

i. controlled by the QEC;

ii. a controlling owner of the QEC; or

iii. controlled by an entity described in Subparagraph a or b;

b. control, for purposes of this definition, means owning either directly or indirectly through control of or by another business entity:

i. a majority of the voting stock or other voting interest of such business entity or the QEC; or

ii. stock or other interest whose value is a majority of the total value of such business entity or the QEC;

c. a controlled or controlling business entity will be deemed a non-affiliate (not an affiliate) if the department determines that neither the QEC nor any of its controlling owners exercise authority over the management, business policies and operations of the business entity.

*Approved Rehire Employees*—a former employee who was previously on the payroll of the QEC, or QEC parent entity, subsidiary, or affiliate in Louisiana, but has been off such payroll for a period of at least four months, may be considered a new job if rehired into a position that is not part of the baseline jobs. When determining New Job qualification, at the discretion of LED, LED shall consider all relevant factors including but not limited to; ES4's, W2's and QEC re-hiring practices, and the intent of the QEC payroll tax credit program to permanently locate new or expand existing operations in Louisiana.

*Baseline Jobs*—the number of employees of a QEC, including affiliates, working an average of 30 hours per week, during the payroll period including the twelfth of the month, in the month completed prior to the contract effective date, as verified on the applicable ES-4 form or equivalent filing form. Baseline jobs must be maintained in any year for which the QEC requests tax credits.

*Baseline Job Payroll*—W-2, Box 1 wages for baseline jobs.

*Contract Effective Date*—the date the application and application fee are received by LED, or a later contract effective date as agreed to between the parties. The contract effective date cannot be earlier than the date the application and application fee are received by LED.



*Department*—Louisiana Department of Economic Development, also known as “LED”

*LDR*—Louisiana Department of Revenue

*Minimum Payroll Threshold*—a minimum QEC Payroll of \$45,000 per New Job, or for a partial year employee, shall mean \$3,750 per month for each month from the date of initial employment.

*New Jobs*—

a. full-time employment in Louisiana, working an average of 30 hours or more per week;

b. filled by Louisiana residents;

c. at the project site; and

d. with the exception of Approved Rehire Employees, who were not previously on the QEC’s Louisiana payroll, nor previously on the payroll of the QEC’s parent entity, subsidiary, or affiliate in Louisiana, or previously on the payroll of any business whose physical location and employees are substantially the same as those of the QEC in Louisiana, as confirmed by an independent CPA in an annual expenditure verification report submitted to LED for review, and approved by the secretary. New Jobs shall not mean:

i. baseline jobs existing one month prior to contract effective date; or

ii. jobs located at facilities other than the approved Project Site.

*Office*—Office of Entertainment Industry Development, also known as “OEID”

*Program Issuance Cap*—for applications submitted on or after July 1, 2017, the office may issue no more than \$150,000,000 in tax credits (“total cap”) in any fiscal year, with \$7,500,000 reserved for qualified entertainment companies (“QEC cap”), \$7,500,000 reserved for Louisiana screenplay productions (“LA screenplay cap”), \$15,000,000 reserved for independent film productions (“independent film cap”), with the remaining \$120,000,000 available for general allocation to any state certified production (“general cap”).

*Project Site*—the facility name and street address, as stated in the QEC contract.

*QEC Payroll*—W-2, Box 1 wages. For a partial year employee, the minimum payroll threshold may be met if the payroll for the partial year employee meets or exceeds \$3,750.00 per month for each month from the date of initial employment.

*QEC Payroll Tax Credits*—a tax credit for expenditures related to QEC payroll, authorized by the Motion Picture Production Tax Credit Program, R.S. 47:6007.

*Resident*—a natural person who is required to file a Louisiana resident individual income tax return, as verified by independent CPA’s on the annual verification report.

*Secretary*—Secretary of the Department of Economic Development

*Total Jobs*—the number of baseline jobs plus new jobs.

*Total Payroll*—the amount of baseline jobs payroll plus new jobs payroll.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development LR 44:

## **§1625 QEC Application and Application Fee**

### **A. Application**

1. A QEC application form shall be submitted to the office, via registered mail or if available, submitted electronically, to include;

a. a detailed company description, explaining how the business is directly or indirectly engaged in the development of audio, visual, or both audio-visual entertainment products for public consumption;

b. number of current and proposed new employees, with payroll estimates and average hours worked per week;

c. disclosure of affiliates;

d. most recent ES-4 tax form;

e. any other additional information as requested by the office or the secretary.

### **B. Application Fee**

1. A non-refundable application fee of 0.5 percent of the estimated total tax credits, with a minimum fee of \$500, and a maximum fee of \$15,000, shall be submitted with the QEC application, payable to the office, as required by R.S. 36:104.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development LR 44:

## **§1626 QEC Application Review and Qualification Determination**

### **A. Application Review**

1. When determining which applicants may qualify, the office and the secretary shall consider a number of discretionary factors, including but not limited to:

a. entertainment business type:

i. eligible business types- may include but not be limited to:

(a). visual effect companies;

(b). entertainment business back-office support

ii. ineligible business types- may include but not be limited to:

(a). telecommunication;

b. number and payroll of current and proposed new jobs;

c. location of facility that will be the project site;

d. number and location of similar entertainment business facilities in Louisiana;

e. business history, i.e. start-up company or track record of established business;

f. the impact of the business on the overall economy of the state;

g. conviction for a criminal offense related to obtaining or attempting to obtain tax credits;

h. availability of tax credits in any given year.

### **B. Qualification Determination**

1. Upon a determination of qualification, LED will contact applicant to discuss contract terms and to request an expenditure verification report fee advance deposit of \$7,500.

2. Upon a determination of non-qualification, the office and the secretary shall issue a denial letter to the applicant indicating the reason for denial, and the Office shall provide written notice to the Senate Committee on

Revenue and Fiscal Affairs and the House Committee on Ways and Means. The denial letter shall be the final agency decision of LED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development LR 44:

#### **§1627 QEC Contract**

A. Upon a determination of qualification, and receipt of the \$7,500 expenditure verification report fee advance deposit, the office and the secretary may enter into a QEC contract with an applicant, which shall include but not be limited to:

1. job and payroll estimates, per calendar year;
2. tax credit reservation schedule, per fiscal year;
3. expenditure verification report fees;
4. procedure for requesting final certification of tax credits;

5. requirements for eligibility to receive final certification of tax credits, including but not limited to retention of baseline jobs, establishment of new jobs and attainment of minimum payroll threshold;

6. term for a period of up to five years, as may be offered by the office and the secretary;

7. designation of a single project site in Louisiana—the QEC payroll tax credits the applicant shall receive will be based upon the operations at the project site;

B. A fee of \$250 shall be filed with a request for any contract amendment, including but not limited to, a revision to the tax credit reservation schedule, a change in ownership, a change in name or a change in location.

C. An applicant may have multiple QEC contracts covering multiple locations. The eligibility of each location shall be determined separately;

D. For each QEC contract, LED shall certify that the applicant has a net overall increase in employment statewide for each new job;

E. A QEC contract may, with the written approval of the office and the secretary, be transferred to a business entity purchasing or continuing the operation of a project site. Upon such transfer, the employment baseline shall be that of the transferee or purchaser during the 45 day period prior to the transfer or purchase;

F. The QEC contract may be renewed at the discretion of the office and the secretary, for an additional five years, if the applicant has complied with the terms of the QEC contract and has not performed any act, nor failed to perform any act, which would have made the applicant liable for suspension, and has otherwise complied with the provisions of R.S. 47:6007. The same approval process as used for the original application and QEC contract will be followed for renewal QEC contracts, including additional application and expenditure verification report advance deposit fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development LR 44:

#### **§1628 QEC Final Certification Procedures**

A. By March 1 of every year, QEC's may request final certification of credits by filing its employee W-2's with the office and its assigned CPA, and any other additional information as requested by LED to verify conformance with statutory requirements.

B. An expenditure verification report shall then be completed by an independent certified public accountant, licensed in the state of Louisiana and assigned by LED. Failure to submit W2's by March 1 may result in credit issuance being delayed into the next available fiscal year.

C. After receipt and review of the expenditure verification report, and any other supporting documentation, the office and the secretary shall issue a final tax credit certification letter to the QEC indicating the type, credit rate and amount of credits granted, in accordance with the provisional allocations and amounts set forth in the tax credit reservation schedule, or a written denial.

1. In the event that less than the reserved amount of tax credits has been verified, any unused credits will be released and made available for issuance by the office.

2. In the event that more than the reserved amount of tax credits has been verified, the office shall preliminarily issue tax credits in an amount not to exceed the total set forth in the tax credit reservation schedule, but may at its discretion, subsequently issue a supplemental tax credit for any excess expenditures, subject to availability of credits in any given fiscal year.

D. Tax credits shall be issued on a first come, first serve basis, until the QEC or total cap have been met, in accordance with program rules.

E. If the total amount of credits applied for in any particular year exceeds the total or QEC cap for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

F. After review of the expenditure verification report, final tax credit certification letter (if any), and any other pertinent factors, including but not limited to availability of tax credits in any given year, future year tax credit reservations may be revised, by amending the tax credit reservation schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development LR 44:

#### **Public Comments**

Interested persons should submit written comments on the proposed Rules to Chris Stelly through the close of business on Wednesday, September 19, 2018 at 617 North Third Street, 11th Floor, Baton Rouge, LA 70802 or via email to Chris.Stelly@la.gov.

#### **Public Hearing**

A meeting for the purpose of receiving the presentation of oral comments will be held at 10 a.m. on Thursday, September 20, 2018 at the La Salle Building, Department of Economic Development, 617 North Third Street, Baton Rouge, LA 70802.

Anne G. Villa  
Undersecretary

1808#033

**POTPOURRI**

**Department of Environmental Quality  
Office of the Secretary**

**Legal Affairs and Criminal Investigations Division**

2015 Ozone National Ambient Air Quality Standards (NAAQS)—State Implementation Plan (SIP) Revisions

Under the authority of the Louisiana Environmental Quality Act, LA R.S. 30:2051 et seq., the secretary gives notice that the Office of Environmental Assessment, Air Analysis and Assessment Division will submit to the Environmental Protection Agency (EPA) a revision to the infrastructure, as required by section 110(a)(1) and (2) of the Clean Air Act (CAA). (1808Pot2)

On October 1, 2015, the EPA strengthened the NAAQS for ground-level ozone to 70 parts per billion (ppb). Pursuant to sections 110(a)(1) and (2) of the CAA, each state is required to submit a plan to provide for the implementation, maintenance, and enforcement of a newly promulgated or revised NAAQS.

The draft SIP will be submitted in two parts: Part I will cover all elements except sec 110(a)(2)(D); Part II will cover the good neighbor provisions in sec 110(a)(2)(D). Both Part I and Part II are covered by this notice.

If any party wishes to have a public hearing on this matter, one will be scheduled and the comments gathered at such hearing will be submitted as an addendum to the original submittal. All interested persons are invited to submit written comments concerning the revisions no later than 4:30 p.m., September 20, 2018, to Vivian H. Aucoin, Office of Environmental Assessment, P.O. Box 4314, Baton Rouge, LA. 70821-4314, or by email to vivian.aucoin@la.gov.

A copy of the SIP may be viewed online at the LDEQ Electronic Document Management System (EDMS) AI # 174156 or the LDEQ headquarters at 602 North Fifth Street, Room 530, Baton Rouge, LA.

Herman Robinson  
General Counsel

1808#019

**POTPOURRI**

**Department of Environmental Quality  
Office of the Secretary**

**Legal Affairs and Criminal Investigations Division**

Risk Evaluation/Corrective Action Program (RECAP) Revisions (LAC 33:I.1307 and the RECAP Document)

The department has made revisions to the Risk Evaluation/Corrective Action Program (RECAP). The draft revisions amend and update the program to be consistent with the current scientific methods and recommendations. In the near future, LDEQ will begin the rulemaking process to revise LAC 33:I.1307 and the RECAP document. (1808Pot1)

The draft revision of the RECAP document is available on the department’s website for review by interested parties. The URL is <http://deq.louisiana.gov/page/proposed-recap>.

Herman Robinson  
General Counsel

1808#020

**POTPOURRI**

**Department of Insurance  
Office of the Commissioner**

Public Hearing—Substantive Changes to Notice of Intent Regulation 78—Policy Form Filing Requirements (LAC 37:XIII.Chapter 101)

The Department of Insurance published a Notice of Intent to amend Regulation 78, in the March 20, 2018, Volume 44, No. 3 edition of the *Louisiana Register*. The Department of Insurance proposes to amend §§10109.I.1.b, 10113.I.1.b, and 10119 of the Notice of Intent, along with §§10107.I.1.b and J.1, 10109.J.1, and 10113.J.1 of the current version of Regulation 78, to comport with the passage of Act 171 of the 2018 Regular Session of the Louisiana Legislature, which requires that a demand for a hearing be filed with the Commissioner of Insurance.

**Title 37  
INSURANCE**

**Part XIII. Regulations**

**Chapter 101. Regulation 78—Policy Form Filing Requirements**

**§10107. Filing and Review of Health Insurance Policy Forms and Related Matters**

A. - I.1.a. ...

b. The affected insurer may request a hearing on the withdrawal of approval, in accordance with the provisions of Subsection J of this Chapter. The request for hearing must be made to the Department of Insurance, pursuant to R.S. 22:2191.

I.1.c. - J. ...

1. Any person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of Chapter 12 of title 22 of the *Louisiana Revised Statutes*. Pursuant to R.S. 22:2191, any demand must be in writing, must specify in what respects the person is aggrieved and the grounds upon which relief should be granted at the hearing, and must be made within 30 days after the failure to approve any filing, notice of disapproval of any filing, or the notice of withdrawal of approval of any filing when such notice is mailed to the aggrieved party at his last known address or delivered to the aggrieved party.

K. - K.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Directive 169, R.S.22:861, R.S. 22:862, and R.S. 22:974.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2539 (December 2002), amended LR 33:101 (January 2007), LR 42:1940 (November 2016), LR 44:

**§10109. Filing and Review of Life and Annuity Insurance Policy Forms and Related Matters**

A. - I.1.a. ...

b. The affected insurer may request a hearing on the withdrawal of approval, in accordance with the provisions of Subsection J of this Chapter. The request for hearing must be made to the Department of Insurance, pursuant to R.S. 22:2191.

I.1.c. - J. ...

1. Any person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of Chapter 12 of title 22 of the *Louisiana Revised Statutes*. Pursuant to R.S. 22:2191, any demand must be in writing, must specify in what respects the person is aggrieved and the grounds upon which relief should be granted at the hearing, and must be made within 30 days after the failure to approve any filing, notice of disapproval of any filing, or the notice of withdrawal of approval of any filing when such notice is mailed to the aggrieved party at his last known address or delivered to the aggrieved party.

K. - K.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Directive 169, R.S.22:861 and R.S. 22:862.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2544 (December 2002), amended LR 33:105 (January 2007), LR 42:1947 (November 2016), LR 44:

**§10113. Filing and Review of Property and Casualty Insurance Policy Forms and Related Matters**

A. - I.1.a. ...

b. The affected insurer may request a hearing on the withdrawal of approval, in accordance with the provisions of Subsection J of this Chapter. The request for hearing must be made to the Department of Insurance, pursuant to R.S. 22:2191.

I.1.c. - J. ...

1. Any person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of Chapter 12 of title 22 of the *Louisiana Revised Statutes*. Pursuant to R.S. 22:2191, any demand must be in writing, must specify in what respects the person is aggrieved and the grounds upon which relief should be granted at the hearing, and must be made within 30 days after the failure to approve any filing, notice of disapproval of any filing, or the notice of withdrawal of approval of any filing when such notice is mailed to the aggrieved party at his last known address or delivered to the aggrieved party.

K. - K.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Directive 169, R.S. 22:861 and R.S. 22:862.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2548 (December 2002), amended LR 33:108 (January 2007), LR 42:1952 (November 2016), LR 44:

**§10119. Effective Date [Formerly §10117]**

A. This regulation became effective January 1, 2003; however, the amendments to this regulation will become effective January 1, 2019.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Directive 169, R.S. 22:861, R.S. 22:862 and R.S. 22:974.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002), amended LR 33:111 (January 2007), LR 42:1957 (November 2016), repromulgated LR 44:

**Public Hearing**

A public hearing on the proposed substantive changes will be held by the Louisiana Department of Insurance on September 19, 2018, at 9:30 a.m. in the Poydras Hearing Room, Poydras Building, 1702 North Third Street, Baton Rouge, LA. Interested persons who wish to make comments may do so at the public hearing or by writing to Carol Fowler-Guidry, Deputy General Counsel, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214. Comments will be accepted no later than September 19, 2018 by close of business, 4:30 p.m.

James J. Donelon  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES  
RULE TITLE: Regulation 78  
Policy Form Filing Requirements**

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

The proposed rule changes are not anticipated to result in any additional costs or savings for the LA Dept. of Insurance (LDI). The proposed rule changes conform to Act 171 of the 2018 Regular Session, which requires that a request for hearing be filed with the Commissioner of Insurance.

The proposed rule changes will not affect expenditures of local governmental units.

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

The proposed rule changes will not affect revenue collections for state or local governmental units.

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

The proposed rule changes will benefit affected insurers, as they must only file a request for hearing with the LDI, rather than filing a request for a hearing with both the LDI and the Division of Administrative Law.

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

The proposed rule changes will not affect competition or employment.

Nicholas Lorusso  
Chief Deputy  
1808#088

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**POTPOURRI**

**Department of Insurance  
Office of Health, Life and Annuity Insurance**

**Annual HIPAA Assessment Rate**

Editor's Note: The Annual HIPAA Assessment Rate is being repromulgated to correct an error. The original submission may be viewed on page 1190 of the June 20, 2018 *Louisiana Register*.

Pursuant to Louisiana Revised Statute 22:1071(D)(2), the annual HIPAA assessment rate has been determined by the Department of Insurance to be .00023 percent.

James J. Donelon  
Commissioner

1808#004

**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
Ganco, Inc.	Little Creek	M	Ganey	001	160885
Harry N. Morris	Zwolle	S	Irving Bishop	001	20870
LA Gas Production, L.C.	Monroe	M	Union-Talton	038	91780
LA Gas Production, L.C.	Monroe	M	Talton	A-1	137481
LA Gas Production, L.C.	Monroe	M	B L Reppond	002	152444
LA Gas Production, L.C.	Monroe	M	B L Reppond	001	152445
LA Gas Production, L.C.	Monroe	M	B L Reppond	003	152613
LA Gas Production, L.C.	Monroe	M	R L Edwards et al S	001	152672
LA Gas Production, L.C.	Monroe	M	R L Edwards et al S	002	152673
LA Gas Production, L.C.	Monroe	M	Cora Jarmon et al S	001	152674
LA Gas Production, L.C.	Monroe	M	Cora Jarmon et al S	002	152675
LA Gas Production, L.C.	Monroe	M	Cora Jarmon et al S	003	152676
LA Gas Production, L.C.	Monroe	M	Cora Jarmon et al S	004	155627

Operator	Field	District	Well Name	Well Number	Serial Number
LA Gas Production, L.C.	Monroe	M	Cora Jarmon et al S	005	155628
LA Gas Production, L.C.	Monroe	M	Cora Jarmon et al S	006	155629
LA Gas Production, L.C.	Monroe	M	Hopkins Estate	001	158034
LA Gas Production, L.C.	Monroe	M	Hopkins Estate	002	158035
LA Gas Production, L.C.	Monroe	M	Gibson Estate	001	162239
LA Gas Production, L.C.	Monroe	M	Gibson Estate	002	162240
LA Gas Production, L.C.	Monroe	M	Gibson Estate	003	162241
LA Gas Production, L.C.	Monroe	M	Gibson Estate	004	162242
LA Gas Production, L.C.	Monroe	M	Gibson Estate	005	162243
LA Gas Production, L.C.	Monroe	M	Gibson Estate	006	162244
LA Gas Production, L.C.	Monroe	M	Gibson Estate	009	162246
LA Gas Production, L.C.	Monroe	M	Wells	001	162614
LA Gas Production, L.C.	Monroe	M	H D Green	022	162615
LA Gas Production, L.C.	Monroe	M	Gibson Estate	007	163998
LA Gas Production, L.C.	Monroe	M	Exxon 11	001	165665
LA Gas Production, L.C.	Monroe	M	Exxon 11	002	165666
LA Gas Production, L.C.	Monroe	M	Exxon 11	003	165667
LA Gas Production, L.C.	Monroe	M	Exxon 11	004	165668
LA Gas Production, L.C.	Monroe	M	Exxon 12	001	165669
LA Gas Production, L.C.	Monroe	M	Exxon 11	005	166126
LA Gas Production, L.C.	Monroe	M	Exxon 11	006	166127
LA Gas Production, L.C.	Monroe	M	Exxon 11	007	166128
LA Gas Production, L.C.	Monroe	M	Exxon 11	008	166129
LA Gas Production, L.C.	Monroe	M	Exxon 11	010	166200

Operator	Field	District	Well Name	Well Number	Serial Number
LA Gas Production, L.C.	Monroe	M	Exxon 11	009	166201
LA Gas Production, L.C.	Monroe	M	Exxon 12	002	166202
LA Gas Production, L.C.	Monroe	M	Exxon 12	003	166203
LA Gas Production, L.C.	Monroe	M	Exxon 11	016	166320
LA Gas Production, L.C.	Monroe	M	Exxon 11	011	166340
LA Gas Production, L.C.	Monroe	M	Exxon 11	012	166341
LA Gas Production, L.C.	Monroe	M	Exxon 11	013	166342
LA Gas Production, L.C.	Monroe	M	Exxon 11	014	166343
LA Gas Production, L.C.	Monroe	M	Exxon 11	015	166344
LA Gas Production, L.C.	Monroe	M	H D Green	023	166412
LA Gas Production, L.C.	Monroe	M	Exxon	006-1	166414
LA Gas Production, L.C.	Monroe	M	Jarmon Estate	001	167134
LA Gas Production, L.C.	Monroe	M	Jarmon Estate	002	167135
LA Gas Production, L.C.	Monroe	M	Jarmon Estate	005	167138
LA Gas Production, L.C.	Monroe	M	Jarmon Estate	006	167139
LA Gas Production, L.C.	Monroe	M	Jarmon Estate	008	167141
LA Gas Production, L.C.	Monroe	M	Exxon	012-2	167372
LA Gas Production, L.C.	Monroe	M	Exxon	012-5	168224
LA Gas Production, L.C.	Monroe	M	Steele et al	001	169800
LA Gas Production, L.C.	Monroe	M	Hopkins Estate	003	170378
LA Gas Production, L.C.	Monroe	M	Pearson est	001	170379
LA Gas Production, L.C.	Monroe	M	Wines	001	170692
LA Gas Production, L.C.	Monroe	M	R S Allen	001	170834
LA Gas Production, L.C.	Monroe	M	R S Allen Jr et al	001	170835

Operator	Field	District	Well Name	Well Number	Serial Number
LA Gas Production, L.C.	Monroe	M	Glenda P 12	007	174153
LA Gas Production, L.C.	Monroe	M	Glenda P 12	008	174154
LA Gas Production, L.C.	Monroe	M	Glenda P 12	009	174155
LA Gas Production, L.C.	Monroe	M	Glenda P 12	001	174347
LA Gas Production, L.C.	Monroe	M	Glenda P 12	002	174348
LA Gas Production, L.C.	Monroe	M	Glenda P 12	003	174349
LA Gas Production, L.C.	Monroe	M	Glenda P 12	004	174350
LA Gas Production, L.C.	Monroe	M	Glenda P 12	005	174351
LA Gas Production, L.C.	Monroe	M	Glenda P 12	010	174352
LA Gas Production, L.C.	Monroe	M	Glenda P 12	011	174353
LA Gas Production, L.C.	Monroe	M	Glenda P 12	012	174354
LA Gas Production, L.C.	Monroe	M	Glenda P 12	013	174355
LA Gas Production, L.C.	Monroe	M	Manville 793	001	175824
LA Gas Production, L.C.	Monroe	M	Manville 793	002	175825
LA Gas Production, L.C.	Monroe	M	Manville 793	003	175893
LA Gas Production, L.C.	Monroe	M	Manville 793	004	175894
LA Gas Production, L.C.	Monroe	M	K D Reppond	001	176589
LA Gas Production, L.C.	Monroe	M	Day et al	001	177116
LA Gas Production, L.C.	Monroe	M	Doyle Crow	001	177117
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LA Gas Production, L.C.	Monroe	M	George	001	177119
LA Gas Production, L.C.	Monroe	M	East Union Academy	001	177120
LA Gas Production, L.C.	Monroe	M	Robert Abercrombie	001	177230
LA Gas Production, L.C.	Monroe	M	Reppond-Bryant	001	177389

Operator	Field	District	Well Name	Well Number	Serial Number
LA Gas Production, L.C.	Monroe	M	S L Patrick	001	177452
LA Gas Production, L.C.	Monroe	M	S L Patrick	002	177453
LA Gas Production, L.C.	Monroe	M	Betty Baker	001	177540
LA Gas Production, L.C.	Monroe	M	Pilgreen	001	177542
LA Gas Production, L.C.	Monroe	M	G H Smith	001	177543
LA Gas Production, L.C.	Monroe	M	E A Mashaw	001	178593
LA Gas Production, L.C.	Monroe	M	E A Mashaw	002	180188
LA Gas Production, L.C.	Monroe	M	Hearn	001	180559
LA Gas Production, L.C.	Monroe	M	E Ramsey	001	181161
LA Gas Production, L.C.	Monroe	M	Betty Holloway Estate	001	181739
LA Gas Production, L.C.	Monroe	M	Betty Holloway Estate	002	181740
LA Gas Production, L.C.	Monroe	M	J H Reppond	002	182095
LA Gas Production, L.C.	Monroe	M	J H Reppond	003	182096
LA Gas Production, L.C.	Monroe	M	E Ramsey	002	182134
LA Gas Production, L.C.	Monroe	M	Reppond Heirs	001	182971
LA Gas Production, L.C.	Monroe	M	Manville 793	005	183051
LA Gas Production, L.C.	Monroe	M	Manville 793	006	183052
LA Gas Production, L.C.	Monroe	M	S D & S T Kennedy	001	183408
LA Gas Production, L.C.	Monroe	M	B J Hayes	001	183794
LA Gas Production, L.C.	Monroe	M	B F Hayes Jr	001	183795
LA Gas Production, L.C.	Monroe	M	Newcomb	001	186587
LA Gas Production, L.C.	Monroe	M	E M Dean	001	188906
LA Gas Production, L.C.	Monroe	M	Terry Akin	001	191687
LA Gas Production, L.C.	Monroe	M	Ramsey Estate	001	191937

Operator	Field	District	Well Name	Well Number	Serial Number
LA Gas Production, L.C.	Monroe	M	Myrtle Taylor	001	192748
LA Gas Production, L.C.	Monroe	M	Talton	001	192757
LA Gas Production, L.C.	Monroe	M	Burl Williams est	001	195237
LA Gas Production, L.C.	Monroe	M	R C Smith	001	195239
LA Gas Production, L.C.	Monroe	M	Myrtle Taylor	002	195240
LA Gas Production, L.C.	Monroe	M	Johnny Bridges	001	195312
LA Gas Production, L.C.	Monroe	M	Manville 28	002	195980
LA Gas Production, L.C.	Monroe	M	Manville 28	003	195981
LA Gas Production, L.C.	Monroe	M	Myrtle Taylor	003	196498
LA Gas Production, L.C.	Monroe	M	Cora Jarmon et al S	015	197341
LA Gas Production, L.C.	Monroe	M	Cora Jarmon et al S	016	197342
LA Gas Production, L.C.	Monroe	M	Cora Jarmon et al S	010	197561
LA Gas Production, L.C.	Monroe	M	R L Edwards et al S	003	197779
LA Gas Production, L.C.	Monroe	M	R L Edwards et al S	004	197798
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LA Gas Production, L.C.	Monroe	M	M L Mosley	001	205619
LA Gas Production, L.C.	Monroe	M	M L Mosley	002	205620

Operator	Field	District	Well Name	Well Number	Serial Number
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LA Gas Production, L.C.	Monroe	M	Myrtle Taylor B	002	206023
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Richard P. Ieyoub  
Commissioner

1808#037



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