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This public document was published at a total cost of \$1,266 Two hundred fifty copies of this public document were published in this monthly printing at a cost of \$1,266. The total cost of all printings of this document including reprints is \$1,266. This document was published by Moran Printing, Inc. 5425 Florida Boulevard, Baton Rouge, LA 70806, as a service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971 and R.S. 49:981-999. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

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Executive Orders

EXECUTIVE ORDER JBE 21-01

Flags at Half-Staff—Percy Joseph “P.J.” Mills, Jr.

WHEREAS, Percy Joseph “P.J.” Mills, Jr., a former distinguished member of the Louisiana Legislature, died at the age of 87 on Saturday, January 16, 2021;

WHEREAS, he is survived by his wife of 62 years, Jennie, their six children, and eleven grandchildren;

WHEREAS, he served his state and the Parish of Caddo in the Louisiana Legislature for four years, elected to the House of Representatives in 1967, and was a member of the storied group of “Young Turks” who worked to reform Louisiana’s political system; and he further served his state as Chief of Staff to Governor Charles “Buddy” Roemer;

WHEREAS, in 1993, Mills became the Chief Executive Officer of Blue Cross Blue Shield, the state’s largest health insurance provider, after mismanagement had led to state intervention, and during his tenure he returned the company to financial stability; and

WHEREAS, P.J. Mills lived his life with integrity and honor, and his public service as a lawmaker to the State of Louisiana will long be remembered.

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 for Percy Joseph “P.J.” Mills, Jr., the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol from sunrise until sunset on Monday, January 25, 2021.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Monday, January 25, 2021.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 22nd day of January, 2021.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
R. Kyle Ardoin
Secretary of State
2102#041

EXECUTIVE ORDER JBE 21-02

Carry-Forward Bond Allocation 2020

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter “Act”), Executive Order Number JBE 2016-35 was issued to establish

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year 2016 and subsequent calendar years;

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

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

WHEREAS, Section 4(H) of Executive Order Number JBE 2016-35 provides that if the ceiling for a calendar year exceeds the aggregate amount of bonds subject to the private activity bond volume limit issued during the year by all issuers, by executive order, the Governor may allocate the excess amount to issuers or an issuer for use as a carry-forward for one or more carry-forward projects permitted under the Act;

WHEREAS, the sum of four hundred eighty-eight million one hundred twenty-three thousand three hundred seventy dollars (\$488,123,370) represents the amount of the ceiling determined by the staff of the Louisiana State Bond Commission (“SBC”) for private activity bond volume limits for the year 2019 (“2019 Ceiling”);

WHEREAS, four hundred eighty-eight million one hundred twenty-three thousand three hundred seventy dollars (\$488,123,370) of the 2020 Ceiling was not allocated during the 2020 calendar year; and

WHEREAS, the SBC has determined that four hundred eighty-eight million one hundred twenty-three thousand three hundred seventy dollars (\$488,123,370) of the 2020 Ceiling is eligible for carry-forward, and the Governor desires to allocate this amount as carry-forward for projects which are permitted and eligible under the Act.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and the laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: Pursuant to and in accordance with the provisions of Section 146(f) of the Internal Revenue Code of

1986, as amended, and in accordance with the request for carry-forward filed by the designated issuer, the excess private activity bond volume limit under the 2020 Ceiling is hereby allocated to the following issuer(s), for the following carry-forward project(s), and in the following amount(s):

Issuer	Carry-Forward Project	Carry-Forward Amount
Louisiana Housing Corporation	Multifamily Housing	\$75,123,370
Louisiana Public Facilities Authority	Element US	\$125,000,000
Louisiana Public Facilities Authority	DG Fuels	\$44,000,000
Louisiana Community Development Authority	LA Greenfield	\$200,000,000
Louisiana Community Development Authority	American Biocarbon	\$44,000,000

SECTION 2: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 3: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana in the City of Baton Rouge, on this 22nd day of January, 2021.

John Bell Edwards
Governor

ATTEST BY
THE GOVERNOR
R. Kyle Aroin
Secretary of State
2102#042

EXECUTIVE ORDER JBE 21-03

Amending Carry-Forward Bond Allocation 2020

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter “Act”), Executive Order Number JBE 2016-35 was issued to establish

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year 2016 and subsequent calendar years;

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

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

WHEREAS, Section 4(H) of Executive Order Number JBE 2016-35 provides that if the ceiling for a calendar year exceeds the aggregate amount of bonds subject to the private activity bond volume limit issued during the year by all issuers, by executive order, the Governor may allocate the excess amount to issuers or an issuer for use as a carry-forward for one or more carry-forward projects permitted under the Act;

WHEREAS, the sum of four hundred eighty-eight million one hundred twenty-three thousand three hundred seventy dollars (\$488,123,370) represents the amount of the ceiling determined by the staff of the Louisiana State Bond Commission (“SBC”) for private activity bond volume limits for the year 2019 (“2019 Ceiling”);

WHEREAS, four hundred eighty-eight million one hundred twenty-three thousand three hundred seventy dollars (\$488,123,370) of the 2020 Ceiling was not allocated during the 2020 calendar year; and

WHEREAS, the SBC has determined that four hundred eighty-eight million one hundred twenty-three thousand three hundred seventy dollars (\$488,123,370) of the 2020 Ceiling is eligible for carry-forward, and the Governor desires to allocate this amount as carry-forward for projects which are permitted and eligible under the Act.

WHEREAS, due to a typographical error, it is necessary to update the name of a project allocated a portion of the private activity bond volume limit in Executive Order Number JBE 2021-2 through the issuance of a replacement executive order.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and the laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: Executive Order Number 2021-2, “Carry-Forward Bond Allocation 2020,” is hereby amended as follows.

SECTION 2: Pursuant to and in accordance with the provisions of Section 146(f) of the Internal Revenue Code of 1986, as amended, and in accordance with the request for carry-forward filed by the designated issuer, the excess private activity bond volume limit under the 2020 Ceiling is hereby allocated to the following issuer(s), for the following carry-forward project(s), and in the following amount(s):

Issuer	Carry-Forward Project	Carry-Forward Amount
Louisiana Housing Corporation	Multifamily Housing	\$75,123,370
Louisiana Public Facilities Authority	ElementUS	\$125,000,000
Louisiana Public Facilities Authority	DG Fuels	\$44,000,000
Louisiana Community Development Authority	Louisiana Green Fuels	\$200,000,000
Louisiana Community Development Authority	American Biocarbon	\$44,000,000

SECTION 3: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 4: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana in the City of Baton Rouge, on this 27th day of January, 2021.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
R. Kyle Aroin
Secretary of State
2102#043

EXECUTIVE ORDER JBE 21-04

Flags at Half-Staff—Stephen Frank “Steve” Carter

WHEREAS, Stephen Frank “Steve” Carter, a former distinguished member of the Louisiana Legislature, died at the age of 77 on Tuesday, January 26, 2021;

WHEREAS, he is survived by his wife of 44 years, Gloria Solomon Carter; their two children, Amelia and Stephen; and several grandchildren;

WHEREAS, he served his nation honorably in the United States Air Force from 1967 to 1971, attaining the rank of Captain;

WHEREAS, after his military service, he joined the Athletic Department of Louisiana State University as head tennis coach, leading the Tigers to an SEC championship

and twice earning the honor of being named SEC Coach of the Year; in 1979 he gave further to his community when he founded and led the Pelican Tennis Camp, which provided over 10,000 youth from throughout the South the opportunity to develop their athletic and leadership skills;

WHEREAS, he served his state and his home of East Baton Rouge Parish in the Louisiana Legislature for twelve years, first elected to the House of Representatives in 2007, and serving for three terms until 2020; and

WHEREAS, Steve Carter lived his life with integrity and honor, and his public service as a lawmaker to the State of Louisiana will long be remembered.

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 for Stephen Frank “Steve” Carter, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol from sunrise until sunset on Friday, January 29, 2021.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Friday, January 29, 2021.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 28th day of January, 2021.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
R. Kyle Aroin
Secretary of State
2102#044

Emergency Rules

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 139—Louisiana Child Care and
Development Fund Programs (Part CLXV.509 and 515)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education has amended LAC 28:CLXV in Bulletin 139—Louisiana Child Care and Development Fund Programs. The aforementioned revisions are related to Child Care Assistance Program (CCAP) increases, payments to early learning providers at state maximum rate, and updates to CCAP income eligibility. This Declaration of Emergency, effective February 1, 2021, is for a period of 120 days from adoption, or until finally adopted as Rule.

§515. Payments Made on Behalf of Households

A. The state maximum daily rates for CCAP care are as follows.

Child Care Provider Type	Regular Care	Regular Care for Toddlers	Regular Care for Infants	Special Needs Care Incentive	Special Needs Care Incentive for Toddlers	Special Needs Care Incentive for Infants
Type III Early Learning Center	\$30.00	\$31.05	\$35.65	\$37.80	\$39.12	\$44.92
School Child Care Center	\$24.00	\$24.00	\$24.00	\$30.24	\$30.24	\$30.24
Family Child Care Provider	\$25.00	\$25.75	\$29.65	\$31.50	\$32.45	\$37.36
In-Home Provider	\$25.00	\$25.25	\$26.65	\$31.50	\$31.82	\$33.58
Military Child Care Centers	\$30.00	\$31.05	\$35.65	\$37.80	\$39.12	\$44.92

B. Categorically Eligible Households

1. Payments made to providers on behalf of categorically eligible households will be the state maximum daily rate for CCAP care as provided in Subsection A of this Section.

B.2. - C.2. ...

3. Payments made to providers on behalf of non-categorically eligible households will be a portion of the state maximum daily rate for CCAP care as provided in Subsection A.

D. - G. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:6 and 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2116 (October 2015), amended LR 42:44 (January 2016), LR 42:1870 (November 2016), LR 44:801 (April 2018), LR 45:1745 (December 2019), LR 47:

Sandy Holloway
President

2102#003

Title 28

EDUCATION

Part CLXV. Bulletin 139—Louisiana Child Care and Development Fund Programs

Chapter 5. CCAP Household Eligibility §509. Certification Requirements for Non- Categorically Eligible Households

A. - A.2. ...

3. have household income that does not exceed 65 percent of the state median income for a household of the same size. *Household income* is defined as:

3.a. - 5.e.iii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.28. and 45 CFR Parts 98 and 99.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:43 (January 2016), amended LR 42:2175 (December 2016), LR 44:261 (February 2018), effective March 1, 2018, LR 45:900 (July 2019), LR 46:1373 (October 2020), LR 47:

DECLARATION OF EMERGENCY

Department of Children and Family Services Economic Stability Section

Jobs for America's Graduates
Louisiana (JAGS-LA) Program
(LAC 67:III.5591)

The Department of Children and Family Services (DCFS), Economic Stability, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:III, Subpart 15 Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55 TANF Initiatives, Section 5591 Jobs for America's Graduates Louisiana (JAGS-LA) Program. This declaration is necessary to extend the original Emergency Rule since it is effective for a maximum of 120 days and will expire before the Final Rule takes effect. This Emergency Rule extension is effective on February 28, 2021, and shall remain in effect for a period of 120 days or until adoption of a Final Rule, whichever occurs first.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant, amendment of Section 5591 is required to update language concerning service provider.

The department considers emergency action necessary to facilitate the expenditure of TANF funds. The authorization to promulgate emergency rules to facilitate the expenditure of TANF funds is contained in Act 1 of the 2020 First Extraordinary Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Economic Stability

Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5591. Jobs for America's Graduates Louisiana (JAGS-LA) Program

A. Effective November 1, 2020, the department may enter into agreements for the purpose of administrating the Jobs for America's Graduates Louisiana (JAG-LA) Program to help keep in school those students at risk of failing in school, to capture out-of-school youth in need of a high school education, to provide an avenue for achieving academically, and to assist students in ultimately earning recognized credentials that will make it possible for them to exit school and enter post-secondary education and/or the workforce.

B. These services meet TANF Goal 3 to prevent and reduce the incidence of out-of-wedlock pregnancies by providing intervention and improved life prospects for students who show evidence of failing, dropping out or engaging in negative behaviors that can lead to dependency, out-of-wedlock births, imprisonment, and/or other undesirable outcomes which may lead to the detriment and impoverishment of youth.

C. Eligible participants in the JAG-LA Program shall be 12-22 years of age and must face at least two designated barriers to success that include economic, academic, personal, environmental, or work related barriers.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; House Bill 1, 2007 Reg. Session Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:2468 (November 2007), amended LR 34:698 (April 2008), LR 35:1257 (July 2009), amended by the Department of Children and Family Services, Economic Stability Section, LR 47:

Marketa Garner Walters
Secretary

2102#018

DECLARATION OF EMERGENCY

Department of Health Board of Nursing

Temporary Permits and Delegation of Medication
Administration to Unlicensed Assistive Personnel in
Outpatient Clinic Settings (LAC 46:XLVII.3328 and 3709)

The Department of Health, Board of Nursing (LSBN) has exercised the emergency provisions of the Administrative

Procedures Act, specifically R.S. 49:953(B), allowing delegation of the administration of COVID-19 vaccines by RNs or APRNs to unlicensed personnel in all settings (§3709) and granting temporary approval to RNs with retired or inactive licenses, which license was not encumbered at the time it was retired or made inactive, to obtain a limited RN disaster permit (§3328). The permit will be granted to RNs who are eligible for reinstatement of a retired or inactive license in Louisiana and the limited disaster permit allows solely for tasks directly related to the administration and delegation of COVID-19 vaccinations. This Rule is effective upon the signature of the Executive Director, January 19, 2021, and shall remain in effect for 120 days unless rescinded, renewed, or the Covid-10 Public Health Emergency Proclamation is terminated by the Governor. The immediate need for qualified health care providers to administer the COVID-19 vaccinations necessitated the need to adopt an Emergency Rule.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses: Practical Nurses and Registered Nurses

Subpart 2. Registered Nurses

Chapter 33. General

§3328. Temporary Permits

A. - H. ...

I. Limited Temporary Permit for Administration of Covid-19 Vaccinations

1. Temporary, Limited Registered Nurse License for Applicants with a Retired or Inactive License: Individuals who are eligible for reinstatement of a retired or inactive registered nurse license in Louisiana, may apply for a temporary, limited license that allows solely for tasks directly related to the administration and delegation of COVID-19 vaccinations.

a. The board may issue a temporary, limited license as a disaster permit during a public health emergency to an individual who is eligible for reinstatement of a retired or inactive registered nurse license in Louisiana.

b. The applicant's RN license must have been unencumbered at the time of retirement or inactivation.

c. Continuing education and practice requirements that are a pre-requisite to reinstatement are waived for these applicants.

d. Applicants seeking a temporary, limited license disaster permit shall submit an application through the nurse portal.

e. Requirements in §3328.C are waived.

f. Disaster permits approved under the provisions of this section shall be valid for one year. Applicants may re-apply if availability of the application and permit remains available as determined appropriate and necessary by the board.

g. If allegations of acts or omissions which constitute grounds for disciplinary action as defined in R.S. 37:911 et seq., or any rule promulgated by the board is received during the permit interval, the disaster permit shall be recalled.

h. Individuals who have been issued a temporary disaster permit under this rule may refer to themselves as a "RN" after signatures on records.

i. All individuals administering the vaccine must be competent in the informed consent process, COVID19 vaccine administration, vaccine reconstitution, storage requirements, side effects, emergency management of adverse reactions, record-keeping, waste and disposal and all other aspects of vaccine administration and delegation.

j. Applicants currently enrolled in an alternative to discipline program or who have discipline on a license in another jurisdiction are not eligible for the temporary, limited license as a disaster permit provided for in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, 919 and 920.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 33:460 (March 2007), amended LR 39:2280 (August 2013), LR 40:2248 (November 2014), LR 47:

Chapter 37. Nursing Practice

§3709. Delegation of Medication Administration to Unlicensed Assistive Personnel in Outpatient Clinic Settings

A. - H. ...

I. Public Health Emergency Exception

1. During a public health emergency the board shall allow delegation of the administration of COVID-19 vaccines to unlicensed personnel in all healthcare settings in which such agents are administered according to current guidelines and recommendations.

a. Requirements in §3709.D.6 are waived such that reconstitution is allowed as is measuring of a prescribed amount of the medication.

b. The registered nurses and advanced practice registered nurses shall practice within their scope of practice subject to their knowledge, skill and ability.

c. All individuals delegating and administering the vaccine must be competent in the informed consent process, COVID-19 vaccine administration, vaccine reconstitution, storage requirements, side effects, emergency management of adverse reactions, record-keeping, waste and disposal and all other aspects of vaccine administration and delegation.

d. Formal training of unlicensed personnel must be performed or confirmed and otherwise validated by a registered nurse or advanced practice registered nurse

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Nursing, LR 42:873 (June 2016), amended LR 47:

Karen C. Lyon
Executive Director/CEO

2102#004

DECLARATION OF EMERGENCY

**Department of Health
Bureau of Health Services Financing**

Emergency Telemedicine
(LAC 50:I.505)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:I.505 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is

promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions governing coverage of telemedicine during a declared disaster (*Louisiana Register*, Volume 46, Number 4). This Emergency Rule is being promulgated in order to continue the provisions of the March 16, 2020 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued and expanded access to telemedicine services during a declared emergency.

Effective March 14, 2021, the Department of Health, Bureau of Health Services Financing adopts provisions governing the coverage of telemedicine during a declared emergency.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 1. General Provisions

Chapter 5. Telemedicine

§505. Telemedicine in the Event of an Emergency

A. In the event of a declared emergency, Medicaid may temporarily cover services provided through the use of an interactive audio telecommunications system, without the requirement of video, if such action is determined to be necessary to ensure sufficient services are available to meet recipients' needs.

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 47:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. Ms. LeBlanc is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips
Secretary

2102#030

DECLARATION OF EMERGENCY

**Department of Health
Bureau of Health Services Financing**

Intermediate Care Facilities for Persons with
Intellectual Disabilities—Temporary Reimbursement
for Private Facilities (LAC 50:VII.32904)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:I.32904 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title

XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing adopts provisions governing the temporary rates for intermediate care facilities for persons with intellectual disabilities (ICFs/IID) that have a cooperative endeavor agreement with the Office for Citizens with Developmental Disabilities and have a high concentration of people who have intellectual/developmental disabilities, significant behavioral health needs, and high risk behavior resulting in previous interface with the judicial system, and for whom no other private ICFs/IID provider is able to support.

This action is being taken to promote the health and welfare of Medicaid recipients in ICFs/IID by ensuring continued provider participation in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase programmatic costs in the Medicaid Program by \$805,125 for state fiscal year 2020-2021.

Effective February 1, 2021, the Department of Health, Bureau of Health Services Financing adopts provisions governing temporary rates for intermediate care facilities for persons with intellectual disabilities.

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

§32904. Temporary Reimbursement for Private Facilities

A. Effective February 1, 2021, the department shall establish temporary Medicaid reimbursement rates of \$352.08 per day per individual for a 15 bed private ICF/IID community home and \$327.08 for an 8 bed private ICF/IID community home that meet the following criteria. The community home:

1. shall have a fully executed cooperative endeavor agreement (CEA) with the Office for Citizens with Developmental Disabilities for the private operation of the facility;

a. the provider shall be subject to the direct care floor as outlined in the executed CEA;

2. shall have a high concentration of people who have intellectual/developmental disabilities, significant behavioral health needs, high risk behavior, i.e. criminal-like resulting in previous interface with the judicial system, use of restraint, and elopement. These shall be people for whom no other private ICF/IID provider is able to support as confirmed by the Office for Citizens with Developmental Disabilities;

3. incurs or will incur higher existing costs not currently captured in the private ICF/IID rate methodology; and

4. shall have no more than 15 beds in one facility and 8 beds the second facility.

B. The temporary Medicaid reimbursement rate shall only be for the period of four years.

C. The temporary Medicaid reimbursement rate is all-inclusive and incorporates the following cost components:

1. direct care staffing;
2. medical/nursing staff;
3. medical supplies;
4. transportation
5. administrative; and
6. the provider fee.

D. The temporary rate and supplement shall not be subject to the following:

1. inflationary factors or adjustments;
2. rebasing;
3. budgetary reductions; or
4. other rate 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, Bureau of Health Services Financing, LR 47:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips
Secretary

2102#007

DECLARATION OF EMERGENCY

**Department of Health
Bureau of Health Services Financing
and
Office of Aging and Adult Services
and
Office of Behavioral Health**

Programs and Services Amendments Due to the Coronavirus Disease 2019 (COVID-19) Public Health Emergency

On January 30, 2020, the World Health Organization declared a public health emergency of international concern and on January 31, 2020, U.S. Health and Human Services Secretary Alex M. Azar II declared a public health emergency, effective as of January 27, 2020, for the United States in response to the recent coronavirus disease 2019 (hereafter referred to as COVID-19) outbreak. On March 11, 2020, Governor John Bel Edwards declared a statewide public health emergency to exist in the State of Louisiana as a result of the imminent threat posed to Louisiana citizens by COVID-19. Likewise, the presidential declaration of a national emergency due to COVID-19 has an effective date of March 1, 2020.

In response to these public health emergency declarations and the rapid advancement of COVID-19 throughout Louisiana, the Department of Health, Bureau of Health

Services Financing, the Office of Aging and Adult Services (OAAS), and the Office of Behavioral Health (OBH) promulgated an Emergency Rule which amended the provisions of Title 50 of the *Louisiana Administrative Code* in order to adopt temporary measures to provide for the continuation of essential programs and services to ensure the health and welfare of the citizens of Louisiana in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. (*Louisiana Register*, Volume 46, Number 4). This Emergency Rule is being promulgated to continue the provisions of the Emergency Rule adopted on March 19, 2020. This Emergency Rule shall be in effect for the maximum period allowed under the Act or the duration of the COVID-19 public health emergency declaration, whichever comes first.

Effective March 17, 2021, the department amends Title 50 of the *Louisiana Administrative Code* to continue the following provisions of the Emergency Rule adopted on March 19, 2020 throughout the duration of the COVID-19 public health emergency declaration:

**Nursing Facilities—Reimbursement Methodology
Reimbursement Adjustment (LAC 50:II.20006)**

The per diem rate paid to non-state nursing facilities shall contain an add-on of \$12 for the period of the COVID-19 public health emergency declaration.

**Nursing Facilities—Reimbursement Methodology
Leave of Absence Days (LAC 50:II.20021)**

For each Medicaid recipient, nursing facilities shall be reimbursed for up to seven hospital leave of absence days per occurrence and 15 home leave of absence days per calendar year.

For dates of service during the COVID-19 public health emergency declaration, the state may allow the reimbursement paid for leave of absence days to be equal to 100 percent of the applicable per diem rate.

**Intermediate Care Facilities for Persons with Intellectual
Disabilities—Emergency Awareness—Payment
Limitations (LAC 50:VII.33101)**

For dates of service during the COVID-19 public health emergency declaration, the state may waive the annual 45 day limit on the client's leave of absence, the limitation of 30 consecutive days, and the inclusion of the leave in the written individual habilitation plan for recipients that return to the facility for at least 24 hours prior to any discharge/transfer.

Payments to providers for these days will not include any enhanced rate add-ons (i.e., Complex Care, Pervasive Plus), and providers will appropriately submit them as leave days when billing for payment.

**Services for Special Populations—Personal Care Services
(LAC 50:XV.Subpart 9)**

Relaxation of long term-personal care services (LT-PCS) provisions during the COVID-19 public health emergency declaration:

Recipients of long term-personal care services (LT-PCS) may receive more weekly service hours than what is assigned for his/her level of support category;

The state may increase the maximum number of LT-PCS hours received per week;

Recipients may receive LT-PCS in another state without prior approval of OAAS or its designee;

Recipients may receive LT-PCS while living in a home or property owned, operated or controlled by a provider of services who is not related by blood or marriage to the recipient;

Individuals may concurrently serve as a responsible representative for more than two recipients without an exception from OAAS;

The following individuals may provide services to the recipient of LT-PCS: the recipient's spouse; the recipient's curator; the recipient's tutor; the recipient's legal guardian; the recipient's responsible representative; or the person to whom the recipient has given representative and mandate authority (also known as power of attorney);

The state may allow exceptions to the requirements that services must be provided in accordance with the approved plan of care and/or supporting documentation;

The state may allow exceptions to LT-PCS prior authorization requirements;

The state may increase and/or modify reimbursement rates for LT-PCS;

Recipients may orally designate/authorize or make changes to the responsible representative during the emergency. However, once the emergency declaration is over, the recipient must submit a written designation on the appropriate OAAS form to designate a responsible representative;

The state may offer recipients the freedom to choose another LT-PCS provider if the designated provider is not able to provide services;

The state may modify the minimum age requirement for direct care workers; and

The state may allow exceptions to the requirement that the place(s) of service must be documented in the plan of care.

**Home and Community-Based Services Waivers
Adult Day Health Care Waiver (LAC 50:XXI.Subpart 3)**

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Adult Day Health Care (ADHC) Waiver are relaxed during the COVID-19 public health emergency declaration:

Adult Day Health Care (ADHC) Waiver participants are allowed to receive ADHC services in his/her home by licensed and/or certified ADHC staff (i.e. RN, LPN, PCA and/or CNA);

The current assessments/re-assessments remain in effect past the annual (12 month) requirement;

Participants are not discharged if services are interrupted for a period of 30 consecutive days as a result of not receiving or refusing ADHC services;

Participants are not discharged for failure to attend the ADHC center for a minimum of 36 days per calendar quarter;

The state may elect to make retainer payments to ADHC providers when the ADHC center is closed;

Individuals may concurrently serve as a responsible representative for more than two participants without an exception from OAAS;

The state may allow exceptions to prior authorization requirements;

The state may increase and/or modify reimbursement rates for ADHC providers; and

The state may allow exceptions to the requirements that services must be provided in accordance with the approved plan of care and/or supporting documentation.

Home and Community-Based Services Waivers

Community Choices Waiver (LAC 50:XXI.Subpart 7)

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Community Choices Waiver (CCW) are relaxed during the COVID-19 public health emergency declaration:

Community Choices Waiver (CCW) participants are allowed to receive personal assistance services (PAS) in another state without prior approval of OAAS or its designee;

Participants may receive PAS while living in a home or property owned, operated or controlled by a provider of services who is not related by blood or marriage to the participant without prior approval of OAAS or its designee;

The current assessment/re-assessment remains in effect past the annual (12 month) requirement;

CCW participants are not discharged if services are interrupted for a period of 30 consecutive days as a result of not receiving and/or refusing services;

Participants are not discharged from CCW self-directed services for failure to receive those services for 90 days or more;

Individuals may concurrently serve as a responsible representative for more than two participants without an exception from OAAS;

Participants may receive an increase in his/her annual services budget;

The following individuals may provide services to the participant: the participant's spouse; the participant's curator; the participant's tutor; the participant's legal guardian; the participant's responsible representative; or the person to whom the participant has given representative and mandate authority (also known as power of attorney);

Participants may receive Adult Day Health Care (ADHC) services in his/her home by licensed and/or certified ADHC staff (i.e. RN, LPN, PCA and/or CNA);

The state may elect to make retainer payments to

ADHC providers when the ADHC center is closed;

The state may allow exceptions to the requirements that services must be provided in accordance with the approved plan of care and/or supporting documentation;

The state may allow exceptions to prior authorization requirements;

Participants may receive more than two home delivered meals per day;

The state may allow monitored in-home caregiving (MIHC) providers to monitor participants via frequent telephone contacts and/or telehealth;

The state may modify the minimum age requirement for direct care workers; and

The state may increase and/or modify reimbursement rates for CCW providers.

Behavioral Health Services—Home and Community-Based Services Waiver (LAC 50:XXXIII.Subpart 9)

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Coordinated System of Care (CSoC)

Waiver are relaxed during the COVID-19 public health emergency declaration:

Coordinated System of Care (CSoC) Waiver participants are allowed to receive CSoC waiver services in another state;

The current level of care evaluation/re-evaluation remains in effect beyond the semi-annual requirement;

CSoC participants are not discharged for failing to receive a face-to-face visit from the wraparound facilitator for 60 consecutive calendar days or more;

Services may be provided telephonically or through videoconferencing means in accordance with LDH-issued guidance;

Providers and wraparound facilitators are required to document all service activities in accordance with guidance issued by LDH and the CSoC contractor; and

Plan of care reviews and timelines may be extended.

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips
Secretary

2102#031

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Programs and Services Amendments Due to
the Coronavirus Disease 2019 (COVID-19)
Public Health Emergency

On January 30, 2020, the World Health Organization declared a public health emergency of international concern and on January 31, 2020, U.S. Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the United States, effective as of January 27, 2020, in response to the recent coronavirus disease 2019 (hereafter referred to as COVID-19) outbreak. On March 11, 2020, Governor John Bel Edwards declared a statewide public health emergency to exist in the State of Louisiana as a result of the imminent threat posed to Louisiana citizens by COVID-19. Likewise, the presidential declaration of a national emergency due to COVID-19 has an effective date of March 1, 2020.

In response to these public health emergency declarations and the rapid advancement of COVID-19 throughout Louisiana, the Department of Health, Bureau of Health Services Financing, the Office of Aging and Adult Services (OAAS), the Office of Behavioral Health (OBH), and the Office for Citizens with Developmental Disabilities (OCDD) promulgated Emergency Rules which amended the

provisions of Title 50 of the Louisiana Administrative Code in order to adopt temporary measures to provide for the continuation of essential programs and services to ensure the health and welfare of the citizens of Louisiana in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. (*Louisiana Register*, Volume 46, Number 4). The department subsequently promulgated an Emergency Rule, adopted on June 24, 2020, which further amended Title 50 of the Louisiana Administrative Code due to the COVID-19 public health emergency (*Louisiana Register*, Volume 46, Number 7). This Emergency Rule is being promulgated to continue the provisions of the Emergency Rule adopted on June 24 2020. This Emergency Rule shall be in effect for the maximum period allowed under the Act or the duration of the COVID-19 public health emergency declaration, whichever comes first.

Effective February 21, 2021, the Department of Health, Bureau of Health Services Financing hereby amends Title 50 of the *Louisiana Administrative Code* to continue the following provisions of the Emergency Rule adopted on June 24, 2020 throughout the duration of the COVID-19 public health emergency declaration:

Medicaid Eligibility (LAC 50:III.Subpart 1)

For the duration of the COVID-19 public health emergency declaration, the following requirements for coverage under the Medical Assistance Program (Medicaid) will be relaxed:

§101.C. General Provisions—Fair Hearings

The 30-day requirement for the applicant and enrollee to request a fair hearing shall be waived.

Applicants and enrollees must request a fair hearing within 120 days of the date of the adequate and/or timely decision notice issued by the Medicaid Program or its designee.

§301. Asset Verification Program—General Provisions

Asset verification for aged, blind, and disabled applicants will be performed through a post-eligibility review following the certification.

Chapter 23. Eligibility Groups and Medicaid Programs

The department shall provide coverage under the Medical Assistance Program for uninsured individuals described at section 1902(a)(10)(A)(ii)(XXIII) and 1902(ss) of the Social Security Act as follows:

In accordance with section 1902(a)(10)(XVIII) of the Social Security Act, the medical assistance made available to uninsured individuals (as defined in subsection 1902(ss)) eligible for medical assistance only because of subparagraph (A)(ii)(XXIII) is limited to medical assistance for any in vitro diagnostic product described in section 1905(a)(3)(B) administered during the COVID-19 public health emergency declaration (and the administration of such product) and any visit described in section 1916(a)(2)(G) furnished during the emergency period.

Services for Special Populations—Hospice Recipient Eligibility—Waiver of Payment for Other Services (LAC 50:XV.3503)

During the COVID-19 public health emergency declaration, the department waives the provisions requiring daily visits by the hospice provider to all clients under the age of 21 in order to facilitate continued care while maintaining the safety of staff and beneficiaries. Visits will

still be completed based on clinical need of the beneficiary and family, and availability of staff as requested by the family. The use of telemedicine visits as an alternative is allowed.

Medical Transportation Program—Emergency Medical Transportation—Ground Transportation Reimbursement (LAC 50:XXVII.325)

For the duration of the COVID-19 public health emergency declaration, reimbursement will be allowed for ambulance providers for allowable services on site without transport. Services provided by the ambulance provider shall be within established treatment protocols, under the direct supervision of a licensed physician.

Pharmacy—Copayment and Maximum Quantity (LAC 50:XXIX.111 and 119)

During the period of state or federal declared emergency, member co-pays may be waived and select pharmacy edits may be revised to encourage recipients to get all necessary maintenance medications during one pharmacy visit.

Members are able to start receiving up to a 90-day supply, as appropriate, of maintenance medications that are not controlled substances. These include cardiovascular drugs (hypertension, coronary artery disease, thrombosis), diabetes drugs, respiratory drugs (inhaled and oral), contraceptives, antiretrovirals, direct-acting antivirals for hepatitis C, immunosuppressives, antipsychotics, and antidepressants, among others.

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips
Secretary

2102#032

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Liquefied Petroleum Gas Commission

Class I-E Permit (LAC 55:IX:Chapter 1)

The Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act, to amend LAC 55:IX:Chapter 1, as authorized by R.S. 40:1846. Furthermore, the Liquefied Petroleum Gas Commission, hereafter referred to as the "Commission", has found an immediate need to adopt amendments to create an additional Class I permit, the Class I-E permit, the provisions of which are applicable to emergencies and/or disasters.

In August and September 2020, President Donald J. Trump declared a State of Emergency in Louisiana due to the devastation caused by Hurricane Laura and its aftermath.

Concurrently, Governor John Bel Edwards declared a State of Emergency in Louisiana for the same reasons. Furthermore, President Donald J. Trump invoked the Stafford Act and declared a national emergency regarding Hurricane Laura and its aftermath, which has caused destruction and devastation to the lives and property of Louisiana residents.

Again, on October 6, 2020, Governor John Bel Edwards declared a State of Emergency ahead of Hurricane Delta. On October 7, 2020, Governor Edwards made a request for presidential emergency disaster to President Donald J. Trump to which President Trump approved said request. On October 9, 2020, Hurricane Delta, the record-tying fourth storm of 2020 to strike Louisiana, made landfall as a Category 2 hurricane near Creole, Louisiana.

As such, the residual effects of the storms present a substantial risk to the health, safety and welfare of a significant number of citizens in our state. Many people were forced to evacuate their homes and businesses, including numerous individuals who own, operate, and work in the liquefied petroleum gas trade, commonly known as the propane industry. From dealers whose businesses are currently inoperable to displaced employees who delivered propane and serviced tanks, the industry now faces a shortage in the workforce.

Liquefied petroleum gas, also referred to as propane or butane, is an efficient energy source used in home and water heating appliances and cooking equipment such as stoves and grills. In times of emergencies and/or disasters, it is also used to operate generators and power temporary/transient housing, such as FEMA trailers. Therefore, it is an imminent peril to the public health, safety and welfare that the industry supply the necessary propane needed to fulfill the supply and demand necessitated at this time. Due to the shortage of personnel, it is crucial to permit additional, qualified individuals from other jurisdictions.

In particular, the Emergency Rule amends LAC 55:IX.Chapter 1, Section 107, to permit nonresidents in other jurisdictions to enter any phase of the liquefied petroleum gas business during an emergency and/or disaster, only after the Commission has reached a reciprocal agreement with the liquefied petroleum gas regulating authority of the state in which the permit applicant resides. The Class I-E permit is an exception to the Class I permit, as it omits the requirement that holders of the permit provide a storage capacity for liquefied petroleum gas of not less than 15,000 gallons in one location, under fence, located within the dealer trade area within the state of Louisiana. It also excludes the requirement that the permit holder show evidence of ownership of the storage tank, or in the alternative, a bona fide lease of five years minimum. This requirement is not applicable due to the fact that the Class I-E permit is only valid during an emergency and/or disaster and is issued for a period of 90 days. However, the permit may be renewed, prior to its expiration date, during the course of the emergency and/or disaster that it was initially applied for.

The adoption of this Rule on an emergency basis is also necessary due to the hazardous components of liquefied petroleum gas, which are flammable mixtures of hydrocarbon. As a result of the storm, many propane tanks may have been dislodged or flooded. In haste to evacuate,

some may have failed to shut off the main gas supply valve to their homes or on propane tanks. In addition, water and debris may have inundated regulators and controls, causing potential safety issues, requiring a qualified propane dealer or service technician to inspect the propane system to ensure it is leak free. Fallen trees and power lines can create further safety concerns. The Commission finds that an imminent peril to the public health, safety and welfare requires adoption of this Rule. The Emergency Rule was adopted and became effective September 8, 2020, upon the signature of the agency head, John W. Alario, Executive Director. It is necessary to continue the provisions of this Emergency Rule, effective February 9, 2021, until the adoption of the final Rule, or 120 days, whichever comes first.

Title 55

PUBLIC SAFETY

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

Subchapter A. New Dealers

A. The following terms, as used in this Part, have the meanings listed below.

* * *

Disaster—the result of a natural or man-made event which causes loss of life, injury, and property damage, including but not limited to natural disasters such as a hurricane, tornado, storm, flood, high winds, and other weather related events, forest and marsh fires, and man-made disasters, including but not limited to nuclear power plant incidents, hazardous materials incidents, oil spills, explosion, civil disturbances, public calamity, acts of terrorism, hostile military action, and other events related hereto.

* * *

Emergency—the actual or threatened condition which has been or may be created by a disaster or; any natural or man-made event which results in an interruption in the delivery of utility services to any consumer of such services and which affects the safety, health, or welfare of a Louisiana resident; or

a. any instance in which a utility's property is damaged and such damage creates a dangerous condition to the public;

b. any national or state emergency, including acts of terrorism or a congressional authorization or presidential declaration pursuant to the War Powers Resolution (50 U.S.C. 1541 et seq.).

* * *

State of Emergency or Disaster—any event declared by the governor of the state by his authority under the "Louisiana Homeland Security and Emergency Assistance and Disaster Act" under R.S. 29:721 et seq.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:459 (March 1998), LR 29:2508 (November 2003), LR 31:2556 (October 2005), LR 33:1139 (June 2007), effective July 1, 2007, LR 36:2571 (November 2010), LR 38:1255 (May 2012), LR 47:

§107. Requirements

A. Before any permit or registration may be issued from the office of the director, all applicants shall have complied with or agree to comply with the applicable requirements as follows:

1. Shall deposit filing fee of \$100 for Class I, I-E, IV and VI; \$50 for class VI-X and \$25 for all remaining permits. This fee shall accompany the application.

2. - 5.b. ...

c. Each location of Class I, Class I-E, Class VI and Class VIII dealers, which fill DOT specification cylinders of 200 lbs. or less, liquefied petroleum gas capacity, that are in commerce or transportation, shall provide a suitable weighing device (scales).

6. Applicants shall have paid a permit fee in the amount of \$150, Class I-E and Class III which shall be \$500 and R-1, R-2 registrations, which shall be \$37.50 and Class VI-X shall be in the amount of \$150 for each location. For fiscal year 2014-2015, and for each subsequent fiscal year, the permit fee shall be 0.1369 of 1 percent of annual gross sales of liquefied petroleum gas with a minimum of \$150 for each location. For classes not selling liquefied petroleum gases in succeeding years the permit fee shall be \$150, except registrations shall be \$37.50 per year.

6.a. - 10. ...

11. Applicants for change of name shall deposit a filing fee of \$25 with a formal application for a name change. The office of the director shall administratively grant the name change after all commission requirements are met. The commission shall ratify the name change at the next commission meeting after which a minimum of 20 days have elapsed since the administrative granting of the name change. A representative of the new firm or corporation shall be required to be present when the application is ratified by the commission, except in the cases of Class VI-X, and R-1 and R-2 registrations, when appearance is waived. All certificates of competency shall be changed to new name, except Class VI-X which does not require certificates of competency.

12. ...

13. The commission shall grant Class I and Class I-E Liquefied Petroleum Gas permits to nonresident applicants only after the commission has reached a reciprocal agreement with the Liquefied Petroleum Gas regulating authority of the state in which the applicant resides.

14. - 15. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 24:461 (March 1998), LR 24:2311 (December 1998), LR 25:1262 (July 1999), LR 25:2410 (December 1999), LR 26:1487 (July 2000), LR 27:2256 (December 2001), LR 28:2553 (December 2002), LR 29:2509 (November 2003), LR 31:2567 (October 2005), LR 33:1140 (June 2007), effective July 1, 2007, LR 35:2201 (October 2009), LR 35:2465 (November 2009), LR 38:1256 (May 2012), LR 41:395 (February 2015), LR 42:427 (March 2016), LR 42:1671 (October 2016), LR 43:967 (May 2017), LR 46:188 (February 2020), LR 47:

§109. Compliance with Rules

A. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement for all permit holders.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 25:2411 (December 1999), LR 31:2567 (October 2005), LR 38:1259 (May 2012), LR 46:188 (February 2020), LR 47:

§111. Re-Application

A. Any person, firm or corporation who has made application for a permit to enter the liquefied petroleum gas business and whose request for permit has been denied, may resubmit a permit application 90 days after the date of denial, with the exception of a Class I-E permit application. Any person, firm or corporation who has made application for a Class I-E permit to enter the liquefied petroleum gas business and whose request for permit has been denied, may resubmit a permit application any time during the same disaster and/or emergency that the initial permit application was submitted to the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 7:633 (December 1981), LR 38 1259 (May 2012), LR 47:

§113. Classes of Permits and Registrations

A. - A.1.f. ...

2. Class I-E. Holders of these permits may enter any phase of the liquefied petroleum gas business. These permits shall only be granted during an emergency and/or disaster. These permits are valid for 90 days from the date of issuance. Permits may be renewed prior to the expiration date of the permit during the course of the emergency and/or disaster that it was initially applied for.

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 coverage per:

- i. products;
- ii. manufacturers and contractors; and
- iii. automobile liability.

b. Where fuel is used direct from cargo tank, an approved valve with proper excess flow device shall be used. Connector to vehicle's engine shall be approved for such use and protected from mechanical injury.

c. No truck shall be parked on a street or highway at night in any city, town, or village, except for the purpose of serving a customer.

d. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement.

e. The name of the dealer shall appear on all tank trucks, storage tank sites, and/or advertising being used by the dealer. At consumer premises, where the tank or the container is owned by the dealer, the dealer's name shall be affixed. This requirement is considered met if documentation is provided, upon demand, that the dealer's name was affixed at the time of installation. Consumer premises requirement is not retroactive.

3. Class II. Holders of these permits may install and service liquefied petroleum gas containers, piping, and appliances but shall not sell nor deliver gas with this permit. This class is also applicable to the installation and service of liquefied petroleum gas containers, piping, and appliances on mobile homes, modular homes, manufactured homes, motor homes, travel trailers homes or any other recreational vehicles.

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 coverage per:

- i. products;
- ii. manufacturers and contractors; and
- iii. motor vehicle liability.

b. Louisiana manufacturers and dealers of mobile homes, manufactured homes, modular homes, motor homes, travel trailers, or any recreational vehicles shall comply with all state and federal safety standards and perform all safety tests on mobile homes, modular homes, manufacture homes, motor homes, travel trailers, or any recreational vehicles using liquefied petroleum gas.

c. Upon delivery of a mobile home, manufactured homes, modular homes, motor home, travel trailer, or any other recreational vehicle, new or used, the required installation report and inspection and testing of any liquefied petroleum gas system and appliances shall be performed by the dealer or any entity performing functions as a dealer using liquefied petroleum gas in the system. An installation report properly completed and signed by the customer or his/her authorized representative shall be sent to the office of the director verifying that the tests were performed and that the test was eye witnessed by the customer or his/her authorized representative.

d. The mobile home, manufactured homes, modular homes or recreational vehicle dealer or entity performing functions as a dealer shall have a permit with this commission and is responsible to this commission to make the required installation report, perform the required inspection and safety tests, or make arrangements for it to be made by a qualified permit holder.

e. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement.

4. Class III. Brokers/Special Vendors. Holders of these permits may purchase liquefied petroleum gas only from dealers who hold a valid liquefied petroleum gas permit and resell the aforementioned purchased liquefied petroleum gas product to end users utilizing floor maintenance machines and/or industrial trucks (forklifts) on their premises. Holders of these permits shall not deliver gas or engage in repairing liquefied petroleum gas containers or systems.

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per products liability coverage.

b. Shall submit a completed "location approval form" for each physical location being served, with a handling fee of \$150 for each location being served.

c. Compliance with all other statutes, rules and regulations is a mandatory requirement.

d. Shall provide 24 hour emergency contact information at each liquefied petroleum gas storage location. The person deemed the emergency contact shall have basic knowledge regarding liquefied petroleum gas emergencies

and shall maintain contact information per the servicing liquefied petroleum gas supplier.

e. The Class III permit holder shall post the servicing liquefied petroleum gas supplier's name (name on Louisiana liquefied petroleum gas permit) at each liquefied petroleum gas storage site and each end user's location.

5. Class IV. Resellers (Wholesalers). Holders of these permits may deliver and transport liquefied petroleum gas over the highways of the state; may sell liquefied petroleum gases only to manufacturers of liquefied petroleum gases, or manufacturers of products which liquefied petroleum gases form a component part, or to dealers who hold a permit with this commission; utilize aboveground steel storage and/or approved salt dome, shale and other underground caverns for the storage of liquefied petroleum gases; do general maintenance work on their equipment, using qualified personnel, but shall not sell or install systems and appliances.

a. Shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 coverage per:

- i. products;
- ii. manufacturers and contractors; and
- iii. automobile liability.

b. The name of the dealer shall appear on all tank trucks which require registration with the commission and storage tank sites.

c. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement.

6. Class V. Carburetion Permit. Holders of these permits may install equipment, including containers, and service liquefied petroleum gas equipment used on internal combustion engines. They shall not deliver liquefied petroleum gas.

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per manufacturers and contractors liability coverage.

b. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement.

7. Class VI. Holders of these permits may engage in the filling of approved cylinders and motor fuel tanks with liquefied petroleum gas on their premises, but shall not deliver gas.

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per products liability coverage.

b. The name of the dealer shall appear on storage tank sites.

c. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement.

8. Class VI-X. Holders of these permits may engage in the exchange of approved liquefied petroleum gas cylinders on their premises, but shall not fill cylinders. They shall not deliver gas.

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per products liability coverage.

b. Any current Class VI permit holder may convert to a Class VI-X permit by filing formal application with the commission and submitting a \$25 filing fee. Presence of the applicant at the commission meeting will be waived. Upon

receipt of the application and filing fee, permit shall be issued.

c. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement.

9. Class VII. Holders of these permits may transport liquefied petroleum gas by motor vehicle over the highways of the state of Louisiana but shall not sell product in the state.

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per automobile liability coverage.

b. Where fuel is used direct from cargo tank, an approved valve with proper excess flow device shall be used. Connector to vehicle's engine shall be approved for such use and protected from mechanical injury.

c. No truck shall be parked on a street or highway at night in any city, town, or village, except for the purpose of serving a customer.

d. The name of the dealer shall appear on all tank trucks which require registration with the commission.

e. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement.

10. Reserved.

11. Class VIII. Holders of these permits may store, transport and sell liquefied petroleum gas used solely in the cutting and metal working industry, sell and install piping and containers for those gases and engage in the filling of approved ASME tanks, ICC or DOT containers used in the metal working industry.

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per products, manufacturers and contractors, and automobile liability coverage.

b. The name of the dealer shall appear on all tank trucks which require registration with the commission and storage tank sites.

c. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement.

12. Class IX. Holders of these permits may inspect, recertify and recondition DOT and ICC cylinders. They shall not sell or deliver liquefied petroleum gas or anhydrous ammonia.

NOTE: Text in a. - d. below is being preserved and moved.

a. Holders of these permits shall obtain from DOT a retesters identification number, and provide proof of such to the commission.

b. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per products liability coverage.

c. Holders of these permits shall provide drawing and description of equipment to be installed to retest cylinders. Drawing and description shall be submitted to the office of the director for his approval before installation.

d. Holders of these permits shall maintain an accurate log of all cylinders that have been retested by date, size, manufacturer name, and serial number. The commission reserves the right to inspect such logs at any time through its representative.

e. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement.

13. Registration 1 (R-1). Holders of these registrations shall be a person, firm, or corporation who is engaged in the

business of plumbing and holds a master plumber's license issued by the state of Louisiana. They may install liquefied petroleum gas or anhydrous ammonia piping and make alterations or modifications to existing piping systems. These registrations shall be issued by the office of the director upon meeting the applicable requirements of §107 and the following:

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per manufacturers and contractors liability coverage.

b. Compliance with the provisions of NFPA Pamphlet Number 54 (*National Fuel Gas Code*) and NFPA Number 58 (*Standard for the Storing and Handling of Liquefied Petroleum Gas*) and ANSI K 61.1-1989 is a mandatory requirement.

c. Compliance with all other applicable statutes, rules and regulations of the commission is a mandatory requirement.

14. Registration 2 (R-2). Holders of these registrations shall be a person, firm, or corporation engaged in the mechanical contracting business. They may install liquefied petroleum gas and/or anhydrous ammonia appliances and equipment, and make alterations or modifications to existing liquefied petroleum gas and/or anhydrous ammonia appliances and equipment. These registrations shall be issued by the office of the director upon meeting the applicable requirements of §107 and the following:

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per products and manufacturers and contractors liability coverage.

b. Compliance with the provisions of NFPA Pamphlet Number 54 (*National Fuel Gas Code*) and NFPA Number 58 (*Standard for the Storing and Handling of Liquefied Petroleum Gas*) and ANSI K 61.1-1989 is a mandatory requirement.

c. Compliance with all other applicable statutes, rules and regulations of the commission is a mandatory requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated LR 3:315 (July 1977), amended LR 7:633 (December 1981), LR 8:53 (January 1982), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 12:841 (December 1986), LR 15:855 (October 1989), LR 16:1063 (December 1990), LR 19:904 (July 1993), LR 20:1400 (December 1994), LR 21:701 (July 1995), LR 24:461 (March 1998), LR 25:2411 (December 1999), LR 29:2509 (November 2003), LR 33:1141 (June 2007), effective July 1, 2007, LR 38:1259 (May 2012), LR 41:395 (February 2015), LR 43:967 (May 2017), LR 46:188 (February 2020), LR 47:

Subchapter B. Dealers

§119. Permit Fees

A. All fees pursuant to R.S. 40:1849 shall be paid before a new permit will be issued each year, with the exception of a Class I-E permit. For a Class I-E permit, all fees shall be paid prior to a renewal permit being issued by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 16:1063 (December 1990), LR 38:1262 (May 2012), LR 47:

§131. Compliance with Rules

A. Compliance with all other statutes, rules and regulations will be required for all permit holders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974. LR 47:

John W. Alario
Executive Director

2102#023

DECLARATION OF EMERGENCY

**Board of Regents
Office of Student Financial Assistance**

Scholarship/Grant Programs
Students Affected by 2020 Natural Disasters
(LAC 28:IV.509, 703, 705, 803, 805, 2103 and 2105)

The Louisiana Board of Regents is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:950 et seq.]] to amend the rules of the Scholarship/Grant programs (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1.1-3042.8, R.S. 17:5001 et seq., and R.S. 56:797.D(2)).

This rulemaking implements the provisions of Act 17 of the Second Extraordinary Session of 2020 with respect to students affected by 2020 Natural Disasters. More specifically, this rulemaking provides for an extension of the ACT testing deadline for 2020 high school graduates; provides waivers of certain TOPS initial eligibility for students affected by natural disasters in 2020; and provides waivers of certain TOPS continuing eligibility requirements for students affected by natural disasters. In addition, this rulemaking provides deferments for students who are currently in repayment status for the Rockefeller State Wildlife Scholarship Program and TOPS Teacher.

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

This Declaration of Emergency is effective on February 8, 2021, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG21197ER)

Title 28

EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs Chapter 5. Applications, Federal Grant Aid and ACT Test

§509. ACT Testing Deadline

A.1. The student must take the official ACT test (including national, international, military or special test types) on or before the official April test date in the academic year (high school) in which the student graduates or completes a home study program approved by BESE.

2. A student may submit a request for exception to the deadline established in §509.A.1, which will be considered only under the following circumstances:

a. the student was prevented from taking the ACT test on or prior to the official April test date due to circumstances beyond his control and which are attributable to the administration of the test; and

b. the student achieves a qualifying score on or before August 1 of the year of the student's high school graduation.

c. the award for a student whose request for exception is approved under this Section shall not be reduced as set forth in §509.C.

d. except for an applicant who has qualified for a TOPS-Tech Award on or prior to the April national ACT test date, an applicant will not be allowed to use a test score obtained after the April national ACT test date to upgrade a TOPS Award.

3. An eligible non-graduate must take the official ACT test (including national, international, military or special test types) before the first day of the semester the student first enrolls in an eligible college or university.

4.a. Applicable to 2020 graduates only, the final deadline for achieving a qualifying score on an official ACT test (including national, international, military or special test types) is December 31, 2020. A student may qualify for an initial award or a higher award based on such test. The award for a student who achieves a qualifying ACT score as provided in the Section shall not be reduced as set forth in §509.C.

b. The provisions of this Subsection shall apply to any student who:

i. was enrolled in a Louisiana public high school during the 2019-2020 academic year (high school);

ii. was enrolled in a nonpublic high school in Louisiana having the approval by the State Board of Elementary and Secondary Education required by Part I of this Chapter for program eligibility purposes during the 2019-2020 academic year (high school);

iii. resided in the state of Louisiana and was enrolled in a home study program approved by the State Board of Elementary and Secondary Education during the 2019-2020 academic year (high school); or

iv. resided out of state during the 2019-2020 academic year but who is able to meet the residency requirements to qualify for an award as provided for in §703.A.2.

c. A student who meets the requirements of this Subsection may request an exception to the December 31, 2020, deadline if the student provides documentation that:

i. he was registered for one or more ACT exams prior to the December 31, 2020 deadline; and

ii. one or more ACT exams for which the student was registered was cancelled due to Hurricane Laura, Hurricane Delta, Hurricane Zeta, or due to measures implemented to mitigate the spread of COVID-19; and

iii. he was unable to register for an ACT exam that would occur prior to December 31, 2020, that was within a reasonable distance from his home or from the location to which he/his family had been evacuated due to Hurricane Laura, Hurricane Delta, or Hurricane Zeta.

d. The initial award or upgraded award for any student who requests and is granted an exception in accordance with the provisions of this Subsection shall be paid for the first time during the semester in which the qualifying ACT was achieved.

B.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3042.1 and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 26:1995 (September 2000), amended LR 26:2000 (September 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), repromulgated LR 27:1847 (November 2001), amended LR 30:1161 (June 2004), LR 31:37 (January 2005), LR 38:3157 (December 2012), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:503 (March 2018), LR 44:1869 (October 2018), LR 47:

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

§703. Establishing Eligibility

A. - I.8. ...

J. 2005 Natural Disaster Initial Eligibility Requirements

J.1. - K.2.d. ...

L. 2020 Natural Disaster Initial Eligibility Requirements

1. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, a displaced student graduating from high school or completing a BESE approved home study program at the 12th grade level during the 2020-2021 academic year (high school) must meet all of the requirements of §703.A-I.8 above, except as follows.

a. A displaced student who has been certified by the principal or headmaster to have graduated during the 2020-2021 academic year (high school) from an out-of-state high school that meets the criteria of an eligible out-of-state high school as provided in §1701.A.4 and 5 shall not be required to have for the respective awards a higher minimum composite score on the ACT or on the scholastic aptitude test than required for a student who graduates from an eligible Louisiana high school.

b. The requirement that a student who graduates from an eligible Louisiana high school during the 2020-2021 academic year (high school) must have successfully completed the applicable core curriculum shall be waived for a displaced student based upon a sworn affidavit by the student's high school principal or headmaster or authorized designee that failure to comply with such requirement is due solely to the fact that the required course or courses were not available to the student at the school attended.

c. A displaced student shall be deemed to meet the Louisiana residency requirement if:

i. such dependent or independent student actually resided in Louisiana during the entire 2019-2020 academic year (high school) and was enrolled for such time in an eligible Louisiana high school and graduated from high school during 2020-2021 academic year (high school); or

ii. such dependent student has a parent or court-ordered custodian who actually resided in a parish listed in §703.L.2.a below for at least the 12 months prior to August 26, 2020, or in a parish listed in §703.L.2.b below for at least the 12 months prior to October 8, 2020, or in a parish listed in §703.L.2.c below for at least the 12 months prior to October 26, 2020.

d. A dependent student who graduated from an eligible out-of-state high school shall be deemed to meet the Louisiana residency requirement if his parent or court-ordered custodian was displaced as a resident from a parish listed:

i. in §703.L.2.a. below due to Hurricane Laura and such parent or court-ordered custodian actually resided in Louisiana for at least the 12 months prior to August 26, 2020; or

ii. in §703.L.2.b. below due to Hurricane Delta and such parent or court-ordered custodian actually resided in Louisiana for at least the 12 months prior to October 8, 2020.

iii. in §703.L.2.c. below due to Hurricane Zeta and such parent or court-ordered custodian actually resided in Louisiana for at least the 12 months prior to October 26, 2020.

e. A displaced student who during the 2020-2021 academic year (high school) successfully completes at the 12th grade level a home study program approved by BESE shall not be required to have also completed the 11th grade level of an approved home study program.

2. For the purposes of this Subsection, *displaced student* means:

a. a student who on August 26, 2020, was actually residing in Acadia, Allen, Beauregard, Calcasieu, Cameron, Grant, Jackson, Jefferson Davis, Lasalle, Lincoln, Morehouse, Natchitoches, Ouachita, Rapides, Sabine, St. Landry, Union, Vermilion, Vernon, or Winn Parish, and:

i. was enrolled in an eligible Louisiana high school as provided in §1701.A.1, 2 and 3; or

ii. was enrolled in a home study program approved by BESE; or

b. a student who on October 8, 2020, was actually residing in Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, Lafayette, Rapides, St. Landry, St. Martin, or Vermilion Parish, and:

i. was enrolled in an eligible Louisiana high school as provided in §1701.A.1, 2 and 3; or

ii. was enrolled in a home study program approved by BESE.

c. a student who on October 26, 2020, was actually residing in Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, or Terrebonne Parish, and:

i. was enrolled in an eligible Louisiana high school as provided in §1701.A.1, 2 and 3; or

ii. was enrolled in a home study program approved by BESE.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013), LR 40:54 (January 2014), LR 41:373 (February 2015), LR 41:651, 664 (April 2015), LR 41:1486 (August 2015), LR 41:2596, 2599 (December 2015), amended by the Board of Regents, Office of Student Financial Assistance, LR 42:1657 (October 2016), LR 42:1882 (November 2016), LR 43:518 (March 2017), LR 43:1346 (July 2017), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:506 (March 2018), LR 44:1004 (June 2018), LR 44:1870 (October 2018), LR 46:326 (March 2020), LR 47:

§705. Maintaining Eligibility

A.1. - D. ...

E. 2005 Natural Disaster Maintaining Eligibility Requirements

E.1. - F.2. ...

G. 2020 Natural Disaster Maintaining Eligibility Requirements

1. To continue receiving the TOPS Opportunity, Performance or Honors Awards, a displaced student must meet all of the criteria in §705.A-D above, except as follows.

a. The TOPS Award of a displaced student who enrolls as a full-time student in an eligible out-of-state college or university during the 2020-2021 academic year (TOPS) and subsequently enrolls at a Louisiana-eligible college or university shall not be reduced due to enrollment in an eligible out-of-state institution during the 2020-2021 academic year (TOPS).

b. The period of suspension of a TOPS Award for a displaced student due to the student not meeting a requirement to maintain a minimum grade point average or to make steady academic progress shall be extended on a one-for-one basis for each semester or term in which the student does not enroll on a full-time basis in an eligible college or university during the 2020-2021 academic year (TOPS).

c. A displaced student shall not be required to meet the minimum academic progress requirements set forth in §705.A.6..

b. A displaced student shall not be required to meet the steady academic progress requirements set forth in §705.A.7.

c. A displaced student shall not be required to meet the continuation GPA requirements set forth in §705.A.8.

2. For the purposes of this Subsection, *displaced student* means:

a. a student whose home of record on August 26, 2020, was located in, or who, on August 26, 2020, was attending a postsecondary institution located in Acadia, Allen, Beauregard, Calcasieu, Cameron, Grant, Jackson, Jefferson Davis, Lasalle, Lincoln, Morehouse, Natchitoches, Ouachita, Rapides, Sabine, St. Landry, Union, Vermilion, Vernon, or Winn Parish: or

b. a student whose home of record on October 8, 2020, was located in, or who, on October 8, 2020, was attending a postsecondary institution located in Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, Lafayette, Rapides, St. Landry, St. Martin, or Vermilion Parish.

c. a student whose home of record on October 26, 2020, was located in, or who, on October 26, 2020, was attending a postsecondary institution located in Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, or Terrebonne Parish.

3. For the purposes of this Subsection, *home of record for a dependent student* shall mean the domiciliary address of the student's parent or court-ordered custodian and for an independent student shall mean the domiciliary address of such student.

H.1. A student who successfully completes a baccalaureate degree without having exhausted his period of award eligibility shall receive an award for the remainder of his eligibility if he enrolls in a graduate or professional school at an eligible college or university no later than the fall semester immediately following the first anniversary of the student's completion of an undergraduate degree and has met the requirements for continued eligibility set forth in §705.A.6. The remaining eligibility may not be used to pursue a second undergraduate degree.

2. Beginning with the 2012-2013 academic year (TOPS), a student who successfully completes any type of technical, vocational, or academic credential other than a baccalaureate degree without having exhausted his period of award eligibility shall receive an award for the remainder of his eligibility if he enrolls in a program of study leading to a baccalaureate degree, to a vocational or technical certificate or diploma, or to a non-academic degree at an eligible college or university no later than the fall semester immediately following the first anniversary of the student's completion of an associate's degree and has met the requirements for continued eligibility set forth in §705.A.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3042.1, and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999), LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26:1996 (September 2000), LR 26:2001 (September 2000), repromulgated LR 27:1853 (November 2001), amended LR 28:447 (March 2002), LR 28:772 (April 2002), LR 28:2332 (November 2002), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1163 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005), LR 33:437 (March 2007), LR 34:1390 (July 2008), LR 36:491 (March 2010), LR 36:2856 (December 2010), LR 38:3159 (December 2012), LR 40:1002 (May 2014), LR 41:664 (April 2015), LR 42:47 (January 2016), amended by the Board of

Chapter 8. TOPS-Tech Award

§803. Establishing Eligibility

- A. - A-10. ...
- B. 2005 Natural Disaster Initial Eligibility Requirements
- B.1. - D.2.h. ...
- E. 2020 Natural Disaster Initial Eligibility Requirements
1. To establish eligibility for a TOPS Tech Award, a displaced student graduating from high school or completing a BESE approved home study program at the 12th grade level during the 2020-2021 academic year (high school) must meet all of the requirements of §803.A, except as follows.
 - a. A displaced student who has been certified by the principal or headmaster to have graduated during the 2020-2021 academic year (high school) from an out-of-state high school that meets the criteria of an eligible out-of-state high school as provided in §1701.A.4 and 5 shall not be required to have for the respective awards a higher minimum composite score on the ACT or on the scholastic aptitude test than required for a student who graduates from an eligible Louisiana high school.
 - b. The requirement that a student who graduates from an eligible Louisiana high school during the 2020-2021 academic year (high school) must have successfully completed the applicable core curriculum shall be waived for a displaced student based upon a sworn affidavit by the student's high school principal or headmaster or authorized designee that failure to comply with such requirement is due solely to the fact that the required course or courses were not available to the student at the school attended.
 - c. A displaced student shall be deemed to meet the Louisiana residency requirement if:
 - i. such dependent or independent student actually resided in Louisiana during the entire 2019-2020 academic year (high school) and was enrolled for such time in an eligible Louisiana high school and graduated from high school during 2020-2021 academic year (high school); or
 - ii. such dependent student has a parent or court-ordered custodian who actually resided in a parish listed in §803.E.2.a below for at least the 12 months prior to August 26, 2020, or in a parish listed in §803.E.2.b below for at least the 12 months prior to October 8, 2020, or in parish listed in §803.E.2.c for at least the 12 months prior to October 26, 2020.
 - d. A dependent student who graduated from an eligible out-of-state high school shall be deemed to meet the Louisiana residency requirement if his parent or court-ordered custodian was displaced as a resident from a parish listed:
 - i. in §803.E.2.a below due to Hurricane Laura and such parent or court-ordered custodian actually resided in Louisiana for at least the 12 months prior to August 26, 2020; or
 - ii. in §803.E.2.b below due to Hurricane Delta and such parent or court-ordered custodian actually resided in Louisiana for at least the 12 months prior to October 8, 2020.
 - iii. in §803.E.2.c below due to Hurricane Zeta and such parent or court-ordered custodian actually resided in

Louisiana for at least the 12 months prior to October 26, 2020

e. A displaced student who during the 2020-2021 academic year (high school) successfully completes at the 12th grade level a home study program approved by BESE shall not be required to have also completed the 11th grade level of an approved home study program.

2. For the purposes of this Subsection, *displaced student* means:

a. a student who on August 26, 2020, was actually residing in Acadia, Allen, Beauregard, Calcasieu, Cameron, Grant, Jackson, Jefferson Davis, Lasalle, Lincoln, Morehouse, Natchitoches, Ouachita, Rapides, Sabine, St. Landry, Union, Vermilion, Vernon, or Winn Parish, and:

i. was enrolled in an eligible Louisiana high school as provided in §1701.A.1, 2 and 3; or

ii. was enrolled in a home study program approved by BESE; or

b. a student who on October 8, 2020, was actually residing in Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, Lafayette, Rapides, St. Landry, St. Martin, or Vermilion Parish, and:

i. was enrolled in an eligible Louisiana high school as provided in §1701.A.1, 2 and 3; or

ii. was enrolled in a home study program approved by BESE.

c. a student who on October 26, 2020, was actually residing in Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, or Terrebonne Parish, and:

i. was enrolled in an eligible Louisiana high school as provided in §1701.A.1, 2 and 3; or

ii. was enrolled in a home study program approved by BESE.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1904 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65 and 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2754 (December 2000), LR 27:36 (January 2001), LR 27:1220 (August 2001), repromulgated LR 27:1854 (November 2001), amended LR 28:447 (March 2002), LR 28:773 (April 2002), LR 28:2330 (November 2002), LR 29:554 (April 2003), LR 30:1164 (June 2004), LR 30:2019 (September 2004), LR 31:39 (January 2005), LR 31:3114 (December 2005), LR 33:437 (March 2007), LR 33:2614 (December 2007), LR 35:230 (February 2009), LR 36:491 (March 2010), LR 36:2270 (October 2010), LR 36:2856 (December 2010), LR 38:3159 (December 2012), LR 41:654 (April 2015), LR 41:2597 (December 2015), LR 42:48 (January 2016), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:523 (March 2018), amended LR 44:1874 (October 2018), LR 45:1172 (September 2019), LR 47:

§805. Maintaining Eligibility

A.1. - C. ...

D. 2005 Natural Disaster Maintaining Eligibility Requirements

D.1. - G. ...

H. 2020 Natural Disaster Maintaining Eligibility Requirements

1. To continue receiving the TOPS Tech Award, a displaced student must meet all of the criteria in §805.A-C above, except as follows.

a. The TOPS Award of a displaced student who enrolls as a full-time student in an eligible out-of-state college or university during the 2020-2021 academic year (TOPS) and subsequently enrolls at a Louisiana-eligible college or university shall not be cancelled or reduced due to enrollment in an eligible out-of-state institution during the 2020-2021 academic year (TOPS).

b. The period of suspension of a TOPS Award for a displaced student due to the student not meeting a requirement to maintain a minimum grade point average or to make steady academic progress shall be extended on a one-for-one basis for each semester or term in which the student does not enroll on a full-time basis in an eligible college or university during the 2020-2021 academic year (TOPS).

c. A displaced student shall not be required to meet the minimum academic progress requirements set forth in §805.A.8.

b. A displaced student shall not be required to meet the steady academic progress requirements set forth in §805.A.6.

c. A displaced student shall not be required to meet the continuation GPA requirements set forth in §805.A.7.

2. For the purposes of this Subsection, *displaced student* means:

a. a student whose home of record on August 26, 2020, was located in, or who, on August 26, 2020, was attending a postsecondary institution located in Acadia, Allen, Beauregard, Caddo, Calcasieu, Cameron, Grant, Jackson, Jefferson Davis, Lasalle, Lincoln, Morehouse, Natchitoches, Ouachita, Rapides, Sabine, St. Landry, Union, Vermilion, Vernon, or Winn Parish: or

b. a student whose home of record on October 8, 2020, was located in, or who, on October 8, 2020, was attending a postsecondary institution located in Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, Lafayette, Rapides, St. Landry, St. Martin, or Vermilion Parish.

c. a student whose home of record on October 26, 2020, was located in, or who, on October 26, 2020, was attending a postsecondary institution located in Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, or Terrebonne Parish.

3. For the purposes of this Subsection, *home of record for a dependent student* shall mean the domiciliary address of the student's parent or court-ordered custodian and for an independent student shall mean the domiciliary address of such student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3042.1 and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998) amended LR 25:1091 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), LR 26:1997, 2002 (September 2000), repromulgated LR 27:1856 (November 2001), amended LR 28:774 (April 2002), LR 28:2332 (November 2002), LR 29:880 (June 2003), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1165 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005), LR 33:438 (March 2007), LR 35:1489 (August 2009), LR 38:3160 (December 2012), LR 40:1002 (May 2014), LR 41:666 (April 2015), LR 41:2598 (December 2015), LR 42:49 (January 2016), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:527 (March 2018), LR 47:

Chapter 21 Miscellaneous Provisions and Exceptions

§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - G.5.b.iii. ...

H. 2020 Natural Disaster Exceptions

1. For the purposes of this subsection, *displaced students* are TOPS, Rockefeller State Wildlife Scholarship, and GO Youth Challenge recipients and students eligible for TOPS whose home of record on August 26, 2020, was located in, or who, on August 26, 2020, was attending a postsecondary institution located in Acadia, Allen, Beauregard, Caddo, Calcasieu, Cameron, Grant, Jackson, Jefferson Davis, Lasalle, Lincoln, Morehouse, Natchitoches, Ouachita, Rapides, Sabine, St. Landry, Union, Vermilion, Vernon, or Winn Parish: or

b. a student whose home of record on October 8, 2020, was located in, or who, on October 8, 2020, was attending a postsecondary institution located in Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, Lafayette, Rapides, St. Landry, St. Martin, or Vermilion Parish.

c. a student whose home of record on October 26, 2020, was located in, or who, on October 26, 2020, was attending a postsecondary institution located in Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, or Terrebonne Parish.

2. For the purposes of this Subsection, *home of record* is:

a. the domiciliary address of a dependent student's parent or court-ordered custodian; or

b. the domiciliary address of an independent student.

3. For the 2020-2021 academic year (TOPS), displaced students are not required to enroll as full-time students, to maintain continuous enrollment, or to earn at least 24 hours during the 2020-2021 academic year (TOPS).

4. Displaced students may enroll on a part-time basis in an eligible college or university without losing TOPS eligibility.

a. Upon request of the student, the eligible college or university may bill for the TOPS award for these part-time students.

b. The terms of eligibility for a displaced student whose part-time enrollment is paid by TOPS will be reduced by one full semester (term) for each semester (term) paid.

c. Institutions must document the displaced student's request for part-time payment of TOPS under these circumstances.

d. Any grades earned by a displaced student who enrolls part-time during the 2020-2021 academic year (TOPS) will be included in the calculation of the student's cumulative grade point average.

5. Displaced students who are Rockefeller State Wildlife Scholarship recipients may enroll full-time or part-time in a college or university that does not offer a course of study leading to an undergraduate or graduate degree in wildlife, forestry or marine science.

a. Upon request of the student, the eligible college or university may bill for the Rockefeller State Wildlife Scholarship for these students.

b. The amount paid for any such semester of enrollment in accordance with this Subsection shall reduce the student's total eligibility for the Rockefeller State Wildlife Scholarship Program.

c. Institutions must document the displaced student's request for payment in accordance with this Subsection.

d. Any grades earned by a displaced student who enrolls in school during the 2020-2021 in accordance with this Subsection will be included in the calculation of the student's cumulative grade point average.

6. For the 2020-2021 academic year (TOPS), students who are not *displaced students*, but who, due to the effects of Hurricane Laura were unable to enroll for the first time as full time students by the applicable deadline, to enroll as full-time students, to maintain continuous enrollment in school, or to earn 24 hours during the 2020-2021 academic year (TOPS) may submit a request for exception in accordance with §2103.D. based on the circumstances provided in §2103.E.12.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:5001 et seq., and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1648 (December 1997), repromulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2002 (September 2000), LR 27:36 (January 2001), repromulgated LR 27:1866 (November 2001), amended LR 27:1875 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330 and 2333 (November 2002), LR 29:126 (February 2003), LR 29:2373 (November 2003), LR 29:2373 (November 2003), LR 30:785 (April 2004), LR 30:1167 (June 2004), LR 31:1060 (May 2005), LR 33:440 (March 2007), LR 35:1233 (July 2009), LR 38:3160 (December 2012), LR 41:657, 667 (April 2015), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:562 (March 2018), LR 45:1173 (September 2019), LR 47:

§2105. Repayment Obligation, Deferment, Cancellation and Reduced Payments

A. - B.9.e.iii. ...

10. 2020 Natural Disaster Deferments. For the purposes of this Subsection, *displaced students* are recipients of the Rockefeller State Wildlife Scholarship or TOPS Teacher Award who are in repayment status and whose Home of Record:

a. on August 26, 2020, was located in Acadia, Allen, Beauregard, Caddo, Calcasieu, Cameron, Grant, Jackson, Jefferson Davis, Lasalle, Lincoln, Morehouse, Natchitoches, Ouachita, Rapides, Sabine, St. Landry, Union, Vermilion, Vernon, or Winn Parish: or

b. on October 8, 2020, was located in, or who, on October 8, 2020, was attending a postsecondary institution located in Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, Lafayette, Rapides, St. Landry, St. Martin, or Vermilion Parish.

c. on October 26, 2020, was located in, or who, on October 26, 2020, was attending a postsecondary institution located in Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, or Terrebonne Parish.

d. For the purposes of this Subsection, *home of record* is the domiciliary address of the recipient who is in repayment status.

e.i. For students qualifying for deferment under the provisions of §2105.B.10.a. above, loan repayments are deferred and interest accrual is suspended for the period August 26, 2020, through August 31, 2021;

ii. For students qualifying for deferment under the provisions of §2105.B.10.b. above, loan repayments are deferred and interest accrual is suspended for the period October 8, 2020, through October 31, 2021.

iii. For students qualifying for deferment under the provisions of §2105.B.10.c. above, loan repayments are deferred and interest accrual is suspended for the period October 26, 2020, through October 31, 2021.

f. For the period August 26, 2020, through October 31, 2021, recipients of the Rockefeller State Wildlife Scholarship or the TOPS Teacher Award who are not *displaced students*, but who, due to the effects of a natural disaster as provided in this Subsection, are unable to repay their loan may submit a request for exception in accordance with §2103.D. based on the circumstances provided in §2103.E.12.

C. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3042.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:649 (April 1998), amended LR 24:1918 (October 1998), LR 26:1603 (August 2000), repromulgated LR 27:1868 (November 2001), amended LR 28:775 (April 2002), LR 30:781 (April 2004), LR 30:1167, 1168 (June 2004), LR 33:442 (March 2007), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:566 (March 2018), LR 47:

Robyn Rhea Lively
Senior Attorney

2102#015

DECLARATION OF EMERGENCY

Department of State Elections Division

Opportunity to Cure Deficiencies in
Absentee by Mail Ballots (LAC 31:I.Chapter 3)

The Department of State has exercised the emergency provisions of the Administrative Procedure Act, specifically R.S. 18:18(A)(3) and R.S. 36:742, the Louisiana Department of State, Elections Division, is requesting emergency rules, which will add language to Part I, Chapter 3. The added Chapter will allow a procedure for absentee by mail ballot envelope flaps with deficiencies to be cured. An Emergency Rule is necessary so that a procedure may be provided for curing absentee by mail ballot envelope flaps with deficiencies prior to the March 20, 2021 and April 24, 2021 elections. A prior rule of a similar nature was made effective on June 15, 2020, and expired on October 12, 2020. The Emergency Rule in effect now was effective October 12, 2020, and will expire on February 9, 2021. The absence of such a procedure for the March 20, 2021 and April 24, 2020 elections creates an imminent peril to the welfare of the citizens of Louisiana and their right to vote, thereby making this Emergency Rule necessary. This Emergency Rule shall have the force and effect of law on February 9, 2021, and

will remain in effect 120 days, unless renewed by the Department of State, or until permanent rules are promulgated in accordance with law.

Title 31

ELECTIONS

Part I. Election Process

Chapter 3. Opportunity to Cure Deficiencies in Absentee by Mail Ballots

§301. Absentee by Mail Ballot Deficiencies that may be Cured

A. Each registrar of voters shall review the absentee by mail ballot envelope flap for the following deficiencies:

1. missing voter signature;
2. missing witness signature; and
3. incomplete affidavit information, including but not limited to missing election date and voter information.

B. This review shall be conducted immediately upon receipt of the absentee by mail ballot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(3) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 47:

§303. Absentee Ballot Deficiency Notification

A. Upon receipt of an absentee by mail ballot envelope flap with one or more of the above identified deficiencies, the registrar of voters shall segregate the ballot envelope and promptly notify the voter of the ballot envelope flap deficiency and of the opportunity to cure the deficiency.

B. The registrar of voters shall identify the ballot in the voter's absentee record and notate it as deficient with opportunity to cure.

C. The registrar shall contact the voter using the telephone number and email address available in the voter's registration record. The registrar shall also mail a written notice of the ballot envelope flap deficiency and the opportunity to cure the deficiency.

D. All deficiency notifications shall inform the voter of the type of deficiency, the process for curing the deficiency, and the deadline and method to cure the deficiency. The registrar shall make a log of the date and methods of contact for each voter.

E. Voters are required to appear in person at their registrar of voters office during normal business hours until 4:30 p.m. the day before the election to cure the ballot envelope flap deficiency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(3) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 47:

§305. Curing Absentee by Mail Ballot Deficiencies

A. To cure a missing voter signature, the voter shall appear at the office of the registrar and sign the ballot envelope flap in the presence of an employee of the registrar of voters. The employee of the registrar who observes the signature shall also sign the ballot envelope flap as witness.

B. To cure a missing witness signature, the voter shall appear at the office of the registrar and resign the ballot envelope flap in the presence of an employee of the registrar of voters. The employee of the registrar who observes the signature shall sign the ballot envelope flap as witness.

C. To cure an incomplete affidavit, the voter shall appear at the office of the registrar and complete the affidavit on the ballot envelope flap.

D. If the voter appears at the office of the registrar to cure the deficiency, the notation in the voter's absentee record shall be updated to so reflect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(3) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 47:

Interested persons may submit written comments to Lani Durio, Deputy Commissioner of Elections, 8585 Archives Ave., Baton Rouge, LA 70809, or lani.durio@sos.la.gov.

R. Kyle Ardoin
Secretary of State

2102#019

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Shrimp Season Closure in Portions of State Inshore and Outside Waters

The secretary of the Department of Wildlife and Fisheries has been notified that recent biological sampling conducted by the department has indicated that average white shrimp size within these waters to be closed is smaller than the minimum possession count and this action is being taken to protect these small white shrimp and provide opportunity for growth to larger and more valuable sizes. R.S. 56:498 provides that the possession count on saltwater white shrimp for each cargo lot shall average no more than 100 (whole specimens) per pound except during the time period from October fifteenth through the third Monday in December.

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; R.S. 56:497 which allows the Wildlife and Fisheries Commission to delegate to the secretary of the Department of Wildlife and Fisheries the powers, duties and authority to set shrimp seasons; and in accordance with a Declaration of Emergency adopted by the commission on August 6, 2020, which authorizes the secretary of the department to close shrimp season in all or parts of state outside waters when biological and technical data indicate the need to do so or if enforcement problems develop, the secretary does hereby declare:

The 2020 fall shrimp season shall close on Sunday, January 24, 2021, at official sunset in the following portions of state inside waters: Lake Pontchartrain, Chef Menteur and Rigolets Passes, Lake Borgne, Mississippi Sound, Mississippi River Gulf Outlet (MRGO), a section of the Gulf Intracoastal Waterway (GIWW) in Orleans Parish from the GIWW East Closure Sector Gate westward to the GIWW intersection with the Inner Harbor Navigation Canal. With this declaration, all inside waters will be closed to shrimping with the exception of the open waters of Breton and Chandeleur Sounds as bounded by the double-rig line described in R.S. 56:495.1(A)2.

The 2020 shrimp season shall close on January 24, 2021, at official sunset, in portions of state outside waters between Caillou Boca and Freshwater Bayou Canal. The eastern boundary line originates on the northwest shore of Caillou

Boca at 29 degrees 02 minutes 46 seconds north latitude, -90 degrees 50 minutes 27 seconds west longitude and ends at a point on the three-mile line as described in R.S. 56:495(A) at 28 degrees 59 minutes 30 seconds north latitude, -90 degrees 51 minutes 57 seconds west longitude. The western boundary line originates on the western shore of Freshwater Bayou Canal at 29 degrees 32 minutes 03 seconds north latitude, -92 degrees 18 minutes 33 seconds west longitude and ends at a point on the three-mile line as described in R.S. 56:495(A) at 29 degrees 29 minutes 02 seconds north latitude, -92 degrees 19 minutes 34 seconds west longitude.

Existing data do not currently support shrimping closures in additional state inside and outside waters. However, historic data suggest additional closures may be necessary and the department will continue monitoring shrimp populations in these 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.

Jack Montoucet
Secretary

2102#016

Rules

RULE

Department of Agriculture and Forestry Office of Agro-Consumer Services

Indian Creek Campsite Fees (LAC 7:XXXIX.539)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority set forth in Act 591 of 1970, R.S. 36:802, and R.S. 3:4402., notice is hereby given that the Department of Agriculture and Forestry (Department) has adopted the rules set forth below by amending LAC 7:XXXIX.539. This amendment will allow for a change in established fees for campsite fees at the Indian Creek Recreation Area. The amendment will change all existing fees from a specific amount to a range which may or may not result in a nominal increase. The amendment will also include fees for newly-added full-hook-up campsites, which will also be in the form of a range rather than a specific amount. This Rule is hereby adopted on the day of promulgation.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 5. Indian Creek Recreation Area

§539. Fees and Exemptions; Overnight Use

A. Camping

1. Standard Campsite. A standard campsite rents for up to \$20 per night during the winter season (November 1-February 28) and up to \$24 per night during the summer season (March 1-October 31). A premium waterfront campsite rents for up to \$24 per night during the winter season (November 1-February 28) and up to \$30 per night during the summer season (March 1-October 31).

2. Pull-Thru Campsite. A pull-thru campsite consists of two sites.

a. Pull-Thru Non-Water Front Single Campsite (Standard Single Pull-Thru). A pull-thru single non-water front campsite rents for up to \$20 per night during the winter season (November 1-February 28) and up to \$24 per night during the summer season (March 1-October 31).

b. Pull-Thru Water-Front Single Campsite (Premium Single Pull-Thru). A pull-thru waterfront single campsite rented for use by a single tenant camper rents for up to \$24 per night during the winter season (November 1-February 28) and up to \$30 per night during the summer season (March 1-October 31).

c. Pull-Thru Water-Front Double Campsite (Ultra Pull-Thru). A pull-thru waterfront double campsite rented for use by a single tenant camper rents for up to \$44 per night during the winter season (November 1-February 28) and up to \$56 per night during the summer season (March 1-October 31).

3. Primitive Area. A primitive area campsite rents for up to \$12 per night during the winter season (November 1-February 28) and up to \$16 per night during the summer season (March 1-October 31).

4. Full Hook-Up Sites. A full hook-up site rents for up to \$30 per night during the winter season (November 1-February 28) and up to \$35 per night during the summer season (March 1-October 31).

B. ...

C. Thirty-Day Off-Season Rates (available November 1-February 28 only)

1. A fee of up to \$330 is assessed for use of a non-waterfront single campsite for 30 days.

2. A fee of up to \$435 is assessed for use of a single waterfront campsite for 30 days.

D. The fees set forth in this Section shall become effective October 1, 2016.

E. Online or telephone payments of the fees set forth in this Chapter may be subject to a credit card transaction fee.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970, R.S. 36:802.10, and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1507 (September 2016), amended LR 43:1518 (August 2017), LR 47:229 (February 2021).

Mike Strain, DVM
Commissioner

2102#029

RULE

Children and Family Services Licensing Section

Suspension of License Renewal Fees (LAC 67:V.6953, 7103, 7303, and 7503)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953(A) and R.S. 46:1407(D), the Department of Children and Family Services (DCFS) has amended LAC 67, Part V, Subpart 8, Chapter 69, Child Residential Care, Class B, Section 6953; Chapter 71, Residential Homes-Type IV, §7103; Chapter 73, Child Placing Agencies, §7303; and Chapter 75, Juvenile Detention Facilities, §7503.

In accordance with HCR 71 of the 2020 Legislative Session, it is necessary to promulgate a rule to implement a temporary suspension of license renewal fees for a limited period of time. During their 2020 Regular Session, the Louisiana Legislature adopted House Concurrent Resolution 71 which directs state agencies to adopt a rule to suspend the collection of license renewal fees for existing businesses based in Louisiana for renewals due from July 1, 2020 through June 30, 2021 as part of Louisiana's response to and as a way to help businesses reopen and recover from COVID-19. This Rule is necessary to comply with the legislative mandate in House Concurrent Resolution 71 of the 2020 Regular Session of the Louisiana Legislature. This Rule is hereby adopted on the day of promulgation, and it is effective on March 1, 2021.

Title 67
SOCIAL SERVICES
Part V. Child Welfare
Subpart 8. Residential Licensing
Chapter 69. Child Residential Care, Class B
§6953. Authority

A. ...

1. In accordance with HCR 71 of the 2020 Legislative Session, license renewal fees due from July 1, 2020 through June 30, 2021 are hereby suspended for existing residential homes located in Louisiana as part of Louisiana's response to and as a way to help businesses reopen and recover from COVID-19.

B. - C.3. ...

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 the Secretary, Bureau of Licensing, LR 27:1565 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1617 (August 2009), amended LR 36:331 (February 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:66 (January 2013), amended by the Department of Children and Family Services, Licensing Section, LR 47:230 (February 2021), effective March 1, 2021.

Chapter 71. Residential Homes—Type IV

§7103. Authority

A. Legislative Provisions

1. - 1.a. ...

2. In accordance with HCR 71 of the 2020 Legislative Session, license renewal fees due from July 1, 2020 through June 30, 2021 are hereby suspended for existing residential homes located in Louisiana as part of Louisiana's response to and as a way to help businesses reopen and recover from COVID-19.

B. - C.3. ...

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 36:805 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:67 (January 2013), amended by the Department of Children and Family Services, Licensing Section, LR 43:246 (February 2017), LR 47:230 (February 2021), effective March 1, 2021.

Chapter 73. Child Placing Agencies—General Provisions

§7303. Authority—Foster Care, Adoption, Transitional Placing

A. - A.6. ...

7. In accordance with HCR 71 of the 2020 Legislative Session, license renewal fees due from July 1, 2020 through June 30, 2021 are hereby suspended for existing child placing agencies located in Louisiana as part of Louisiana's response to and as a way to help businesses reopen and recover from COVID-19.

B. - E.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:352

(March 2019), effective April 1, 2019, amended LR 47:230 (February 2021), effective March 1, 2021.

Chapter 75. Juvenile Detention Facilities

§7503. Authority

A. Legislative Provisions

1. ...

2. In accordance with HCR 71 of the 2020 Legislative Session, license renewal fees due from July 1, 2020 through June 30, 2021 are hereby suspended for existing juvenile detention facilities located in Louisiana as part of Louisiana's response to and as a way to help businesses reopen and recover from COVID-19.

B. - C.1.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1559 (July 2012), amended LR 39:1006 (April 2013), effective July 1, 2013, repromulgated LR 39:1264 (May 2013), amended by the Department of Children and Family Services, Licensing Section, LR 47:230 (February 2021), effective March 1, 2021.

Marketa Garner Walters
Secretary

2102#049

RULE

**Office of the Governor
Used Motor Vehicle Commission**

Used Motor Vehicles

(LAC 46:V.2701, 2801, 2901-2907, 3101, 3701,
3901, 4301, 4401-4405, 4501, and 4701-4710)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 32:783(E), that Louisiana Used Motor Vehicle Commission has amended Chapter 27 of Title 46 in order to implement recent amendments made in the 2018 Legislative Session.

Specifically, the changes implemented by ACT 435 of the 2018 Legislative Session will change §4404, Post-Licensing Educational/Continuing Seminar. This Rule will change some title changes that still read Recreational and Used Motor Vehicle Commission to Used Motor Vehicle Commission, which should have been corrected previously. Also, there have been some updates which include technical and grammatical changes. This Rule is hereby adopted on the day of promulgation.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part V. Automotive Industry
Subpart 2. Used Motor Vehicles**

Chapter 27. The Used Motor Vehicle Commission

§2701. Meetings of the Commission

A. ...

B. Special Meetings. Special meetings shall be held upon call of the chairman by notice given to the members of the Commission at least 48 hours prior to the time the meeting is to be held; such notice may be given by telephone, facsimile, electronic mail or U.S. Mail.

C. A public comment period shall be held at or near the beginning of each board meeting, shall identify himself and the group, organization or company he represents, if any. There will be a maximum of 30 minutes per item for all public comments to be heard. Additional time can be allowed by the chairman as he deems reasonable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(E)(1) and R.S. 42:5(D).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 15:1058 (December 1989) LR 18:1116 (October 1992), LR 24:1682 (September 1998), LR 25:1792 (October 1999), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2351 (November 2002), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2288 (October 2010), amended by the Office of the Governor, Used Motor Vehicle Commission, LR (October 2019), LR 47:230 (February 2021).

Chapter 28. Definitions

§2801. Definitions

A. *Commission* or *the commission* shall refer to the Louisiana Used Motor Vehicle Commission.

B. The word *person* as used herein shall mean any natural or juridical person, firm, association, corporation, trust partnership, limited liability company or any other legal entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(D)(4).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR (October 2019), LR 47:231 (February 2021).

Chapter 29. Licenses to be Issued by the Used Motor Vehicle Commission

§2901. Persons to be Licensed

A. Any person enumerated under R.S. 32:784(A) must be licensed by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:784.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:1682 (September 1998), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission LR 30:436 (March 2004), repromulgated LR 30:792 (April 2004), LR 30:1477 (July 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2288 (October 2010), amended by the Office of the Governor, Used Motor Vehicle Commission, LR (October 2019), LR 47:231 (February 2021).

§2903. Dealer Licenses

A. The dealer license will only be issued in the legal name of the person as identified on the application for dealer license.

B. - F. ...

G. Dealers who rent or who sell on a rent with option to purchase program will be assigned a license number to be prefixed with a "RD" number.

H. Dealers who perform daily rentals will be assigned a "DR" number.

I. Used motor vehicle auctions will be assigned an "AU" number.

J. ...

K. A dealer who has multiple places of business will be allowed from his salesperson's license to sell at all places of business owned by him.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:784.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1634 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2288 (October 2010), amended by the Office of the Governor, Used Motor Vehicle Commission, LR (October 2019), LR 47:231 (February 2021).

§2904. Additional Licensing, Requirements for the Automotive Dismantler and Parts Recycler and Used Parts and Accessories Dealers

A. ...

B. An automotive dismantler and parts recycler may offer a rebuilt, wrecked, abandoned or repairable motor vehicle at wholesale only. If such vehicle is offered for sale at retail, the dismantler will be operating as a used motor vehicle dealer and is subject to licensing requirements and used motor vehicle dealer rules and regulations thereof. However, an automotive dismantler and parts recycler, duly licensed by the commission, shall have the authority to transfer the certificate of title as dealer under the Louisiana Certificate of Title Law, (i.e., transfer to another dealer without payment of tax). In order to sell a vehicle at retail, an automotive dismantler and parts recycler must be licensed hereunder as a used motor vehicle dealer providing a good and sufficient bond, executed by the applicant as principal by a surety company qualified to do business as surety in the sum of \$50,000.

C. At least one salesperson's license shall be issued for each business. License fees charged and received by the commission shall be the same as for all other salespersons licensed by the commission as described in R.S. 32:781(14).

D. Used parts and accessories are broadly defined as any item removed from a used motor vehicle for the purpose of resale.

E. License fees charged and received by the commission for licenses issued on dealers in this section shall be the same as for all other dealers licensed by this agency.

F. At least one salesperson's license shall be issued for each place of business. License fees charged and received by the commission shall be the same as for all other salesmen licensed by the commission as described in this section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:802.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 20:535 (May 1994), promulgated LR 20:645 (June 1994), LR 24:1683 (September 1998), amended LR 25:245 (February 1999), amended by the Office of the Governor, Recreational and Used

Motor Vehicle Commission, LR 30:2481 (November 2004), LR 33:1634 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR (October 2019), LR 47:231 (February 2021).

§2905. Qualifications and Eligibility for Licensure

A. The commission, in determining the qualifications and eligibility of an applicant for a dealer's license, shall:

1. verify that the applicant has an established place of business properly zoned in the municipality;

2. maintain an office reasonably suited to conduct the business of a used motor vehicle dealership and shall have an enclosed building or structure easily accessible to the public at which place the books, records, files and electronic data shall be maintained for inspection, and shall not mean temporary structures such as stands, lean-tos, or tents;

3. have a permanently affixed sign, at a minimum of 16 square feet and subject to local zoning laws, in front of the establishment which denotes that vehicles are offered for sale at the place of business to which the sign is affixed. If two or more dealers share a place of business, each dealer must display his own sign;

4. have a telephone number for the established place of business which number shall be posted or displayed in or at a place accessible to the public;

5. have a bond with an approved carrier in accordance with R.S. 32:791(G);

6. have the required garage liability insurance policy on all vehicles offered for sale or used in any other capacity in demonstrating or utilizing the streets and roadways in accordance with the financial responsibility laws of the state and for those dealers who conduct the business of daily vehicle rentals, a separate renter's policy is in effect;

7. demonstrate sufficient business integrity, based upon the applicant's experience in the same or similar businesses, his business history, and whether such applicant will devote full or part time to the business;

8. not owe any outstanding fines for or have any pending violations of the commission's laws or rules and regulations;

9. not be an immediate family member of, the former employee of, or a former business associate of a dealer whose license was previously revoked or suspended by the commission, and intends to operate the same or substantially the same business as operated by the revoked licensee, or the revoked licensee will be participating in the business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791 and 792.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission LR 15:258 (April 1989), LR 15:375 (May 1989), LR 24:1682 (September 1998), LR 25:245 (February 1999), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 30:436 (March 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2480 (November 2004), LR 33:1635 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 37:1405 (May 2011), promulgated LR 37:1612 (June 2011), amended by the Office of the Governor, Used Motor Vehicle Commission, LR (October 2019), LR 47:232 (February 2021).

§2907. Retail Auctions Operating at a Place of Business Other Than the Establish Place of Business

A. A dealer licensed by the commission to conduct auctions at an established place of business may conduct a public or retail auction for a specified period of time at a place of business other than the dealer's established place of business after receipt of a license for the auction location. A licensed dealer which conducts a public or retail auction at a place of business other than the dealer's established place of business shall include the address and telephone number of dealer's established place of business together with a telephone number to be used during the auction on all signs and bills of sale and shall obtain a public retail auction license for the auction location prior to advertising the auction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1635 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 37:1405 (May 2011), promulgated LR 37:1612 (June 2011), amended by the Office of the Governor, Used Motor Vehicle Commission LR (October 2019), LR 47:232 (February 2021).

Chapter 31. License for Salesperson

§3101. Qualifications and Eligibility for Licensure

A. The Commission, in determining the qualifications and eligibility of an applicant for a salesperson license, will base its determinations upon the following factors:

1. The applicant's business integrity.

2. A license for a salesperson will not be issued, renewed or endorsed until the employing dealer is licensed and has certified that the applicant for said license is in his employ and applicant is listed on the insurance statement and covered under the dealer's garage liability insurance policy. All salesperson's licenses will be sent to the dealer for distribution to the respective applicants, and the dealer will determine that all its personnel required to obtain licenses have done so.

B. A salesperson's license shall include the name, address, name of employer, date, signature of the executive director, salesperson's license number prefixed with SM, followed by an electronic number.

C. A salesperson may not hold more than one salesperson's license at any one time or be employed by or sell for, any dealer other than the dealer and at the address designated on the salesperson's license, with the exception that the licensed dealer has more than one place of business. The licensed dealer and licensed salesperson may sell on each place of business properly licensed as additional places of business, provided the additional places of business are in the same name as the principal place of business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:781(14).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 25:245 (February 1999), amended by the Office of the Governor, Recreational and Used

Motor Vehicle Commission, LR 30:2481 (November 2004), LR 33:1635 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2289 (October 2010), amended by the Office of the Governor, Used Motor Vehicle Commission LR (October 2019), LR 47:232 (February 2021).

Chapter 37. Changes or Closures to be Reported to Commission

§3701. Changes and Closures to be Reported to Commission and Fee Assessment

A. Any changes of address, ownership or employment by a licensee shall:

1. be reported to the commission within three business days of the change.
2. include a fee of \$100 for each time a dealer changes his place of business;
3. require a site inspection performed by a commission compliance investigator.
4. shall complete the commission's closure of business form within three business days prior to closure.

B. The dealer shall notify the commission when a salesperson's employment is terminated by returning the salesperson's license within three business days.

C. Each salesperson shall surrender his identification card to the Commission and obtain a new license for the new place of business before again engaging in the business as a salesperson for another used motor vehicle dealer.

D. Any change which renders no longer accurate any information contained in an application for dealer or automotive dismantler license filed with the commission shall be amended within three business days after the occurrence of the change on the form prescribed by the commission, accompanied by the appropriate fee.

E. Any person who ceases to engage in the business of a used motor vehicle dealer shall:

1. promptly notify the commission of the anticipated closure;
2. shall surrender all licenses associated with the dealership; and
3. the dealer shall list on the form any outstanding certificates of title, any unremitted or unpaid sales tax, and all outstanding temporary markers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774. B(4)(g).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:259 (April 1989), LR 18:1117 (October 1992), amended by the Office of the Governor, Used Motor Vehicle Commission LR (October 2019), LR 47:233 (February 2021).

Chapter 39. Business Transactions

§3901. Register of Business Transactions

A. ...

B. Such registers and/or records shall be made available for inspection by the commission or identified law enforcement officers of the state, parish and municipality where the business of the used motor vehicle dealer, automotive dismantler and parts recyclers, salvage pool or salvage disposal sale is located, during reasonable business hours or business days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:757. A-B.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:1588 (July 2002), amended by the Office of the Governor, Used Motor Vehicle Commission LR (October 2019), LR 47:233 (February 2021).

Chapter 43. License Renewal

§4301. Period for Renewals

A. Completed application packages shall be submitted by November 1 of the year. If applications have not been made for renewal of existing licenses, such licenses shall expire December 31 and it shall be illegal for any person to represent himself as a dealer thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.B(4).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by the Office of the Governor, Used Motor Vehicle Commission LR (October 2019), LR 47:233 (February 2021).

Chapter 44. Educational Seminar

§4401. Required Attendance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791(B) (3), 802 (D), 811 (B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission. LR.28:2351 (November 2002), amended LR 30:436 (March 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1637 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2289 (October 2010), repealed LR 47:233 (February 2021).

§4403. Certification

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791(B) (3), 802 (D), 811 (B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission. LR.28:2351 (November 2002), amended LR 30:436 (March 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1637 (August 2007), repealed LR 47:233 (February 2021).

§4402. Pre-License Educational Seminar

A. Every applicant for an initial used motor vehicle dealer's license is required to attend a pre-license seminar.

B. The seminar shall be conducted by the employees of the Commission.

C. The seminar will be held at such time and place to be determined by the Commission upon reasonable notice.

D. For the pre-license seminar, the commission shall include materials and discussion on the following areas of law: the Used Motor Vehicle Commission, the Motor Vehicle Sales Finance Law, the Office of Motor Vehicles, the Department of Public Safety and Corrections, the Department of Revenue, and any other information the commission deems necessary to educate attendees and their employees with regard to compliance with the law.

E. The seminar shall not exceed six hours in length.

F. No tests are required for completion of the pre-license educational seminar.

G. Upon applying for a license from the Commission, the applicant must attach a copy of the certificate of completion which:

1. documents that the dealership's owner, partner, officer, or local dealership manager has completed the pre-license seminar; and

2. shall be issued by the commission and shall list the participant's name, his position with the applicant, the name of the dealership, the address of the dealership, the date of completion and the signature of the instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791(B) and 795

HISTORICAL NOTE: Promulgated by the Louisiana Used Motor Vehicle Commission, Office of the Governor, LR 47:233 (February 2021).

§4404. Post-License Educational/Continuing Seminar

A. Every applicant seeking to renew a used motor vehicle dealer's license is required to attend a post-license/continuing educational seminar prior to renewal of the license.

B. The post-license/continuing educational seminar shall:

1. have a program and materials approved by the commission;

2. focus on developments and changes in the law, rules and regulations and policy and procedures which effect their business and which arise in the two years since the renewal of their license;

3. not exceed four hours in length;

4. be conducted in person or online via the internet; and

5. require attendees or participants to complete a test as follows:

a. the test shall be comprised of 10 questions approved by the commission; and

b. require attendees or participants to obtain a minimum score of 70 percent in order to receive credit for satisfactory completion of the seminar.

C. Any educational institution, private vocational school, correspondence school, or trade association seeking to conduct a post-license/continuing educational seminar must apply to and obtain approval from the Commission prior to providing the post-seminar/continuing educational seminar.

D. To obtain approval to conduct a post-license/continuing educational seminar, the applicant-instructor shall:

1. complete an application in such form and detail as prescribed by the Commission and shall be accompanied by any documentation requested therein; and

2. submit an application fee of \$600.

E. The commission may deny an application of a post-license/continuing educational seminar instructor for any of the following reasons:

1. the applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or theft, or has been convicted of a felony or crime involving moral turpitude in any court of competent jurisdiction;

2. an application contains a false statement of material fact;

3. a professional license or has been revoked; or

4. the applicant fails to meet the minimum requirements.

F. The commission shall approve or deny any post-license/continuing educational seminar instructor application within 45 days after receipt. Incomplete applications, or a

request from the commission for additional information, may be cause for delay beyond 45 days.

G. Once approved, the post-license/continuing education seminar instructor will be given a certificate as issued by the commission.

H. No fee for a post-license/continuing education seminar may be charged unless the seminar is approved by the commission.

I. The certificate of the post-license/continuing educational seminar instructor is valid for only two years from the date of approval and must be reapproved every two years.

J. The certificate of the post-license/continuing educational seminar instructor may be revoked or suspended for good cause upon 30 days written notice.

K. The post-license/continuing educational seminar instructor shall issue a uniform certificate of completion to all attendees and participants who successfully completed the course on a form approved by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791(B) and 795

HISTORICAL NOTE: Promulgated by the Louisiana Used Motor Vehicle Commission, Office of the Governor, LR 47:234 (February 2021).

§4405. Educational Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791(B)(3), 802(D), 811(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2352 (November 2002), repromulgated LR 28:2511 (December 2002), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1637 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2289 (October 2010), repealed LR 47:234 (February 2021).

Chapter 45. Complaints

§4501. Complaints

A. All complaints made to the commission must be made on the complaint form provided by the commission.

B. All complaints shall include documents which support the complainant's claim.

C. The commission shall mark each complaint received on the date it is received which shall designate the date upon which the complaint is filed.

D. The commission shall assign a case number for each complaint received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1065 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:260 (April 1989), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 30:1019 (May 2004), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 47:234 (February 2021).

Chapter 47. Procedure for Adjudications before the Used Motor Vehicle Commission

§4701. General Provisions on Hearings

[Formerly §4707]

A. Notice of Hearing. The notice of hearing shall comply with the requirements of R.S. 32:785(B)(2).

B. Service of Notice. The notice of hearing shall be served:

1. by a compliance investigator on the licensee either personally or at its place of business on the licensee's employee (if service is made in this manner, the compliance investigator shall sign the acknowledgment of service); or

2. through the office by certified or registered mail (the return receipt shall serve as acknowledgment of service);

3. the return of service shall be filed into the case record.

C. Discovery. The Louisiana Code of Civil Procedure, Articles 1420 et seq., shall apply to all requests of discovery. Discovery shall be timely and give a reasonable opportunity to respond.

D. Preliminary Motions and Exceptions. No preliminary motions or exceptions shall be considered by the Commission unless filed five days prior to the hearing.

E. Subpoenas

1. Subpoenas shall be issued in accordance with R.S. 32:785(B)(3).

2. Subpoenas may be issued for the purpose of assisting in the investigation of any alleged violation or dispute which is before the commission.

3. Subpoenas for the attendance of witnesses, and/or for the furnishing of information required by the commission and/or for the production of evidence of records of any kinds shall be issued by the executive director.

4. Subpoenas shall be served by a compliance investigator either personally or by certified mail or registered mail. A return shall be placed in the record designating the manner and date of service as well as the oath the person making the service.

5. Any party to a hearing desiring the attendance of witnesses upon his behalf shall have the right to seek compulsory attendance of such witnesses and the production of relevant documents provided said party has filed a list of names and addresses with the commission at least 10 days prior to the date that the testimony expected to be taken.

6. The party requesting the issuance of a subpoena shall deposit with the executive director a sum consistent with R.S. 13.3661(B) to cover the costs of the issuance of the subpoena.

F. Conduct and Order of the Hearing

1. The chairman of the commission shall preside over the conduct of the hearing and may set a reasonable time for the presentation of a matter depending on the nature of the case and the complexity of the issues.

2. The chairman may in his discretion sequester witnesses.

3. The chairman shall make rulings on evidentiary matters keeping in mind that the commission shall not be bound by the technical rules of the evidence and may admit material and relevant evidence. The principles underlying the Louisiana Code of Evidence shall serve as a guide to the admissibility of evidence in hearings before the commission. The specific exclusionary rules and other provisions shall be applied only to the extent that they tend to promote the purposes of proceedings before the commission.

4. The hearing shall begin with any stipulation as to the facts or issues.

5. The chairman shall direct the order of witness examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:785.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:1222 (July 2006), amended LR 33:1637 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 47:234 (February 2021).

§4703. Restitution

A. The commission may in its discretion order restitution as follows.

1. The intent of restitution is to restore the complainant to their position as it existed prior to the licensee's violation.

2. Restitution may only be rewarded for compensatory or actual loss incurred by the complainant as a direct result of the licensee's violation and shall not be include general damages.

3. The executive director may include restitution within a stipulated order.

4. The commission may order restitution only after a hearing on a violation and only upon proof submitted by the complainant of compensatory or actual loss.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:785(B)(6) and 32:791 (G)(3)(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle Commission, LR 47:235 (February 2021).

§4705. Hearing Committee

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:1222 (July 2006), repealed by the Office of the Governor, Used Motor Vehicle Commission, LR 47:235 (February 2021).

§4709. Hearings on Application Appeals

A. Any person whose application for license has been denied in accordance with R.S. 32:785(A)(3) shall be provided written notice by certified or registered mail that the application has been denied, the grounds for which the application has been denied and that the applicant has the right to appeal to the Commission by making a written request for the appeal within 30 days following the receipt of the denial. No appeals will be considered beyond 30 days from the receipt of the denial.

B. Based on the applicant's written request, the commission will assign the appeal to be heard at the next available commission meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:785.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:1222 (July 2006), amended LR 33:1637 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR (October 2019), LR 47:235 (February 2021).

§4710. Interlocutory Cease and Desist Orders

A. The executive director may issue an interlocutory cease and desist order:

1. to prohibit and/or enjoin any activity which is a violation of the commission's laws and rules and regulations and poses a threat to the public;

2. upon sufficient proof that a person or licensee has committed or is committing a violation and is posing a threat to the public. All proof must be filed and attached to the interlocutory cease and desist order, and reasons given for the issuance must be assigned.

B. An interlocutory cease and desist order shall be served in the manner prescribed in R.S. 32:785(B)(2)(b) and shall:

1. enjoining a person or licensee from engaging in the prohibited activity for a period of time until the commission holds a hearing to review the validity of the order.

2. notify the party against whom the order is issued that the order will remain in effect until the next commission meeting date.

C. The commission shall hold a hearing at the commission's next available meeting date and upon reasonable notice to the person or licensee alleged to have committed the violation.

D. In lieu of an interlocutory order, the executive director may request that the commission issue an injunction to prohibit or enjoin a person or licensee from either committing or threatening to commit a violation of the Commission's laws and rules and regulations as follows:

E. The injunction shall be issued by the commission only upon notice and hearing to the person or licensee whose conduct is sought to be enjoined or prohibited.

F. The person or licensee shall be provided at least 10 days written notice prior to the hearing on the injunction.

G. The notice shall be served in any manner prescribed in R.S. 32:785(B)(2)(b).

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:786.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1637 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR (October 2019), LR 47:235 (February 2021).

Derek L. Parnell
Executive Director

2102#006

RULE

Department of Health Board of Dentistry

Teledentistry; Authorized Duties
(LAC 46:XXXIII.203 and 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, Board of Dentistry has amended LAC 45:XXXIII.203 and amended LAC 46:XXXIII.701.

The Board of Dentistry has promulgated LAC 46:XXXIII.203 to allow access for care to be more readily available to the citizens of the state of Louisiana. This Rule has been promulgated to allow Louisiana dentists to perform teledentistry with the standard of care remaining the same.

The Board of Dentistry has amended LAC 46:XXXIII.701 to address access to care issues. This Rule has been amended to allow hygienists, in very restricted circumstances, to perform radiographs, oral prophylaxis, sealants and/or

fluoride varnish only under the supervision of a dentist via teledentistry. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professions

Chapter 2. Teledentistry

§203. Teledentistry

1. Teledentistry is defined as the use of medical or dental information exchanged from one site to another via electronic communications to provide dental treatment or diagnosis, but does not include email or telephone exchanges between a provider and a patient with whom an in-person provider-patient relationship has been established.

2. Treatment or diagnosis of a patient via teledentistry is considered to occur at the location of the patient at the time of the treatment or diagnosis.

3. Treatment or diagnosis via teledentistry may be provided to patients in Louisiana only by a dentist who holds a license issued by the Board of Dentistry. The Louisiana licensed dentist need not be in Louisiana while providing the teledentistry services.

4. An exception to the requirement that the provider of teledentistry services to a patient in Louisiana hold a Louisiana license is when a Louisiana licensed dentist with an in-person relationship with a patient consults an expert with a valid dental license in another United States jurisdiction for advice regarding the patient's treatment or diagnosis; in this case the expert consulted need not have a Louisiana license.

5. The standard of care applicable to a provider of teledentistry services, including obtaining informed consent and record documentation, is no different from the standard of care required in traditional dentistry.

6. Direct supervision by a dentist of staff performing dental related tasks may not be done via teledentistry except as otherwise provided by §701 of these rules.

7. Controlled substances may not be prescribed via teledentistry except in emergency situations where the dentist determines:

a. That immediate administration of the controlled substance is necessary for proper treatment of the intended ultimate user, and

b. That no appropriate alternate treatment is available, including administration of a drug that is not a controlled substance.

In an emergency situation the prescription for a controlled substance must be limited to the amount adequate to treat the patient during the emergency period.

8. The provider of teledentistry services must provide his identity to the patient, his location at the time of the service, the location of the patient records produced as a result of the treatment, and information on how the patient can obtain copies of the records produced as a result of the treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Dentistry, LR 47:236 (February 2021).

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XXXIII. Dental Health Professions

Chapter 7. Dental Hygienists

§701. Authorized Duties

A. - G.5. ...

H. Notwithstanding the above sections, a dental hygienist licensed in Louisiana may perform radiographs, oral prophylaxis, place sealants and place fluoride varnish without a Louisiana licensed dentist being physically present in the clinic if all of the following conditions are met:

1. The dental hygienist is employed by one of the following entities and is performing the radiographs, oral prophylaxis, sealants and/or the fluoride varnish as part of his employment with that entity:

a. A government agency.

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).

c. A nonprofit entity providing the radiographs, oral prophylaxis, sealants and/or the fluoride varnish which receives no compensation for the provided service.

2. The radiographs, oral prophylaxis, sealants and/or the fluoride varnish are done in one of the following settings:

a. A public elementary or middle school in which 50 percent or more of students are economically disadvantaged or meeting with Community Eligibility Provision (CEP) requirements under the Louisiana Department of Education and is in a parish with a parish-wide geographic Dental Health Professional Shortage Area (HPSA) scores above 15.

b. A fixed clinic of 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) that does not have a dentist employed by it and is in a parish with a parish-wide geographic Dental Health Professional Shortage Area (HPSA) scores above 15.

3. A Louisiana licensed dentist is providing direct supervision via teledentistry and reviews exams being done by the hygienist and images of the patient's oral cavity via the teledentistry connection. Unless restricted by bandwidth considerations, the teledentistry must be contemporaneous (synchronist). If bandwidth prohibits contemporaneous viewing by the dentist, non-contemporaneous (asynchronist) viewing of the patient may be employed, but the dentist must review the exam before the patient is dismissed from the clinic on the day of treatment.

4. Oral health education involving the benefits of sealants, fluoride varnish, and fluoridated water is provided to the patient or patient's representative.

5. All patients who are deemed to need additional treatment are referred to a dentist and follow up is done to confirm that the patient has obtained treatment and, if treatment has not been obtained, to re-urge the patient or his representatives to obtain treatment.

6. The patient or his representatives must give informed consent to the use of teledentistry in the supervision of the dental hygienist.

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), LR 44:2007 (November 2018), LR 47:237 (February 2021).

Arthur Hickham, Jr.
Executive Director

2102#040

RULE

Department of Health
Board of Optometry Examiners

License to Practice Optometry;
Licensure by Endorsement; Fees
(LAC 46:LI.503, 507, and 801)

In accordance with the Administrative Procedures Act, R.S. 49:950, et seq., that the Board of Optometry Examiners, pursuant to authority vested in the Board of Optometry Examiners by the Optometry Practice Act, R.S. 37:1041-1068, has amended Title 46, Part LI by adopting the following amendments to the Sections set forth below.

A description of the subjects and issues involved is as follows. Subsection C of §503 is repealed, but the content and substance are included within the provisions of new §507. The remaining sections of §503 are renumbered. Section 507 adopts provisions for licensure by endorsement, including provisions of current §503.C and R.S. 37:1054.

This Rule establishes specific criteria to be generally applicable to all licensees. Section 801 amends some of the required fees, as follows:

1. annual license renewal fee changed from \$200 to \$300;
2. license delinquency fee changed from \$300 to \$500.

The Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LI. Optometrists

Chapter 5. Practicing Optometry

§503. License to Practice Optometry

A. - B. ...

C. Duplicate License. The secretary of the board, subject to prior board approval, may issue a duplicate certificate upon application of a licensed optometrist in good standing if all provisions of the Act applicable to the licensed optometrist have been satisfied and the applicant has paid the fee prescribed in §801.

D. Beginning Practice. Upon beginning practice, a licensee shall notify the secretary of the board as to the address of his office and the telephone number. If any time

any office has relocated, the licensee involved shall notify the secretary of his new office address and telephone number. If, for any reason, he ceases to practice, he shall so notify the secretary.

E. Continuing Education. In order to qualify for the annual license renewal required by R.S. 37:1057, the following information shall be presented to the secretary of the board:

1. Written certification that the doctor requesting license renewal has completed 12 hours of continuing education, or 16 hours of continuing education if the doctor maintains a current certificate to treat ocular pathology, between January 1 and December 31 of each year immediately preceding the March 1 renewal date set forth in R.S. 37:1057 by attendance and completion of courses approved by the Louisiana State Board of Optometry Examiners.

2. Education hours will not qualify unless they are completed within the above stated calendar period.

3. While the education hours shall be accomplished within the calendar dates set forth in Paragraph 1 hereof, the written evidence of attendance shall be submitted on or before the first day of March of each calendar year provided that same is in the office of the secretary of the board on or before the first day of March of each calendar year in which license renewal is sought.

4. The requirement shall only be waived in cases of certified illness, certification by the commanding officer of those in the military that due to his military assignment it was impossible for him to comply or upon evidence satisfactory to the board that the applicant for renewal was unable to meet the requirement because of undue hardship.

5. Pay to the board the annual renewal fee provided in R.S. 37:1058 and §801 herein on or before the first day of March of each year.

F. Qualifications for a Louisiana Licensed Optometrist to be Credentialed to Utilize and Perform Authorized Ophthalmic Surgery Procedures

1. Louisiana licensed optometrists shall be credentialed to perform authorized ophthalmic surgery procedures if:

a. the applicant provides proof of holding a Louisiana license to practice therapeutic optometry and is in good standing, or in the case of a new applicant for licensure, has satisfied the requirements of R.S. 37:1049(1)-(8); and

b. the applicant provides proof of satisfactory completion of a course of instruction approved by the board that may include:

i. the following didactic classroom instructions:

- (a). laser physics, hazards, and safety;
- (b). biophysics of lasers;
- (c). laser application;
- (d). laser tissue interactions;
- (e). laser indications, contraindications, and potential complications;
- (f). gonioscopy;
- (g). laser therapy for open angle glaucoma;
- (h). laser therapy for angle closure glaucoma;
- (i). posterior capsulotomy;
- (j). common complications, lids, lashes, lacrimal system;

- (k). medicolegal aspects of procedures;
 - (l). peripheral iridotomy;
 - (m). laser trabeculoplasty;
 - (n). minor surgical procedures;
 - (o). overview of surgical instruments, asepsis, and O.S.H.A.;
 - (p). relevant surgical anatomy;
 - (q). emergency surgical procedures;
 - (r). chalazion management;
 - (s). local anesthesia: techniques and complications;
 - (t). anaphalaxis and other office emergencies;
 - (u). radiofrequency surgery;
 - (v). post-operative wound care; and
- c. the applicant satisfactorily completes a written test approved by the board on aspects of the Louisiana Optometry Practice Act pertaining to authorized ophthalmic surgery procedures.

2. A board-approved course of instruction shall be:

- a. provided by an accredited optometry, osteopathy or medical school;
- b. a minimum of 32 clock hours in length; and
- c. sponsored by an organization approved by the board.

3. Prohibitions and Referrals

a. Performing authorized ophthalmic surgery procedures without credentialing based upon the education requirements outlined in this administrative regulation shall be grounds for suspension or revocation of an optometry license and/or credentialing to perform authorized ophthalmic surgery procedures as per section 1061 of the Optometry Practice Act.

4. Outcomes Reporting

a. Every optometrist who has met the requirements for certification to perform authorized ophthalmic surgery procedures shall report to the board the outcome of authorized ophthalmic surgery procedures performed in such form as required or directed by the board.

5. Beginning with the graduating class of 2015 any optometrist who provides proof that he/she graduated from an optometry school whose program includes all of the training and testing requirements established by the board may be deemed to have met the requirements for certification to perform authorized ophthalmic surgery procedures.

6. Performance of authorized ophthalmic surgery procedures by any person without a valid and current certificate issued by the board to perform such procedures shall be considered a violation of section 1061(A)(1) of the Optometry Practice Act.

G. Participation in Student Extern Program. An optometrist may participate in student extern programs in accordance with rules and regulations promulgated from time to time by the board.

1. The level of responsibility assigned to a student extern shall be at the discretion of the supervising optometrist who shall be ultimately responsible for the duties, actions or work performed by such student extern.

2. The duties, actions and work performed by a student extern in accordance with the provisions of this §603 and §603 shall not be considered the practice of optometry without a license as set forth in R.S. 37:1061(14).

H. Retirement of License

1. Upon request by a duly licensed Optometrist whose license is in good standing, the board by rule may provide for a license holder's license to be retired. The request to have a license retired must be in writing and delivered to the board. The request for a retired license will be placed on the board agenda for consideration at the next scheduled board meeting and the effective date of retirement determined by the board will be set and may be retroactive. A person who holds a retired license may not practice optometry in any manner in Louisiana until such time the license is reactivated and current. A person holding a retired license is exempt from the continuing education requirements of §301. A violation of this section has the same effect as, and is subject to the penalties for, practicing optometry without holding a license. The holder of a retired license need not renew the retired license annually nor pay any renewal fees.

2. Re-Activation of Retired License. For an retired license to be re-activated, the license holder must pay the reinstatement fee set forth in §801.A.6 plus any and all license renewal fee(s) and comply with all continuing education requirements. To re-activate a retired license the license holder must show 16 hours of board approved continuing education for each year of retired license status. The required continuing education may be obtained at any time during the retired status period. If the inactive license holder fails to practice optometry in any state for greater than five consecutive years from the date the license was granted retired status, an examination acceptable to the board may be required to re-activate the original license. For holders of a retired license with authorized ophthalmic surgery procedures, if the retired license holder fails to practice authorized ophthalmic surgery procedures in any state for greater than five consecutive years from the date the license was granted retired status, a recertification of advanced procedure proficiency and examination acceptable to the board may be required to re-activate the original license.

I. Inactive Status

1. Upon request by a duly licensed Optometrist whose license is in good standing, the board by rule may provide for a license holder's license to be placed on inactive status. The request to have a license be considered inactive must be in writing and delivered to the board. The request for inactive status will be placed on the board agenda for consideration at the next scheduled board meeting and the effective date of inactive status determined by the board will be set and may be retroactive. A person who holds an inactive license may not practice optometry in any manner in Louisiana until such time the license is reactivated and current. A person holding an inactive license is exempt from the continuing education requirements of Section 301. A violation of this section has the same effect as, and is subject to the penalties for, practicing optometry without holding a license. The holder of an inactive license must renew the inactive license annually and pay appropriate renewals fees to avoid revocation.

2. Re-Activation of Inactive License. For an inactive license to be re-activated, the license holder must pay the reinstatement fee set forth in §801.A.6 plus any and all license renewal fee(s) and comply with all continuing

education requirements. To re-activate an inactive license the license holder must show 16 hours of board approved continuing education for each year of inactive license status. The required continuing education may be obtained at any time during the inactive status period. If the inactive license holder fails to practice optometry in any state for greater than five consecutive years from the date the license was granted inactive status, an examination acceptable to the board may be required to re-activate the original license. For holders of an inactive license with authorized ophthalmic surgery procedures, if the inactive license holder fails to practice authorized ophthalmic surgery procedures in any state for greater than five consecutive years from the date the license was granted inactive status, a recertification of advanced procedure proficiency and examination acceptable to the board may be required to re-activate the original license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:632 (April 2006), amended LR 34:873 (May 2008), LR 38:1590 (July 2012), LR 40:2250 (November 2014), repromulgated LR 40:2580 (December 2014), amended by the Department of Health, Board of Optometry Examiners, LR 44:1248 (July 2018), LR 46:25 (January 2020), LR 47:237 (February 2021).

§507. Licensure by Endorsement

A. The board may license by endorsement, an optometrist who holds a license that was obtained by examination from another state or territory of the United States subject to the following conditions.

1. An applicant for licensure by endorsement must have been engaged in the active practice of optometry within 12 months immediately preceding his or her application, except as otherwise provided in R.S. 37:3651 with respect to individuals with military training and/or military spouses. For purposes of this Section, active practice means directly involved with patient care on day to day basis.

2. An applicant will not be considered for licensure by endorsement in the state of Louisiana if he or she has failed the Louisiana practical examination within two years preceding the date on which the application for endorsement is filed.

3. The applicant must not have committed any act that would constitute a material violation of the Louisiana laws and/or LSBOE rules and regulations as determined in the discretion of the board. Furthermore, he or she must not be the subject of any pending or unresolved board action or malpractice in this or any other state or territory;

4. An applicant for licensure by endorsement must meet all of the qualifications for regular state licensure as set forth in R.S. 37:1049 and LAC 46:LI.503, except as otherwise provided by applicable law or regulations of the board, and except that the applicant shall not be required to sit for any portion of the examination required by R.S. 37:1051 other than the laws portion as required by Paragraph E.4 of this Section; provided, however, the waiver provided for by R.S. 37:1054 (endorsement) is within the discretion of the board and the board shall refer to the laws provided for the regulation of the practice of optometry, the public interest, the interest of licensed optometrists and the interest of the applicant in the exercise of this discretion.

Dr. James D. Sandefur, O.D.
Secretary

2102#010

RULE

**Department of Health
Board of Pharmacy**

Automated Medication Systems (LAC 46:LIII.Chapter 12)

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 has amended several sections within Chapter 12 of its rules relative to automated medication systems. The changes in §1201 remove terms already defined in the pharmacy practice act and add two new terms relative to remote dispensing systems. The changes in §1203 provide clarity in the existing eligibility criteria and add two new locations: detention and correctional facilities for state and local governmental entities as well as unlicensed healthcare settings. Other changes in this section provide clarity to existing credentialing procedures. The changes in §1205 relative to the pharmacist-in-charge’s responsibilities include a removal for the 30-day notice requirement when a pharmacy ceases to supply the medications for an automated medication system, a removal of the requirement for the facility to notify prescribers their medication orders are not restricted to the limited number of medications stored in the automated medication system, and an addition for the monitoring of integrity of drug products stored in the device and documentation of drug product integrity. The change in §1207 adds a provision for the retrospective review of medications removed from a non-profile driven system. The change for §1209 is to repeal the itemized list of topics required for the system policies and procedures. The changes for §1211 include a provision for devices to be placed in locations other than licensed healthcare settings as well as a requirement for documentation of security procedures. The changes for recordkeeping requirements in §1213 are technical in nature. The change for §1215 is to repeal the section, the content of which was transferred to the documentation section in §1211. The change in §1217 relative to the stocking and restocking of drugs in devices is to reorganize the content for clarity. The information in §1219 relative to packaging and labeling of drugs placed in devices is found elsewhere in the board’s rules; the change is to repeal this redundant section. The information on proof-of-use record in §1221 as well as wasted or discarded drugs in §1223 are already found in the earlier section on documentation in §1211; the change is to repeal these two redundant sections. Since the board already has statutory authority to conduct inspections, the change for §1225 is to repeal this unnecessary section. The board’s rules for nonresident pharmacies already require such pharmacies to

a. The board may require satisfactory performance on the clinical/practical examination given by the board for licensure by endorsement pursuant to R.S. 37:1054.

B. As part of the licensure process, the applicant shall complete an application for licensure by endorsement and shall:

1. submit the endorsement license fee (\$1,500);
2. cause to be submitted directly from the boards of all states in which the applicant holds a license to practice optometry certification demonstrating his or her good standing. To be considered for licensure by endorsement, an applicant’s license(s) must be in good standing in all states and territories of the United States in which a license to practice optometry is held;
3. submit official proof documenting his or her compliance with all continuing education requirements imposed by any states or territories in which a license to practice optometry is held; and
4. submit proof that he or she has taken and passed the law portion of the licensing examination required by R.S. 37:1051.

C. In the case of an application for licensure by endorsement by any military personnel applicant, or his or her spouse, pursuant to R.S. 37:3651, said applicant shall:

1. provide the board with official documentation of the applicant’s credentialing and quality assurance review to satisfy the requirements of Subsection A and Paragraphs E.2, and E.4 of this Section;
2. cause the boards of any state in which he or she is or has been licensed to practice optometry to provide the board with all of the remaining information required by this Section;
3. submit a temporary practice permit fee (\$750), which fee shall be credited toward the endorsement license fee (\$1,500) upon licensure; and
4. pay all applicable licensing fees.

D. Notwithstanding any provision to the contrary, a temporary practice permit issued pursuant to R.S. 37:3651(D) shall expire on July 31 following the date of issuance of such temporary practice permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Optometry Examiners, LR 47:239 (February 2021).

Chapter 8. Fees and Expenses

§801. Fees

A. The board shall charge and collect the following fees, consistent with R.S. 37:1058:

1. - 3. ...
4. annual license renewal fee—\$300;
5. license delinquency fee—\$500;

A.6. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:636 (April 2006), amended LR 40:2252 (November 2014), repromulgated LR 40:2580 (December 2014), amended by the

possess a permit to conduct business in the state; the change is to repeal this redundant §1227. The board's authority relative to the assessment of penalties for violations of pharmacy law is found in the pharmacy practice act; the change is to repeal this unnecessary §1229. The requirement to read the chapter of rules jointly with the pharmacy law and board's rules is redundant; the change is to repeal the unnecessary §1231. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 12. Automated Medication Systems

§1201. Definitions

Healthcare Setting—a place where healthcare services are rendered on a routine basis by credentialed healthcare professionals.

Remote Dispensing System—a profile-driven automated medication dispensing system employing bidirectional audio-visual technology to facilitate pharmacist communication with a patient or caregiver.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, amended by the Department of Health, Board of Pharmacy, LR 47:241 (February 2021).

§1203. Automated Medication System Registration

A. Requirement for Registration

1. A pharmacy intending to supply medications for use within an automated medication system, as defined at R.S. 37:1164, shall obtain an automated medication system (AMS) registration prior to engaging in such activity.

2. The placement of medications within an automated medication system in the absence of an AMS registration shall substantiate a violation of R.S. 37:1241(A)(12) and shall subject the pharmacy to disciplinary action by the board.

3. A pharmacy intending to supply controlled substances for use within an automated medication system shall obtain a controlled dangerous substance (CDS) license in addition to the AMS registration. The pharmacy shall also obtain a federal registration from the U.S. Drug Enforcement Administration (DEA) prior to placing controlled substances within the automated medication system.

4. The placement of controlled substances within an automated medication system in the absence of an AMS registration, CDS license, and DEA registration shall substantiate a violation of R.S. 37:1241(A)(12) and R.S. 40:973 and shall subject the pharmacy to disciplinary action by the board.

5. The operation of a remote dispensing system without an AMS registration shall substantiate a violation of R.S. 37:1241(A)(12) and shall subject the pharmacy to disciplinary action by the board.

B. Eligibility for Registration; Exemption

1. A pharmacy intending to supply medications for use within an automated medication system may do so when the AMS is placed at any of the following locations:

a. within a facility in possession of a controlled dangerous substance license issued by the board;

b. within a hospital or other institutional facility in possession of an operating license issued by the state department of health;

c. within a detention or correctional facility operated by or under contract with the state department of public safety and corrections or other local governmental entity.

2. A pharmacy may operate a remote dispensing system when the system is placed within a healthcare setting where the pharmacist-in-charge can ensure the security and environmental integrity of the medications and devices placed within the system as well as the security and confidentiality of the protected health information used therein.

3. A pharmacy intending to supply medications for use within an AMS which is placed within the building housing that pharmacy shall not be required to obtain an AMS registration; however, the pharmacist-in-charge of the pharmacy shall be responsible for compliance with the operational standards in this Chapter.

C. Application for Initial Issuance of Registration

1. The board shall develop an application form suitable for the AMS registration. The board may revise that application on its own initiative in order to collect the information it deems necessary to properly evaluate an applicant.

2. The application shall be accompanied by payment of the registration fee authorized by R.S. 37:1184.

3. The board shall not process applications received by facsimile, or that are incomplete, or submitted with the incorrect fee.

4. The submission of a false or fraudulent application shall substantiate a violation of R.S. 37:1241(A)(2) and shall subject the applicant to disciplinary action by the board.

5. When determined appropriate by the board, the applicant may be required to meet with a committee or agent of the board prior to the issuance of the registration.

D. Maintenance of Registration

1. A registration shall be valid only for the pharmacy to which it was issued and the physical location of the AMS identified on the application. The registration shall not be subject to sale, assignment or other transfer, voluntary or involuntary, nor shall the registration be valid for any premises other than the physical location for which it was issued.

2. A duplicate or replacement registration shall be issued upon the written request of the owner of the registration and payment of the fee authorized by R.S. 37:1184. A duplicate or replacement registration shall be marked as such, and it shall not serve or be used as an additional or second registration.

3. In the event a pharmacy intends to relocate an automated medication system to a different address, the pharmacy shall notify the board of its intent to do so, providing both current and new addresses. A change in business address may require an inspection by the board or its designee.

E. Application for Renewal of Registration

1. The pharmacy shall complete an application for the renewal of the registration and submit it to the board prior to the expiration date of the registration. The application shall be accompanied by the fee authorized by R.S. 37:1184.

2. The board shall not process applications received by facsimile, or that are incomplete, or submitted with the incorrect fee.

3. An AMS registration not renewed by the expiration date shall be classified as expired. The operation of an automated medication system with an expired registration shall substantiate a violation of R.S. 37:1241(A)(12) and shall subject the pharmacy to disciplinary action by the board.

F. Relinquishment of Registration

1. In the event a pharmacy intends to cease supplying medications or devices to an automated medication system, it shall relinquish the registration to the board no later than 10 days following the effective date of such decision.

2. A pharmacy may not transfer a registration to another pharmacy.

G. Application for Reinstatement of Suspended or Revoked Registration

1. An application for the reinstatement of an AMS registration previously suspended or revoked by the board may only be approved in compliance with R.S. 37:1249.

2. The applicant shall complete an application form for this specific purpose supplied by the board and shall attach any documentation requested by the board and fees identified in R.S. 37:1184.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1184.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, amended LR 38:1235 (May 2012), amended by the Department of Health, Board of Pharmacy, LR 47:241 (February 2021).

§1205. Pharmacist-in-Charge Responsibilities

A. The pharmacist-in-charge shall be a Louisiana-licensed pharmacist with the following responsibilities:

1. assuring that the system is in good working order and accurately provides the correct strength, dosage form, and quantity of the drug prescribed while maintaining appropriate recordkeeping and security safeguards.

2. establishment of a quality assurance program prior to implementation of a system and the supervision of an ongoing quality assurance program that monitors appropriate use and performance of a system, which is evidenced by policies and procedures developed by the pharmacist-in-charge.

3. define access to the system in policy and procedures of the pharmacy, in compliance with state and federal regulations.

4. assign, discontinue, or change access to the system.

5. ensure that access to the medications complies with state and federal regulations as applicable.

6. ensure that the system is stocked and restocked accurately and in accordance with established pharmacy policies and procedures.

7. maintain or have access to all records of documentation specified in this Chapter for two years or as otherwise required by law.

8. continuous monitoring and documentation of temperature in the drug storage areas including a mechanism to alert the pharmacist when defined parameters are out of range as well as an action plan to address such excursions. A pharmacy's failure to document the integrity of the drug supply or remediate for excursions as appropriate shall

substantiate a violation of R.S. 37:1241(A)(18) and shall subject the pharmacy to disciplinary action by the board.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, amended by the Department of Health, Board of Pharmacy, LR 47:241 (February 2021).

§1207. Pharmacist Review

A. System shall be used in settings that ensure medication orders are reviewed by a pharmacist prior to administration and in accordance with established policies and procedures and good pharmacy practice. A policy and procedure shall be adopted for non-profile driven systems to retrospectively review medications orders which cannot be reviewed prior to medication administration.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, amended by the Department of Health, Board of Pharmacy, LR 47:242 (February 2021).

§1209. Policies and Procedures

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, repealed by the Department of Health, Board of Pharmacy, LR 47:242 (February 2021).

§1211. Documentation

A. Documentation as to type of equipment, serial number, content, policies and procedures and location shall be maintained in the pharmacy for review by the board. Such documentation shall include, but is not limited to:

1. name, address, and permit number of the pharmacy and the location where the system is operational;

2. manufacturer's name and model;

3. quality assurance policies and procedures to determine continued appropriate use and performance of the system;

4. policies and procedures for system operation, safety, security, accuracy, patient confidentiality, access, controlled substances, data retention, definitions, downtime procedures, emergency or first dose procedures, inspection, installation requirements, maintenance security, quality assurance, medication inventory, staff education and training, system set-up, and malfunction procedures; and

5. security procedures sufficient to prevent unauthorized access or use, prevent the illegal use or disclosure of protected health information, and comply with any applicable federal or state regulations.

B. A current copy of all pharmacy policies and procedures related to the use of the system shall be maintained at all locations where the system is being used.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, amended by the Department of Health, Board of Pharmacy, LR 47:242 (February 2021).

§1213. Records

A. Records and electronic data kept by the system shall meet the following requirements:

1. all events involving access to the contents of the system shall be recorded electronically;

2. in the event controlled substances are stored in the system, the records shall include the positive identification (as defined in §1119 of this Part) of the personnel retrieving and administering the controlled substances to the patient;

3. these internal records shall be maintained for one year by the pharmacist-in-charge and shall be readily available to the board. Such records shall include:

- a. identity of system accessed;
- b. identification of the individual accessing the system;
- c. type of transaction;
- d. name, strength, dosage form, and quantity of the drug accessed;
- e. name or identification number of the patient for whom the drug was ordered;
- f. identification of the person stocking or restocking the medications in the system; and
- g. such additional information as the pharmacist-in-charge may deem necessary.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, amended LR 40:2256 (November 2014), effective January 1, 2015, amended by the Department of Health, Board of Pharmacy, LR 47:242 (February 2021).

§1215. Security System(s)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, repealed by the Department of Health, Board of Pharmacy, LR 47:243 (February 2021).

§1217. Stocking and Restocking

A. The stocking and restocking of medications and devices within an automated medication system shall be performed by a pharmacist, or in the alternative, a pharmacy intern, pharmacy technician, or pharmacy technician candidate under the supervision of a pharmacist.

B. When the pharmacy employs electronic product verification procedures as described within this Section, the stocking and restocking of medications and devices within an automated medication system may be performed by other licensed personnel approved by the pharmacist-in-charge without the necessity of direct pharmacist supervision.

1. A bar code verification, electronic verification, or similar verification process which prohibits any human intervention following pharmacist verification of the product may be utilized to assure the correct selection of drugs to be placed into an automated medication system.

2. The use of a bar code, electronic verification, or similar verification process shall require an initial quality assurance validation followed by ongoing quality assurance reviews at intervals no greater than 90 days since the previous review, all conducted by a pharmacist.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, amended LR 41:1488 (August 2015), amended by the Department of Health, Board of Pharmacy, LR 47:243 (February 2021).

§1219. Packaging and Labeling

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, repealed by the Department of Health, Board of Pharmacy, LR 47:243 (February 2021).

§1221. Proof of Use

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, repealed by the Department of Health, Board of Pharmacy, LR 47:243 (February 2021).

§1223. Wasted, Discarded, or Unused Medications

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, repealed by the Department of Health, Board of Pharmacy, LR 47:243 (February 2021).

§1225. Inspection

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, repealed by the Department of Health, Board of Pharmacy, LR 47:243 (February 2021).

§1227. Out-of-State Pharmacies

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, repealed by the Department of Health, Board of Pharmacy, LR 47:243 (February 2021).

§1229. Violations; Penalties

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, repealed by the Department of Health, Board of Pharmacy, LR 47:243 (February 2021).

§1231. Revised Statutes and Louisiana Administrative Code

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, repealed by the Department of Health, Board of Pharmacy, LR 47:243 (February 2021).

Malcolm J Broussard
Executive Director

2102#002

RULE

Department of Health Board of Pharmacy

Licensing for Military Families (LAC 46:LIII.506 and 904)

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 has amended two sections of its rules relative to licensing procedures for pharmacists and pharmacy technicians in military service. Act 200 of the 2020 Legislature amended the occupational licensing law for military applicants and their spouses to include certain dependents. The rule change will preserve the current procedures but will add certain dependents of military families to the eligibility criteria. The changes in §506 relate to applications for a pharmacist license. The changes in §904 relate to applications for a pharmacy technician certificate. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 5. Pharmacists

§506. Preferential Licensing Procedures for Military-Trained Applicants and Their Dependents

A. Definitions. The following terms shall have the meaning ascribed to them in this Subsection:

Dependent—a resident spouse or resident unmarried child under the age of 21 years, a child who is a student under the age of 24 years and who is financially dependent upon the parent, or a child of any age who is disabled and dependent upon the parent.

Jurisdiction—any state or territory of the United States of America.

Military—the armed forces or reserves of the United States, including the Army, Navy, Marine Corps, Coast Guard, Air Force, and the reserve components thereof, the National Guard of any state, the Military Reserves of any state, or the naval militia of any state.

B. Eligibility. The following persons are eligible for the preferential licensing procedures provided by this Section:

1. a member of the military who has been assigned to duty in Louisiana or his dependent;

2. a civilian employee of the United States Department of Defense who has been assigned to duty in Louisiana or his dependent;

3. a member of the military or civilian employee of the United States Department of Defense or their dependents who have established this state as their state of legal residence in their military record.

C. Requirements. Eligible persons seeking preferential licensing procedures shall demonstrate compliance with the following requirements:

1. the applicant holds a current and valid pharmacist license in another jurisdiction;

2. the applicant has held the license in the other jurisdiction for at least one year;

3. the applicant has satisfied all educational and experiential requirements required by the pharmacy regulatory authority in the other jurisdiction;

4. the applicant is held in good standing by the pharmacy regulatory authority in the other jurisdiction, or in the event such status is not used in this jurisdiction, the applicant holds an unrestricted license in that jurisdiction;

5. the applicant does not have a disqualifying criminal record as determined by the board;

6. the applicant has not had an occupational license revoked by a board in another jurisdiction due to negligence or intentional misconduct related to the applicant's work in the occupation in another jurisdiction;

7. the applicant has not surrendered an occupational license due to negligence or intentional misconduct related to the applicant's work in the occupation in another jurisdiction;

8. the applicant does not have a complaint, allegation, or investigation pending before a pharmacy regulatory authority in another jurisdiction which relates to unprofessional conduct or an alleged crime. If the applicant has a complaint, allegation, or investigation pending, the board shall not issue or deny a license until the complaint, allegation, or investigation is resolved, or the applicant otherwise satisfies the criteria for licensure in this state to the satisfaction of the board;

9. the applicant has paid all applicable fees in this state;

10. the applicant has applied for permanent licensure in this state. In the event the applicant fails to qualify for a permanent license as determined by the board, the special work permit issued under the authority of Subsection E of this Section shall be automatically terminated.

D. Upon receipt of an application for pharmacist licensure by an eligible applicant, the board staff shall mark the application for priority processing and preserve that status until the license is issued, or in the alternative, the board gives notice of its intent to deny the application and refuse to issue the license. The board shall notify the applicant of its licensing decision within 30 calendar days after receiving an application.

E. In the event the applicant intends to practice pharmacy before the issuance of the permanent license, the board may issue a special work permit to the applicant.

1. The special work permit shall expire 120 days after the date of issue and the permit shall not be renewable.

2. The special work permit shall identify the applicant, and further, shall indicate the authority for that person to practice pharmacy within the state of Louisiana as well as the dates of issue and expiration of the credential.

3. No applicant may practice pharmacy prior to the issuance of a special work permit or pharmacist license, or with an expired special work permit or pharmacist license.

4. The special work permit shall not be eligible for license transfer or reciprocity to any other jurisdiction.

5. The provisions of this Section shall not apply to a member of the military who has received, or is in the process of receiving, a dishonorable discharge from the military. Further, the provisions of this Section shall not apply to the spouse of a member of the military who has received, or is in the process of receiving, a dishonorable discharge from the military.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3651.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 39:3075 (November

2013), amended by the Department of Health, Board of Pharmacy, LR 47:244 (February 2021).

Chapter 9. Pharmacy Technicians

§904. Preferential Licensing Procedures for Military-Trained Applicants and Their Dependents

A. Definitions. The following terms shall have the meaning ascribed to them in this Subsection:

Dependent—a resident spouse or resident unmarried child under the age of 21 years, a child who is a student under the age of 24 years and who is financially dependent upon the parent, or a child of any age who is disabled and dependent upon the parent.

Jurisdiction—any state or territory of the United States of America.

Military—the armed forces or reserves of the United States, including the Army, Navy, Marine Corps, Coast Guard, Air Force, and the reserve components thereof, the National Guard of any state, the Military Reserves of any state, or the naval militia of any state.

B. Eligibility. The following persons are eligible for the preferential licensing procedures provided by this Section:

1. a member of the military who has been assigned to duty in Louisiana or his dependent;

2. a civilian employee of the United States Department of Defense who has been assigned to duty in Louisiana or his dependent;

3. a member of the military or civilian employee of the United States Department of Defense or their dependents who have established this state as their state of legal residence in their military record.

C. Requirements. Eligible persons seeking preferential licensing procedures shall demonstrate compliance with the following requirements.

1. The applicant holds a current and valid pharmacy technician credential issued by the pharmacy regulatory authority in another jurisdiction.

2. The applicant has held the license in the other jurisdiction for at least one year.

3. The applicant has satisfied all educational and experiential requirements required by the pharmacy regulatory authority in the other jurisdiction.

4. The applicant is held in good standing by the pharmacy regulatory authority in the other jurisdiction, or in the event such status is not used in this jurisdiction, the applicant holds an unrestricted license in that jurisdiction.

5. The applicant does not have a disqualifying criminal record as determined by the board.

6. The applicant has not had an occupational license revoked by a board in another jurisdiction due to negligence or intentional misconduct related to the applicant's work in the occupation in another jurisdiction.

7. The applicant has not surrendered an occupational license due to negligence or intentional misconduct related to the applicant's work in the occupation in another jurisdiction.

8. The applicant does not have a complaint, allegation, or investigation pending before a pharmacy regulatory authority in another jurisdiction which relates to

unprofessional conduct or an alleged crime. If the applicant has a complaint, allegation, or investigation pending, the board shall not issue or deny a pharmacy technician certificate until the complaint, allegation, or investigation is resolved, or the applicant otherwise satisfies the criteria for a pharmacy technician certificate in this state to the satisfaction of the board.

9. The applicant has paid all applicable fees in this state.

10. The applicant has applied for a permanent pharmacy technician certificate in this state. In the event the applicant fails to qualify for a permanent pharmacy technician certificate as determined by the board, the special work permit issued under the authority of Subsection E of this Section shall be automatically terminated.

D. Upon receipt of an application for a pharmacy technician certificate by an eligible applicant, the board staff shall mark the application for priority processing and preserve that status until the pharmacy technician certificate is issued, or in the alternative, the board gives notice of its intent to deny the application and refuse to issue the certificate. The board shall notify the applicant of its licensing decision within 30 calendar days after receiving an application.

E. In the event the applicant intends to assist in the practice of pharmacy before the issuance of the permanent pharmacy technician certificate, the board may issue a special work permit to the applicant.

1. The special work permit shall expire 120 days after the date of issue and the permit shall not be renewable.

2. The special work permit shall identify the applicant, and further, shall indicate the authority for that person to assist in the practice of pharmacy within the state of Louisiana as well as the dates of issue and expiration of the credential.

3. No applicant may assist in the practice of pharmacy prior to the issuance of a special work permit or pharmacy technician certificate, or with an expired special work permit or pharmacy technician certificate.

4. The special work permit shall not be eligible for license transfer or reciprocity to any other jurisdiction.

5. The provisions of this Section shall not apply to a member of the military who has received, or is in the process of receiving, a dishonorable discharge from the military. Further, the provisions of this Section shall not apply to the spouse of a member of the military who has received, or is in the process of receiving, a dishonorable discharge from the military.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3651.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 39:3075 (November 2013), amended by the Department of Health, Board of Pharmacy, LR 47:245 (February 2021).

Malcolm J Broussard
Executive Director

2102#014

RULE

**Department of Health
Board of Pharmacy**

Marijuana Recommendations (LAC 46:LIII.2457)

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 has amended two subsections of Section 2457 of its rules for marijuana pharmacies. Act 286 of the 2020 Legislature amended the state medical marijuana law in several respects necessitating changes in the board's rules. The changes in Subsection D for recordkeeping requirements include a repeal of the existing Paragraph 1 referencing a recommendation as an order, a technical change in the re-numbered Paragraph 1, and a clarification of an inventory recordkeeping requirement in the re-numbered Paragraph 3. The changes in Subsection E for professional practice standards include a new Paragraph 1 with the current paragraphs re-numbered sequentially. Within Paragraph 1, Subparagraph (a) permits a marijuana pharmacy to accept a recommendation from a physician in possession of a current and unrestricted license to practice medicine as well as a current state controlled substance license with privileges for Schedule I. The subparagraph also requires the pharmacy to accept the recommendation directly from the physician either through electronic prescriptions or through facsimile. Subparagraph (b) identifies the information which shall be disclosed within the recommendation. Subparagraph (c) expires a recommendation one year after the date of issue unless a shorter period of time is specified by the physician; and further, permits a pharmacist to dispense products one or more times prior to the expiration date but limits the dispensing to a maximum of a 90-day supply in a single dispensing and a maximum of a one-year supply pursuant to a single recommendation. The change in the re-numbered Paragraph 4 clarifies the requirement for the pharmacist to comply with standards for drug utilization review and patient counseling. The changes in the re-numbered Paragraph 6 remove the prohibition on the return of marijuana product inventory to the marijuana producer as well as the additional requirement to record product disposal in the Louisiana Medical Marijuana Tracking System (LMMTS). This Rule is hereby adopted on the day of promulgation.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 24. Limited Service Providers

Subchapter E. Marijuana Pharmacy

§2457. Standards of Practice

A. - C.2.a. ...

D. Recordkeeping Requirements

1. When the pharmacy receives a request for marijuana from a recommending physician in written form, the pharmacist shall cause the form to be scanned and filed

using an electronic imaging system in compliance with Section 1123 of this Part.

2. Request forms (and electronic images thereof) shall be retained on the pharmacy's premises for at least two years after the date of dispensing, and further, shall be readily retrievable upon request by the board.

3. Inventory of Marijuana Product

a. The pharmacist-in-charge shall develop and maintain a perpetual inventory of all marijuana products acquired, held, dispensed, and disposed by the pharmacy.

b. The pharmacy shall access the LMMTS and enter all acquisitions and product transfer transactions in that system.

c. In the event the pharmacist-in-charge designates an agent to retrieve new marijuana product inventory from the production facility, the pharmacist shall verify the agent is at least 21 years of age and is eligible to drive on public roadways.

d. The pharmacist-in-charge shall conduct an annual inventory of all marijuana products in the possession of the pharmacy on any date which is within one year of the previous annual inventory, and further, shall conduct additional inventory counts on the following occasions:

- i. arrival of a new pharmacist-in-charge;
- ii. discovery of any significant loss, disappearance, or theft of marijuana product;
- iii. departure of a pharmacist-in-charge; and
- iv. permanent closure of the pharmacy.

e. Inventory records shall be retained on the pharmacy's premises for at least two years after the most recent entry.

4. The pharmacy shall develop and maintain sufficient records to fully reveal the business transactions related to marijuana products, including their procurement and sale, for the current tax year as well as the two immediately preceding tax years, all of which shall be made available to the board upon request.

5. The board may require any pharmacy or its owners to furnish such information as the board considers necessary for the proper administration of R.S. 40:1046, and may require a financial audit of the business of any marijuana pharmacy, and the expense thereof shall be paid by the marijuana pharmacy.

E. Professional Practice Standards

1. Recommendation/opinion/referral (hereinafter, "request") for Therapeutic Marijuana

a. The pharmacist may accept any request for a marijuana product which has been:

i. issued by a physician in possession of a current and unrestricted license to practice medicine from the Louisiana State Board of Medical Examiners as well as a current and unrestricted state controlled substance license with therapeutic marijuana privileges from the board; and

ii. received directly from the physician and not from the patient or any third party other than the entity transmitting the request, either by electronic means conforming with the provisions of 21 CFR 1311 or its successor, or in the alternative, by facsimile bearing a handwritten or digital signature of the physician.

b. The request shall disclose the following information, at a minimum:

i. name, address, telephone number, and national provider identifier (NPI) number of the physician issuing the request;

ii. name, address, and date of birth (or age) of the patient for whom the request was issued;

iii. identification of the debilitating medical condition for which the treatment has been requested;

iv. treatment requested;

v. date request was issued;

vi. self-certification the physician holds a current and unrestricted license to practice medicine issued by the Louisiana State Board of Medical Examiners; and

vii. Signature of the physician issuing the recommendation, excluding any proxy or agent.

c. Requests for marijuana products shall expire one year after the date of issue, unless a shorter period of time is indicated by the physician. A pharmacist may dispense marijuana product on multiple occasions as indicated by the physician and needed by the patient until the request expires; however, the pharmacist shall not dispense more than a 90-day supply of marijuana product at one time nor more than a one-year supply of marijuana product pursuant to a single request. A pharmacist shall not dispense marijuana product pursuant to an expired request.

2. Prior to dispensing any marijuana product to a patient, the pharmacist shall review the patient's records in the state prescription monitoring program. The pharmacist shall resolve any concerns identified in that review by consultation with the recommending physician.

3. Labeling of Marijuana Product Dispensed

a. The pharmacist shall not dispense any marijuana product that does not bear the producer label required by the LDAF,

and further, the pharmacy dispensing label shall not overlay or obscure the producer label in any way.

b. The pharmacy's dispensing label shall contain, at a minimum, the following data elements:

i. name and address of the pharmacy dispensing the product;

ii. telephone number or other contact information of the pharmacy dispensing the product;

iii. name of the recommending physician;

iv. name of the patient;

v. date the product was dispensed;

vi. prescription number, which shall be a unique identifier for that specific transaction;

vii. name of the marijuana product, including any concentration, strength, or other identifiers of the marijuana product;

viii. quantity of marijuana dispensed;

ix. directions for use of the product;

x. expiration date of the product, which shall not exceed the expiration date determined by the producer of the product; and

xi. other information selected by the dispensing pharmacist to inform the patient as to the best use of the product for the intended purpose.

4. The pharmacist shall comply with the rules on drug utilization review and patient counseling in Chapter 5 of this Part.

5. Reporting transactions to state prescription monitoring program. The pharmacy shall comply with the reporting

requirements as found in Chapter 29 of this Part.

6. Disposal of Marijuana Product

a. A pharmacy may refuse to accept the delivery of marijuana product from a producer when it is determined to be

misbranded, adulterated, expired, deteriorated, undesired, excess, unauthorized, or unfit for dispensing.

b. When the pharmacist determines a marijuana product is no longer suitable for dispensing, the product shall be removed

from active dispensing stock and quarantined in the pharmacy pending its disposal.

c.- e.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1550 (August 2017), amended LR 45:1473 (October 2019), LR 47:246 (February 2021).

Malcolm J Broussard
Executive Director

2102#013

RULE

Department of Health Board of Pharmacy

Prescription Monitoring Program (LAC 46:LIII.Chapter 29)

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 has amended several sections of its chapter of rules for the state prescription monitoring program (PMP). The changes for §2901 remove several terms and their definitions which are duplicated from the PMP law. The amendment of the definition of the term "drugs of concern" adds two drugs, promethazine when present in oral liquid formulation as well as gabapentin. The effect of adding these two drugs to that list requires pharmacies dispensing these drugs to include those dispensing transactions in their automated reports to the state PMP. The changes for §§2903, 2907, and 2909 are to repeal these redundant sections which are duplicated from the PMP law. The change for §2905 is to repeal that section as redundant from the pharmacy law which contains the same authority to hire staff for board operations. The addition of §2914 relative to record retention will implement the provisions of Act 189 of the 2016 Legislature. With respect to the changes in §2917 relative to authorized access privileges to PMP information, Paragraphs 5 and 6 implement the provisions of Act 241 of the 2017 Legislature; Paragraph 7 implements the provisions of Act 232 of the 2018 Legislature; and Paragraph 8 implements the provisions of Act 80 of the 2019 Legislature. With respect to the changes in §2919 relative to PMP access registration procedures, Paragraph 1 implements the provisions of Act 76 of the 2017 Legislature. Moreover, while the legislation requires automatic registration for prescribers, the board has

extended the automatic registration procedures to include dispensers. With respect to the changes in §2921 relative to methods of access to PMP information, the additions to Subsections B, E, F, G, H, K, L, and M were authorized by Act 241 of the 2017 Legislature; the addition to Subsection I was authorized by Act 232 of the 2018 Legislature; the addition to Subsection N was authorized by Act 80 of the 2019 Legislature; and the new Subsection O was authorized by Act 352 of the 2012 Legislature. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 29. Prescription Monitoring Program

§2901. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them unless the context clearly indicates otherwise.

Delegate—a person authorized by a prescriber or dispenser who is also an authorized user as described in Section 2917 of this Chapter to access and retrieve program data for the purpose of assisting the prescriber or dispenser, and for whose actions the authorizing prescriber or dispenser retains accountability.

Drugs of Concern—drugs other than controlled substances as defined by rule whose use requires tracking for public health purposes or which demonstrate a potential for abuse, including any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, esters, ethers, isomers, and salts of isomers [whenever the existence of such salts, esters, ethers, isomers, and salts of isomers is possible within the specific chemical designation]:

- a. butalbital when in combination with at least 325 milligrams of acetaminophen per dosage unit.
- b. naloxone.
- c. promethazine when present in oral liquid formulation.
- d. gabapentin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1345 (July 2007), amended LR 36:755 (April 2010), effective September 1, 2010, amended by LR 39:314 (February 2013), amended LR 40:1096 (June 2014), amended LR 41:684 (April 2015), amended by the Department of Health, Board of Pharmacy, LR 45:42 (January 2019), amended LR 47:248 (February 2021).

§2903. Authority for Program Operation

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1004.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1345 (July 2007), repealed by the Department of Health, Board of Pharmacy, LR 47:248 (February 2021).

§2905. Authority to Engage Staff

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1179.F(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1346 (July 2007),

repealed by the Department of Health, Board of Pharmacy, LR 47:248 (February 2021).

§2907. Authority to Contract with Vendors

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1012.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1346 (July 2007), repealed by the Department of Health, Board of Pharmacy, LR 47:248 (February 2021).

§2909. Advisory Council

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1005.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1346 (July 2007), amended LR 39:314 (February 2013), amended LR 40:1096 (June 2014), repealed by the Department of Health, Board of Pharmacy, LR 47:248 (February 2021).

§2911. Reporting of Prescription Monitoring Information

A. Each dispenser shall submit to the board information regarding each prescription dispensed for a controlled substance or drug monitored by the program.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1346 (July 2007), amended LR 39:314 (February 2013), amended LR 41:684 (April 2015), amended by the Department of Health, Board of Pharmacy, LR 47:248 (February 2021).

§2914. Record Retention of Prescription Transaction Information

A. The board shall retain a minimum of five years of prescription transaction information for review by persons authorized to access such information.

B. The board shall archive all prescription transaction information not available for direct or indirect access.

C. The board shall respond to requests for archived prescription transaction information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1006(G).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 47:248 (February 2021).

§2917. Authorized Direct Access Users of Prescription Monitoring Information

A. The following persons may access prescription monitoring information in the same or similar manner, and for the same or similar purposes, as those persons are authorized to access similar protected health information under federal and state law and regulation:

1. - 4. ...

5. a medical examiner or coroner, or a delegate thereof, for the purpose of investigating an individual's death;

6. a licensed substance abuse addiction counselor providing services as part of a state-licensed substance abuse or addiction treatment program;

7. an epidemiologist with the Louisiana Department of Health for the purpose of assisting the board in analyzing prescription monitoring information in order to conduct public health evaluations to support public policy and education pursuant to an agreement with the board;

8. prescription monitoring programs, electronic health information systems, and pharmacy information systems located in other states, territories, federal districts, and federal jurisdictions, through a secure interstate data exchange system or health information exchange system approved by the board, but only in compliance with the provisions of R.S. 40:1007(G).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1347 (July 2007), amended LR 39:315 (February 2013), amended LR 40:1095 (June 2014), amended by the Department of Health, Board of Pharmacy, LR 47:248 (February 2021).

§2919. Registration Procedures for Authorized Direct Access Users

A. Authorized users of prescription monitoring information, and their delegates, shall comply with the following requirements to register with the board, in order to receive the appropriate credentials to access prescription monitoring information.

1.a. A prescriber or dispenser, excluding veterinarians, shall be automatically registered as a participant in the program and shall authenticate their identity through an online process in order to activate their account.

b. An agency applicant shall file an application with the program, using the form supplied by the program for that purpose.

2. The board shall verify the prescriber or dispenser applicant is in possession of a valid license to prescribe or dispense controlled substances, or in the case of an agency application, the board shall verify agency representation.

3. Upon verification of all requirements, the board shall issue the appropriate credential necessary to access prescription monitoring information.

4. Upon receipt of information that an authorized user no longer possesses authority to prescribe or dispense controlled substances, the program shall terminate the user's credentials to access prescription monitoring information. If or when the user's authority to prescribe or dispense controlled substances is reinstated, the program may reinstate the user's credentials to access prescription monitoring information.

5. Prescribers and dispensers approved for access shall be responsible for the enabling and disabling of access privileges for their delegates, as well as the supervision of their activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1347 (July 2007), amended LR 40:1095 (June 2014), amended by the Department of Health, Board of Pharmacy, LR 47:249 (February 2021).

§2921. Methods of Access to Prescription Monitoring Information and Audit Trail Information

A. ...

B. Designated representatives from agencies charged with administrative oversight of prescribers and dispensers of controlled substances may solicit prescription monitoring information and audit trail information from the program concerning specific investigations of prescribers or dispensers. The program may require such users to certify

the legitimacy of their inquiry prior to furnishing the requested information.

C. - D. ...

E. Upon receipt of one of the following methods of application by local, state, out-of-state, or federal law enforcement or prosecutorial officials, including judicially-supervised specialty courts within the criminal justice system that are authorized by the Louisiana Supreme Court, the program may provide prescription monitoring information and audit trail information:

1. - 3.c. ...

F. A medical examiner or coroner, or a delegate thereof, once properly registered, may solicit prescription monitoring information from the program for the purpose of investigating an individual's death. The program may require such users to certify the legitimacy of their inquiry prior to furnishing the requested information.

G. A licensed substance abuse addiction counselor, once properly registered, may solicit prescription monitoring information from the program for the purpose of providing services as part of a state-licensed substance abuse or addiction treatment program. The program may require such users to certify the legitimacy of their inquiry prior to furnishing the requested information.

H. Upon receipt of an administrative request from a probation or parole officer, the program may provide prescription monitoring information. The probation or parole officer must certify the request for prescription monitoring information is for the purpose of monitoring an offender's compliance with participation in a drug diversion program or with other conditions of probation or parole related to monitored drugs.

I. An epidemiologist with the Louisiana Department of Health, once properly registered, may solicit prescription monitoring information from the program for the purpose of assisting the board in analyzing prescription monitoring information in order to conduct public health evaluations to support public policy and education pursuant to an agreement with the board.

J. Individuals may solicit their own prescription monitoring information and audit trail information from the program. To prevent inappropriate access to such information, the requestor shall personally appear at the program office and produce positive photo identification at the time of their request. The program shall furnish a single copy of the report responding to such request at no charge to the individual.

K. A parent, legal guardian, or legal healthcare agent may solicit prescription monitoring information and audit trail information from the program for the purpose of reviewing the history of monitored drugs dispensed to a child or an individual for whom the agent makes healthcare decisions, to the extent consistent with federal and state confidentiality laws and regulations. To prevent inappropriate access to such information, the requestor shall personally appear at the program office and produce positive photo identification at the time of their request. The program shall furnish a single copy of the report responding to such request at no charge to the individual.

L. An executor of a will or a court-appointed succession representative of an estate may solicit prescription monitoring information and audit trail information from the

program for the purpose of reviewing the history of monitored drugs dispensed to a deceased individual. To prevent inappropriate access to such information, the requestor shall personally appear at the program office and produce positive photo identification at the time of their request. The program shall furnish a single copy of the report responding to such request at no charge to the individual.

M. Program personnel, once properly registered, may solicit prescription monitoring information from the program's database for the purpose of maintaining the database, analysis and reporting of data, compliance reviews, and responding to legitimate inquiries from authorized users or other individuals.

N. Prescription monitoring programs, electronic health information systems, and pharmacy information systems located in other states, territories, federal districts, and federal jurisdictions may access prescription monitoring information from the program through a secure interstate data exchange system or health information exchange approved by the board, but only in compliance with the provisions of R.S. 40:1007(G).

O. The board may provide prescription monitoring information to authorized users of the prescription monitoring program via a state health information exchange or other third-party conduit that has been approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1347 (July 2007), amended LR 39:315 (February 2013), amended LR 40:1095 (June 2014), amended by the Department of Health, Board of Pharmacy, LR 47:249 (February 2021).

Malcolm J Broussard
Executive Director

2102#001

RULE

Department of Health Bureau of Health Services Financing

Laboratory and Radiology Services
(LAC 50:XIX.Chapters 39, 41, and 43)

The Department of Health, Bureau of Health Services Financing has adopted LAC 50:XIX.Chapter 39 and amended Chapters 41 and 43 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 XIX. Other Healthcare Services

Subpart 3. Laboratory and Radiology Services

Chapter 39. General Provisions

§3901. Introduction

A. The Medicaid Program covers medically necessary laboratory and radiology services that are ordered by a

physician or other licensed practitioner acting within their scope of practice and:

1. provided by or under the direction of, a physician or other licensed practitioner acting within their scope of practice; or

2. provided by an independent laboratory.

B. This Subpart only applies to laboratory and radiology services provided:

1. in an office or similar facility other than a hospital outpatient department or clinic; or

2. in an independent laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:250 (February 2021).

§3903. Service Limitations

A. Providers may only furnish laboratory services for which they are certified under the clinical laboratory improvement amendments.

B. Providers may only receive reimbursements for services that they personally perform or supervise.

C. Effective for dates of service on or after February 20, 2018, the Medicaid Program terminates coverage of proton beam radiation therapy for beneficiaries 21 years of age and older.

1. For beneficiaries under the age of 21, coverage shall be provided when proton beam radiation therapy services are deemed medically necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:250 (February 2021).

Chapter 41. Provider Participation

§4101. Physicians and Other Licensed Practitioners Office Services

A. Physicians and other licensed practitioners must comply with all applicable state and federal laws and regulations.

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:75 (February 1982), repromulgated LR 28:1023 (May 2002), amended by the Department of Health, Bureau of Health Services Financing, LR 47:250 (February 2021).

§4103. Independent Laboratories

A. Independent laboratories are freestanding laboratory facilities that are independent of the ordering provider, hospital, or both.

B. Independent laboratories must be licensed in accordance with state laws and regulations.

C. Independent laboratories must comply with all applicable state and federal laws and regulations.

D. Independent laboratories must maintain copies of all laboratory orders and laboratory results for a period of at least five years. Records shall be retained in the laboratory in such a manner that permits ready identification and accessibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:250 (February 2021).

Chapter 43. Reimbursement

§4301. Laboratory Services Reimbursement

Methodology

A. Providers shall be reimbursed according to the established fee schedule or billed charges, whichever is the lesser.

B. Reimbursement for laboratory services shall not exceed 100 percent of the current year's Medicare fee.

C. For newly added laboratory services, the Medicaid fee shall be set at 75 percent of the current year's Medicare allowable fee.

1. If there is no corresponding Medicare fee, the Medicaid fee shall be set based on a review of Medicaid Program fees in other states, other health insurer fees in Louisiana, or as determined by either the Louisiana Medicaid Medical Director or the contracted physician consultant of the Department of Health's fiscal intermediary.

2. Laboratory services related to a declared public health emergency may be reimbursed at up to 100 percent of the Medicare allowable fee if deemed necessary by the Medicaid Program to ensure access.

D. Effective for dates of service on or after February 26, 2009, the reimbursement rates for laboratory services shall be reduced by 3.5 percent of the fee amounts on file as of February 25, 2009.

E. Effective for dates of service on or after August 4, 2009, the reimbursement rates for laboratory services shall be reduced by 4.7 percent of the fee amounts on file as of August 3, 2009.

F. Effective for dates of services on or after January 22, 2010, the reimbursement rates for laboratory services shall be reduced by 4.42 percent of the fee amounts on file as of January 21, 2010.

G. Effective for dates of service on or after August 1, 2010, the reimbursement rates for laboratory services shall be reduced by 4.6 percent of the fee amounts on file as of July 31, 2010.

H. Effective for dates of service on or after January 1, 2011, the reimbursement rates for laboratory services shall be reduced by 2 percent of the fee amount on file as of December 31, 2010.

I. Effective for dates of service on or after July 1, 2012, the reimbursement rates for laboratory services shall be reduced by 3.7 percent of the fee amounts on file as of June 30, 2012.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), P.L. 98-369, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 5:388 (December 1979), amended LR 8:75 (February 1982), LR 8:144 (March 1982), LR 10:1034 (December 1984), LR 12:679 (October 1986), LR 22:107 (February 1996), repromulgated (for LAC) LR 28:1024 (May 2002), amended by the Department of Health, Bureau of Health Services Financing, LR 47:251 (February 2021).

§4303. Provider Claim Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 5:388

(December 1979), amended LR 10:599 (August 1984), LR 13:578 (October 1987), repromulgated (for LAC) LR 28:1024 (May 2002), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:251 (February 2021).

§4305. Automated, Multichannel Test and Panel Billing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:75 (February 1982), amended LR 10:1034 (December 1984), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:219 (March 1996), repromulgated (for LAC) LR 28:1024 (May 2002), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:251 (February 2021).

§4307. Hepatic Function Panel and General Health Panel

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:219 (March 1996), repromulgated (for LAC) LR 28:1024 (May 2002), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:251 (February 2021).

§4309. Hematology

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:219 (March 1996), repromulgated (for LAC) LR 28:1024 (May 2002), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:251 (February 2021).

§4311. Panel Codes

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:219 (March 1996), repromulgated (for LAC) LR 28:1025 (May 2002), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:000 (February 2021).

§4313. Prenatal Lab Panel Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:219 (March 1996), repromulgated (for LAC) LR 28:1025 (May 2002), amended LR 29:1485 (August 2003), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:251 (February 2021).

§4315. Urinalysis

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:219 (March 1996), repromulgated (for LAC) LR 28:1025 (May 2002), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:251 (February 2021).

§4317. Panels and Component Codes within Panels

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 49:1008(A), and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:219 (March 1996), repromulgated (for LAC) LR 28:1024 (May 2002), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:252 (February 2021).

§4319. X-Ray Equipment Portage Billing

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1026 (May 2004), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:252 (February 2021).

Subchapter B. Reimbursement

§4329. Laboratory Services (Physicians and Independent Laboratories)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), P.L. 98-369, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1025 (May 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1897 (September 2009), LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3028 (October 2011), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:95 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:1284 (May 2013), LR 41:539 (March 2015), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:252 (February 2021).

§4331. Medicare Part B

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), P.L. 98-369, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:2622 (November 2000), repromulgated (for LAC) LR 28:1025 (May 2002), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:252 (February 2021).

§4333. Outpatient Hospital Laboratory Services Reimbursement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 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 Service Financing, LR 23:414 (April 1997), promulgated (for inclusion in the LAC) LR 28:1026 (May 2002), amended LR 29:1096 (July 2003), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:252 (February 2021).

§4334. Radiology Services Reimbursement Methodology

A. This reimbursement methodology applies to radiology services including portable x-ray and radiation therapy center services.

B. Providers shall be reimbursed according to the established fee schedule or billed charges, whichever is the lesser amount.

C. For newly added radiology services, the Medicaid fee shall be set at 75 percent of the current year's Louisiana Region 99 Medicare allowable fee.

1. If there is no corresponding Medicare fee, the Medicaid fee shall be set based on a review of Medicaid Program fees in other states, other health insurer fees in Louisiana, or as determined by either the Louisiana Medicaid Medical Director or the contracted physician consultant of the Department of Health's fiscal intermediary.

D. Repealed.

E. - J. ...

K. - L.1. 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, Bureau of Health Services Financing, LR 35:1897 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3029 (October 2011), LR 39:1284 (May 2013), LR 41:539 (March 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 44:283 (February 2018), amended by the Department of Health, Bureau of Health Services Financing, LR 47:252 (February 2021).

§4335. Portable Radiology Services

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 30:1026 (May 2004), amended LR 35:1898 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3029 (October 2011), LR 39:1284 (May 2013), LR 41:540 (March 2015), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:252 (February 2021).

§4337. Radiation Therapy Centers

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, Bureau of Health Services Financing, LR 35:1898 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3029 (October 2011), LR 39:1284 (May 2013), LR 41:540 (March 2015), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:252 (February 2021).

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.

Dr. Courtney N. Phillips
Secretary

2102#035

RULE

Department of Public Safety and Corrections Office of State Fire Marshal

Fire-Resistant Material Applicators (LAC 55:V.Chapter 34)

Under the authority of R.S. 40:1563 and R.S. 40:1603 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Office of State Fire Marshal, has amended rules regarding Fire-resistant material applicators for the enforcement and penalties associated with Fire-resistant material applicators for the protection and safety of the public and to establish accuracy concerning heat and flame protection. These rules also explain the training and certification process for a person seeking a certificate of registration as a fire-resistant material applicator as required in R.S. 40:1603. These rules are all new and ensure that those people conducting Fire-resistant material application activities are properly trained, certified and registered which assures that the work was properly performed. This Rule is hereby adopted on the day of promulgation.

Title 55

PUBLIC SAFETY

Part V. Fire Protection

Chapter 34. Fire-resistant Material Applicators

§3401. Purpose

A. The provisions of this Chapter are to establish the training, registration and certification requirements for fire-resistant material applicators. The requirements for the enforcement of these provisions are established by this chapter in the interest of protecting and preserving lives pursuant to authority of R.S. 40:1603.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 47:253 (February 2021).

§3403. Administration

A. The Office of State Fire Marshal, which administers the provisions of R.S. 40:1603, relating to fire-resistant material applicators, is located at 8181 Independence Blvd., Baton Rouge, LA 70806.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 47:253 (February 2021).

§3405. Applicability of Rules

A. These rules shall apply to all persons engaged in the activity of fire-resistant material application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 47:253 (February 2021).

§3407. Exceptions

A. These rules shall not apply to firms that employ persons engaging in the activity of fire-resistant material application. The requirements only apply to the individual fire-resistant material applicators.

B. These rules do not apply to any persons or firms engaged in the application of fire-stopping material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 47:253 (February 2021).

§3409. Notices by the State Fire Marshal

A. Any notice required to be given by the Office of State Fire Marshal by any provision of law or these rules shall be provided as follows:

1. personal or domiciliary service or mailed, postage prepaid, to the person's residence and/or firm address as it appears on the records in the Office of State Fire Marshal. It is the responsibility of the person involved to ensure that the Office of State Fire Marshal has a correct address for the person and firm; or

2. electronic transmission or electronic mail (email) if the electronic transmission or email is retrievable in a perceivable form and the office and recipient have consented in writing to the use of such form of electronic transmission or email for purposes of notice or communication between the parties. It is the responsibility of the applicant or registered individual to ensure that the Office of State Fire Marshal has a correct email address for the person and firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 47:253 (February 2021).

§3411. Definitions

A. The following words and terms, when used in these rules, shall have the following meanings, unless the context clearly indicates otherwise.

Certificate of Registration—that document issued by the Office of State Fire Marshal to a person authorizing him or her to engage in fire-resistant material activity, certifying that he or she has obtained the appropriate training as required in R.S. 40:1603 and these rules.

Digital Registration Identification—that electronic document provided by the Office of State Fire Marshal to a person registered to engage in fire-resistant material activity, with the ability to be displayed on a phone or other electronic device bearing a photographic image of the person and his or her name, evidencing the Office of State Fire Marshal's authorization of the person to engage in the activities as defined by these rules.

Fireproofing—the act of rendering an object, such as a structure or material, resistant to fire or incombustible via the application of a listed and approved fire-resistant material.

Fire-Resistant Material—includes cementitious, fibrous and intumescent materials that are sprayed or applied onto a surface to provide fire-resistant protection of the substrate.

Fire-Resistant Material Activity—the application or the act of applying fire-resistant material onto a surface to provide fire-resistant protection of the substrate.

Fire-Resistant Material Applicator—an individual who applies fire-resistant material.

Firestops or Fire-Stopping Material—a listed and approved material used as a form of passive fire protection that is utilized for sealing around openings and penetrations in fire-rated walls or flooring. The purpose of the utilization of firestops and/or fire-stopping material is to impede the spread of fire and smoke from one room or area to an

adjacent room or area. Fire-resistant material is not included in this definition.

Firm—a sole proprietorship, partnership, corporation, limited liability company, or any other entity that employs the individual fire-resistant material applicators.

Office—the Office of State Fire Marshal.

Person—a natural individual.

Pocket Registration Card—that document issued by the Office to a person registered to engage in fire-resistant material activity, in pocket size and bearing a photographic image of the person and his or her name, evidencing the Office of State Fire Marshal's authorization of the person to engage in the activities as defined by these rules.

Substrate—an underlying material or layer of materials upon which other materials are applied, such as a fire-resistant coating.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 47:253 (February 2021).

§3413. Registration Required

A. Any person engaged in fire-resistant material activity shall be registered in accordance with these rules prior to conducting any such activity in this state. Each person who is registered with the office shall receive a certificate of registration and a pocket registration card or a digital registration identification.

B. Any person described in Subsection A of this Section who has not registered with the office shall immediately cease such fire-resistant material activities. The office may take any steps necessary to enforce an order to cease and desist such activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 47:254 (February 2021).

§3415. Required Training and Certification

A. Required Certification

1. Applicants for fire-resistant material applicator registration are required to meet the certification requirements pursuant to R.S. 40:1603 and these rules.

B. Training and certification(s) acceptable to the Office shall include:

1. training provided by the manufacturer(s) of the fire-resistant spray materials specific to those that the applicator(s) will be utilizing. The applicant shall submit a copy of all relevant documentation, including training completion and certifications, to the office for verification of training provided by the manufacturer(s). If an individual applies fire-resistant spray material from multiple and/or varying manufacturers, the individual must have training and certification from each manufacturer. If an individual applies fire-resistant material of a manufacturer for which he or she has not received training and certification, that individual is considered unregistered and/or operating outside his certificate of registration and in violation of R.S. 40:1603 and these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 47:254 (February 2021).

§3417. Initial Registration; Annual Renewals

A. Applicants for individual initial registration are required to meet the initial registration requirements. As such, applications shall provide the following information:

1. name;
2. address;
3. phone number;
4. email address;
5. firm name (if any);
6. firm address;
7. firm phone number; and
8. copies of manufacturers' training and/or certifications.

B. Annual registration renewals required. On or before the expiration date, which is displayed on the certificate of registration, each person shall submit an application for the renewal of their certificate.

C. Initial and renewal applications for certificates of registration shall be submitted on forms provided the Office of State Fire Marshal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 47:254 (February 2021).

§3419. Certificate of Registration

A. Every person must obtain from the Office a certificate of registration as provided for by R.S. 40:1603, before engaging in fire-resistant material activity.

B. The following shall apply to certificates of registration.

1. Duplicates. A duplicate certificate or pocket registration card must be obtained from the Office to replace a lost or destroyed certificate or card. The certificate holder must submit written or electronic notification of the loss or destruction of the certificate within 10 days from the date of loss.

2. Revisions/Changes. The change of a person's name, mailing address, firm, firm address, phone number or email address requires a revision of the certificate of registration. Certificates requiring changes must be surrendered to the Office within ten calendar days after the change requiring the revision. The person must submit written notification of the change with the surrendered certificate.

3. Non-Transferability. A certificate of registration is not transferable from one person to another.

4. Validity. A certificate of registration is valid for one year and shall be renewed annually. For a certificate of registration to remain valid, the person must provide current documentation of required information and training, as established by the Office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 47:254 (February 2021).

§3421. Alteration of Certificates of Registration.

A. Any alteration of a certificate of registration or pocket registration card renders both invalid and such alteration shall be the basis for administrative action in accordance with penalties set forth in R.S. 40:1603 and these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 47:254 (February 2021).

§3423. Enforcement; Investigations

A. The state fire marshal or his/her designated representative shall investigate all complaints of alleged violations of R.S. 40:1603 and these rules. Complaints of alleged violations shall be made in writing to the Office of State Fire Marshal. The Office shall make available a complaint form to be used as needed. Penalties shall be administered to those persons found to have violated these laws and/or rules. Proposed administrative penalty letters provided to violators in accordance with these rules shall act as official notification of alleged violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 47:255 (February 2021).

§3425. Administrative Actions

A. The State Fire Marshal may refuse the issuance or renewal of, suspend, or revoke a certificate of registration and impose administrative penalties, if, after notice and hearing, as provided for by the Administrative Procedures Act, R.S. 49:950 et seq., it is found that a person failed to comply with the provisions of R.S. 40:1603 or these rules. Any person who is denied a certificate of registration, whose certificate of registration is suspended or revoked, or who receives an administrative penalty may appeal by requesting an administrative hearing. Requests for hearings shall be made in writing and mailed or hand delivered to the Office of State Fire Marshal, 8181 Independence Blvd., Baton Rouge, LA 70806 to be received by the Office of State Fire Marshal within 30 days from the date of the denial, suspension, revocation or administrative penalty.

1. Offenses

a. Any person applying fire-resistant material who is not registered with the office shall be fined up to \$250 per violation.

b. Any person who does not receive the required training and/or does not obtain a certificate of registration in accordance with R.S. 40:1603 and these rules shall be fined up to \$250 per violation.

c. Any person who continues to engage in fire resistant material activity and fails to annually register, herein referred to as renewing, shall be fined up to \$250 per violation.

d. Any person subject to R.S. 40:1603 who fails to maintain his or her registration in accordance with R.S. 40:1603 and these rules shall be fined up to \$250 per violation.

B. Fines shall be made payable to the Office of State Fire Marshal.

C. The Office of State Fire Marshal is empowered to notify any person or firm engaged in any activity, conduct, or practice constituting a violation of any provision of R.S. 40:1603, directing such person or firm to cease such activity, conduct, or practice without obtaining a certificate of registration. Such notification shall be in writing issued in the name of the Office of State Fire Marshal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 47:255 (February 2021).

§3427. Severability

A. If any provision of these rules or the application thereof to a person is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of these rules which can be given effect without the invalid provisions or application. To this end, all provisions of these rules are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 47:255 (February 2021).

§3429. Miscellaneous Provisions

A. Nothing in these rules shall prevent an appropriately-registered person from conducting the activity of fire-resistant material application.

B. Service Invoices. All service invoices shall reflect all fire-resistant material application activity, date the work was performed, the name of the employing firm and the name of the certified person(s) who performed the work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 47:255 (February 2021).

Chief H. "Butch" Browning, Jr.
State Fire Marshal

2102#008

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

Fantasy Sports Contest
(LAC 42:III.102, 104, 105, 107,
120, 1907 and VII.Chapters 1-13)

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 Procedures Act, R.S. 49:950 et seq., has adopted Part VII of Title 42 of the Administrative Code, amend Sections 102, 104, 105, 107, and 120 of Chapter 1 of Part III of Title 42 of the Administrative Code, and amended §1907 of Chapter 19 of Part III of Title 42 of the Administrative Code. These rule changes clarify practices already required to take place in the industry and create uniformity with the amended statutes and the newly enacted statutes as a result of Act 322 of the 2018 Legislative Session and Act 141 of the 2020 Regular Legislative Session. The rule change allows for the conducting, application, licensing, enforcement, and regulation of fantasy sports contests. This Rule is hereby adopted on the date of promulgation.

Title 42
LOUISIANA GAMING
Part III. Gaming Control Board

Chapter 1. General Provisions

§102. Issuance and Renewal of Licenses by the Department

A. The department is authorized to issue to qualified applicants, non-key gaming employee permits and non-gaming vendors' licenses, and to renew licenses for the operation of video draw poker devices at facilities with no more than three video draw poker devices at their licensed establishment. The department is authorized to determine the applicants' qualifications in accordance with law, including but not limited to the provisions of the Louisiana Riverboat Economic Development and Gaming Control Act, R.S. 27:41 et seq., the Video Draw Poker Devices Control Law, R.S. 27:401 et seq., the Louisiana Economic Development and Gaming Corporation Act, R.S. 27:201 et seq., or the Louisiana Fantasy Sports Contests Act, R.S. 27:301, the Louisiana Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act, R.S. 27:351 et seq., and rules promulgated in accordance therewith, when such provisions and rules are not in conflict with any provisions of the Louisiana Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq., and rules promulgated in accordance therewith.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1140 (November 1996), LR 47:256 (February 2021).

§104. Delegation to Chairman

A. - A.3. ...

4. issue a riverboat gaming operator license or a fantasy sports contest operator license, provided that the chairman may determine that conditions imposed on a conditionally licensed riverboat gaming operator or licensed fantasy sports contest operator have been met;

5. ...

6. approve transfers of ownership interests in a riverboat gaming operator licensee, the casino gaming operator, a fantasy sports operator or a qualified video poker truck stop facility.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Gaming Control Board, LR 22:1140 (November 1996), amended LR 25:80 (January 1999), LR 47:256 (February 2021).

§105. Civil Penalties

A. The department is authorized to take enforcement action by imposing civil penalties against any entity that has a license, permit or casino contract, for violation of the provisions of the Louisiana Riverboat Economic Development and Gaming Control Act, R.S. 27:41 et seq., the Video Draw Poker Devices Control Law, R.S. 27:401 et seq., the Louisiana Economic Development and Gaming Corporation Act, R.S. 27:201 et seq., the Louisiana Fantasy Sports Contests Act, R.S. 27:301, the Louisiana Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act, R.S. 27:351 et seq., or rules promulgated in accordance therewith, provided that such provisions and rules are not in conflict with any provisions of the Louisiana

Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq., and rules promulgated in accordance therewith.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1138 (November 1996), LR 47:256 (February 2021).

§107. Standards of Conduct and Ethical Rules

A.1. - B.3. ...

C. As used in this rule, and for the purposes of R.S. 27:13, *Licensee* or *Permittee* shall mean any person who holds a license or permit issued pursuant to the provisions of the Louisiana Riverboat Economic Development and Gaming Control Act, R.S. 27:41 et seq., the Louisiana Economic Development and Gaming Corporation Act, R.S. 27:201 et seq., the Video Draw Poker Device Control Law, R.S. 27:401 et seq., the Louisiana Fantasy Sports Contests Act, R.S. 27:301, the Louisiana Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act, R.S. 27:351 et seq., or the Louisiana Gaming Control Law, R.S. 27:1 et seq., specifically including, but not limited to, manufacturers, distributors, suppliers, vendors, device owners, service entities, persons furnishing services or goods material and integral to the operation of a riverboat, gaming employees, key employees, non-key employees, equity owners, contractors, and all establishments regardless of the number of gaming devices in operation at the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1139 (November 1996), LR 47:256 (February 2021).

§120. Application and Reporting Forms

A. - A.6.b. ...

7. Fantasy Sports

a. Fantasy Sports Application, DPSSP 6729, including, but not limited to:

- i. instructions;
- ii. application for fantasy sports license;
- iii. applicant information;
- iv. ownership interests;
- v. general information;
- vi. records/books information;
- vii. professional services information;
- viii. gaming information (miscellaneous);
- ix. general applicant information;
- x. financial disclosure information;
- xi. affidavit of full disclosure;
- xii. applicant's request to release information;
- xiii. verification;
- xiv. release of all claims;
- xv. business tax information authorization request;
- xvi. federal business, trusts, estates, etc., consent to disclosure of tax information;
- xvii. Federal Internal Revenue Service gaming tax clearance certificate;
- xviii. state business, trusts, estates, etc., consent to disclosure of tax information;
- xix. Louisiana Department of Revenue and Taxation tax clearance certificate.

B. - C. ...

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 47:000 (February 2021), 26:340 (February 2000), amended LR 40:1379 (July 2014), LR 41:2176 (October 2015), LR 42:575 (April 2016), LR 47:256 (February 2021).

Chapter 19. Administrative Procedures and Authority
§1907. Construction of Regulations and Administrative Matters

A. - C. ...

D. The regulations contained in Title 42, Part III, Chapters 17-47 of the Louisiana Administrative Code shall not apply to persons licensed pursuant to Chapter 8 of the Act.

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 38:1608 (July 2012), LR 47:256 (February 2021).

Part VII. Louisiana Fantasy Sports Contests

Chapter 1. General Provisions

§101. Statement of Policy

A. The rules contained herein are promulgated for the purpose of facilitating implementation of the fantasy sports act referred to as the Louisiana fantasy sports contests act, R.S. 27:301 et seq., to achieve the effective regulation of fantasy sports contests, and to maintain the health, welfare, and safety of the public. These considerations shall control the application and interpretation of the rules. Any subsequent restatement, repeal, or amendment of these regulations shall be in accordance with the aforementioned considerations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:256 (February 2021).

§103. Definitions

A. The provisions of the Act relating to definitions, words and terms are hereby incorporated by reference and made a part hereof and will therefore apply and govern the interpretation of these regulations, unless the context otherwise requires or unless specifically redefined in a particular Section. Any word or term not defined in these regulations shall have the same meaning ascribed to it in the Act. Any word not defined by the Act or these regulations shall be construed in accordance with its plain and ordinary meaning.

B. As used in this Chapter, the following words and terms shall have the following meanings.

Act—the provisions of the Louisiana Gaming Control Law, R.S. 27:1 et seq. and all provisions of the Louisiana Fantasy Sports Contests Act, R.S. 27:301 et seq.

Applicant—has the same meaning as the term has in Section 1701 of Part III of this Title.

Application—has the same meaning as the term has in Section 1701 of Part III of this Title.

Associated Persons—any person required by the Act or these regulations including, but not limited to, R.S. 27:28 and Section 2107 of Part III of this Title to submit to and meet suitability and any persons the board or division

determines needs to submit to and meet suitability on the license including, but not limited to: directors; officers; and managers.

Beginner Player—a player who has entered 50 or fewer fantasy sports contests offered by a licensee and who does not meet the definition of a highly experienced player.

Board—has the same meaning as that term in R.S. 27:302.

Business Year—has the same meaning as the term has in Section 1701 of Part III of this Title.

Chairman—means the chairman of the board.

Confidential Information—has the same meaning as that term in R.S. 27:302.

Division—has the same meaning as the term has in Section 1701 of Part III of this Title.

Economic Interest—any interest in a licensee from which a person receives or is entitled to receive, by agreement or otherwise, a profit, gain, thing of value, loss, credit, security interest, ownership interest or other benefit. Economic interest includes voting shares of stock or otherwise exercising control of the day to day operations. Economic interest does not include a debt unless upon review of the instrument, contract, or other evidence of indebtedness, the board or division determines a finding of suitability is required based upon the economic relationship with the licensee.

Entry Fee—has the same meaning as that term in R.S. 27:302.

Fantasy Sports Contest—has the same meaning as that term in R.S. 27:302.

Fantasy Sports Contest Operator or *Operator*—has the same meaning as that term in R.S. 27:302 and may be referred to as *licensee*.

Fantasy Sports Contest Operator Employee or *Operator Employee* or *Licensee Employee*—an individual employed by an operator and includes all officers, directors, trustees, and principal salaried executive staff officers. It shall also include contractors of operators that have access to confidential information as defined in the Act, these regulations, or R.S. 27:21 or 27:44.

Fantasy Sports Contest Player or *Player*—has the same meaning as that term in R.S. 27:302.

Fantasy Sports Contest Player Funds—the cash or cash equivalents that are owned by the player, are maintained in the player's account, and are not commingled with the licensee's operational funds.

Financial Statements or *Financial Records*—has the same meaning as the term has in Section 1701 of Part III of this Title.

Gaming Employee—has the same meaning as the term has in Section 1701 of Part III of this Title.

Gaming Employee Permit or *Employee Permit*—has the same meaning as the term has in Section 1701 of Part III of this Title.

Gaming Equipment—has the same meaning as the term has in Section 1701 of Part III of this Title, plus any equipment or devices that the board or division finds or determines to be used or expended in fantasy sports contest operations or activities.

Gaming Supplier or *Distributor*—has the same meaning as the term has in Section 1701 of Part III of this Title.

Gaming Supplier Permit—has the same meaning as the term has in Section 1701 of Part III of this Title.

Gaming Supplies—the same meaning as the term has in Section 1701 of Part III of this Title, plus services provided to the licensee that the board or division finds or determines to be used or expended in fantasy sports contest operations or activities.

Geolocation—the process or technique of identifying the geographical location of a person or device by means of digital information processed by digital means.

Gross Fantasy Sports Contest Revenues—has the same meaning as that term in R.S. 27:302.

Highly Experienced Player—a person who has either:

a. entered more than 1,000 contests offered by a single licensee; or

b. won more than 3 sports prizes of \$1,000 or more from a single licensee.

Inactive Account—a fantasy sports contest player account that has not been logged into or has had no activity for a period of three years.

Internal Controls—internal procedures and administration and accounting controls designed by the licensee that are commercially reasonable procedures for the operation of fantasy sports contests with an entry fee.

Key Gaming Employee—has the same meaning as that term in in Section 1701 of Part III of this Title.

Location Percentage—has the same meaning as that term in R.S. 27:302.

Net Revenue—has the same meaning as that term in R.S. 27:302.

Non-Gaming Supplier or Supplier of Goods or Services Other than Gaming Devices or Gaming Equipment—has the same meaning as the term has in Section 1701 of Part III of this Title.

Non-Gaming Supplier Permit—has the same meaning as the term has in Section 1701 of Part III of this Title.

Non-Key Gaming Employee—has the same meaning as the term has in Section 1701 of Part III of this Title.

Non-Key Gaming Employee Permit—has the same meaning as the term has in Section 1701 of Part III of this Title.

Operator's Net Revenue—has the same meaning as that term in R.S. 27:302.

Person—has the same meaning as the term has in Section 1701 of Part III of this Title.

Platform—any website, smart phone or tablet or other electronic application, or other portal providing access to a fantasy sports contest conducted pursuant to Chapter 6 of the Louisiana Gaming Control Law.

Prize—anything of value including, but not limited to, cash or a cash equivalent, contest credits, merchandise, or admission to another contest in which a prize may be awarded. Any non-cash prizes shall be calculated at the cost to the licensee.

Prohibited Parish—a parish in which, at the election held pursuant to R.S. 27:303, a majority of the qualified electors in the parish voting on the proposition to authorize fantasy sports contests in the parish voted against the proposition.

Script—a list of commands that a computer related to a fantasy sports contest program can execute to automate processes on a fantasy sports contest platform.

Segregated Account—a financial account that segregates the funds of players such that the licensee's operational funds may not be commingled.

Sporting Event—an athletic game or team competition in which an individual athlete's performance is used to accumulate statistical results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:257 (February 2021).

§105. Gaming Control Board; Duties and Powers

A. The board shall perform the duties and functions as authorized by the provisions of these regulations and the regulatory authority with respect to the regulation of fantasy sports contests as provided by R.S. 27:15.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:258 (February 2021).

§107. Construction of Regulations

A. Severability

1. Nothing contained in these regulations shall be so construed as to conflict with any provision of the Act or any other applicable statute. If any regulation is held invalid by a final order of a court of competent jurisdiction at the state or federal level, such provision shall be deemed severed and the court's finding shall not be construed to invalidate any other regulation.

B. Captions, Pronouns, and Gender

1. Captions appearing at the beginning of regulations are descriptive only, are for convenient reference to the regulations and in no way define, limit or describe the scope, intent or effect of the regulation. Masculine or feminine pronouns or neuter gender may be used interchangeably and the plural shall be substituted for the singular form and vice versa, in any place or places in the regulations where the context requires such substitution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:258 (February 2021).

Chapter 3. Licensing

§301. Licenses, General

A. No fantasy sports contest operator shall offer any fantasy sports contest in this state without first being licensed by the board.

B. Fantasy sports contest operator licenses shall be applied for, issued, and regulated according to the Act, including, but not limited to R.S. 27:1 et seq., Part III of this Title, and this Part.

C. A license shall be issued in the name of the owner of the fantasy sports contest operator.

D. Any license or permit issued by the board and any permit issued by the division is deemed to be a revocable privilege, and no person holding such a license or permit is deemed to have acquired any vested rights therein.

E. All licenses and permits shall be surrendered to the board or division upon their expiration or revocation at which time they will be destroyed unless needed for a pending investigation.

F. Licenses and permits are not transferable or assignable. If the status of the fantasy sports contest operator or permittee should change such that the person no longer needs or is entitled to the license or permit, then the license or permit shall be cancelled and any tangible item which evinces such a license or permit shall be surrendered to the board or division within five days of the change of status. Any license or permit surrendered shall be marked cancelled or destroyed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:258 (February 2021).

§303. Permits, General

A. Permits for gaming suppliers, non-gaming suppliers, key gaming employee, and non-key gaming employees shall be applied for, issued, and regulated according to the Act, including, but not limited to R.S. 27:1 et seq., Part III of this Title, and this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:259 (February 2021).

§305. Transfers of Interest; Loans and Restrictions

A. Any transfer of interest in a licensee or permittee shall be governed by and in accordance with the provisions of Chapter 25 of Part III of this Title.

B. All debt transactions shall be entered into in accordance with the provisions of Chapter 25 of Part III of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:259 (February 2021).

§307. Applications

A. General Authority of Board or Division

1. The securing of a license, permit or approval required under the Act is a prerequisite for conducting, operating, or performing any activity regulated by the Act. Each applicant must file a complete application as prescribed by the board or division.

2. An applicant for a license or permit authorized by the Act is seeking the granting of a privilege, and the burden of proving qualification and suitability to receive the license or permit is at all times on the applicant.

3. Applicants shall demonstrate experience, reputation, competence, and financial responsibility consistent with the best interest of the Louisiana gaming industry and in compliance with the laws of this state.

4. An applicant accepts the risk of adverse public notice, embarrassment, criticism, or other action or financial loss that may result from action with respect to an application and expressly waives any claim for damages as a result thereof, except relating to willful misconduct by the board or division.

5. The filing of an application under the Act or these regulations constitutes a request for a decision upon the applicant's general suitability, character, integrity, and ability to engage in or be associated with a licensee or permittee. By filing an application, the applicant specifically consents to the making of such a decision by the board or division.

6. Any false statement, including improperly notarized documents, contained in any report, disclosure, application, permit form, or any other document required by the Act or these regulations shall be a violation of these regulations and the Act.

7. Incomplete applications, including failure to pay fees may result in a delay or denial of a license.

B. Submission and Filing of Application

1. All original and renewal applications shall be submitted to the division by the United States Postal Service certified or registered mail, return receipt requested, private or commercial interstate carrier, electronic submission in accordance with Chapter 4 of Part III of this Title, hand delivery or other board-approved method of delivery.

2. Each application, including renewal applications, shall be deemed filed with the board or division when the application and fee have been received by the division, as evidenced by the date stamp on the application.

3. Renewal applications for licenses to conduct fantasy sports contests shall be submitted to the division no later than 120 days prior to the expiration of the license.

4. Failure to timely file or submit an application may constitute grounds for delaying consideration of the application or for denial of the application or imposition of a civil penalty.

C. Contents

1. An application is not complete nor is it considered filed with the division unless it is submitted with the required fee, is signed by the applicant, and contains all information and documentation required by the division.

2. The applicant shall notify the division in writing of all changes to any information in the application within 15 business days of the effective date of the change.

3. An application may be amended upon approval of the board or division. A request to amend an application shall be in writing. A request to amend an application may have the effect of establishing the date of such amendment as the filing date of the application with respect to the time requirements for action on the application.

4. All applicants shall disclose any violation of law or regulation from any jurisdiction.

5. Application for licensure shall be in accordance with the board's regulations and shall include all of the following:

- a. the name of the applicant;
- b. the applicant's primary place of business;
- c. the names of all persons listed in, or required to submit to suitability pursuant to, the Act or these regulations including, but not limited to, R.S. 27:28(H)(1) and §2107 of Part III of this Title;
- d. the names of employees and persons with substantial control of the licensee;
- e. complete information and details with respect to the applicant and associated persons, antecedents, habits, character, business activities, financial affairs, criminal history and business associates;
- f. evidence of compliance with the provisions of R.S. 27:308(A);
- g. audited financial statements from the three most recently completed years;
- h. company documents including, but not limited to, articles of organization, amendments, operating agreement,

corporate certificates, charters and bylaws, amended and reinstated, meeting minutes, and Louisiana Secretary of State filings;

i. a certification report from a designated gaming laboratory specified by the division or board indicating the platform is in compliance with the Act, these regulations, division technical guidelines, and internal controls; and

j. such other information and details as the board or division may require in order to properly discharge its duties.

6. All applications shall contain a certification signed by a duly authorized representative of the applicant wherein the applicant certifies that:

a. The information contained therein is true and correct;

b. The applicant has read the Act and these regulations, and any other informational materials supplied by the division that pertain to fantasy sports contests; and

c. The applicant agrees to comply with these regulations and the Act.

7. All applications shall contain an email address, a telephone number and permanent mailing address for receipt of correspondence and service of documents by the division.

8. A complete ownership chart with ownership percentage equaling 100 percent. Define all shareholders, parent companies, subsidiaries, holding companies, partnerships, and any joint ventures.

9. A corporate structure flow chart illustrating all directors, key officers, positions and title for each person listed on their ownership chart.

D. Associated Persons

1. Any person who has or controls directly or indirectly 5 percent or more ownership, income, or profit or economic interest in an entity which has or applies for a license or permit pursuant to the provisions of this Title, or who receives 5 percent or more revenue interest in the form of a commission, finder's fee, loan repayment, or any other business expense related to the fantasy sports contest operation, or who has the ability or capacity to exercise significant influence over a licensee, a permittee, or other person required to be found suitable pursuant to the provisions of this Title, shall meet all suitability requirements and qualifications pursuant to the provisions of this Title.

2. In determining whether a person has significant influence for purposes of this Chapter, the board or division may consider, but is not limited to the following: management and decision-making authority; operational control; financial relationship; receipt of gaming revenue or proceeds; financial indebtedness; and gaming related associations.

3. Personal history questionnaires, personal financial questionnaires, and all other required forms shall be submitted for all associated persons along with the application.

4. Submissions will be required by, but not limited to, the following:

a. If the applicant is a corporation, each officer, director, and shareholder having a 5 percent or greater ownership interest;

b. If the applicant is a limited liability company, each officer, managing member, manager and any member having a 5 percent or greater ownership interest;

c. If the applicant is a general partnership or joint venture, each individual partner and co-venturer;

d. If the applicant is a limited partnership, the general partner and each limited partner having a 5 percent or greater ownership interest;

e. If the applicant is a registered limited liability partnership pursuant to R.S. 9:3431 et seq., the managing partner and each partner having a 5 percent or greater ownership interest; and

f. If such shareholder, owner, partner, or member from Paragraphs a-e of this Subsection is a legal entity, each officer, director, manager or managing member and each person with an indirect ownership or economic interest equal to or greater than 5 percent in the applicant.

5. Submissions may be required by any person who in the opinion of the board or division:

a. has significant influence over an applicant, licensee, or permittee;

b. receives or may receive any share or portion of the gross fantasy sports gaming revenues generated by gaming activities subject to the limitations provided in R.S. 27:28(H)(2)(b);

c. receives compensation or remuneration as an employee of an applicant, licensee or permittee in exchange for any service or thing provided to the applicant, fantasy sports contest operator, or permittee; or

d. has any contractual agreement with applicant, licensee or permittee.

6. Failure to submit the documents required by this Section may constitute grounds for delaying consideration of the application or for denying the application.

E. Tax Clearances

1. The applicant and all persons required to submit to suitability pursuant to the Act or this Title shall provide tax clearances from the appropriate state agencies prior to the granting of a license or permit.

2. Failure to provide the tax clearances required by Subsection A of this Section may constitute grounds for delaying consideration or for denial of the application.

F. Fingerprinting

1. An initial application is not complete unless all persons required by the division have submitted to fingerprinting by or at the direction of the division.

2. Failure to submit to fingerprinting may constitute grounds for delaying consideration of the application or for denial of the application.

G. Truth of Information

1. All information included in an application shall be true, correct and a complete, accurate account of the information requested to the best of the applicant's knowledge as of the date submitted.

2. No applicant shall make any untrue statement of material fact in any application, form, statement, report or other document filed with the board or division.

3. An applicant shall not omit any material fact in any application, form, statement, report or other document filed with the board or division. The applicant shall provide all information that is necessary to make the information supplied in an application complete and accurate.

4. No applicant shall make any untrue statement in any written or verbal communication with the board or division.

H. Additional Information

1. Fantasy sports contest operator applicants shall submit evidence to the board that it has established and will implement commercially reasonable procedures for fantasy sports contests with an entry fee and that it complies with R.S. 27:308(A)-(C).

2. All applicants shall provide all additional information requested by the division. If applicants fail to provide all additional information requested by the division, the application shall be considered incomplete.

3. Upon request of the board or division for additional information, the applicant shall provide the requested information within 10 days of receipt of written notice of the request or within such additional time as allowed by the board or division.

I. Application, Fees

1. All costs associated with conducting an investigation for suitability shall be borne by the applicant, licensee or permittee or the person who is the subject of the investigation.

2. An applicant shall pay all fees and costs associated with the application and investigation of the application as may be determined by the board.

3. Application fees for a fantasy sports contest operator license shall be charged and paid in accordance with R.S. 27:306.

4. All costs associated with the application for and the investigation, granting, or renewal of licenses and enforcement of this Part shall be paid by the applicant.

5. In addition to the fees set forth in R.S. 27: 306(C) and (D), and pursuant to R.S. 27:304(C), the applicant shall pay an investigation fee of \$15,000 at the time of filing of the application or beginning of an investigation to defray administrative costs associated with the application for and the investigation, granting, or renewal of licenses and enforcement of this Part. If the cost to the division exceeds the initial submitted investigation fee, the division shall inform the applicant of the additional projected cost and shall require the applicant to remit additional funds to complete the initial investigation. Any portion of the investigation fee remaining upon completion of the investigation shall be refunded to the applicant.

J. Renewal Applications

1. The renewal application shall contain a statement made, under oath, by the applicant that any and all changes in the history and financial information provided in the previous application have been disclosed. This statement shall also be provided by each officer or director, each person with a 5 percent or greater economic interest in the applicant, and any person who, in the opinion of the board or division, has the ability to exercise significant influence over the activities of the applicant.

2. Renewal applications shall further contain:

a. a list of all civil lawsuits to which the applicant is a party instituted since the previous application;

b. a current list of all stockholders of the applicant, if the applicant is a corporation, or a list of all partners, if applicant is a partnership or limited partnership, or a list of all members if the applicant is a limited liability company, or a list of persons with a 5 percent or greater economic interest in the applicant. Applicants who are publicly traded corporations need not provide this information for any

shareholder owning less than 5 percent of the applicant unless requested by the board or division;

c. a list of all administrative actions instituted or pending in any other jurisdiction against or involving the applicant, parent company of the applicant, or an affiliate related to gaming operations, fantasy sports operations, or alleged criminal actions or activities;

d. prior year's corporate or company tax return of the applicant;

e. a list of all charitable and political contributions made by the applicant during the last three years, indicating the recipient and amount contributed.

f. a complete ownership chart with ownership percentage equaling 100 percent. Define all shareholders, parent companies, subsidiaries, holding companies, partnerships, and any joint ventures; and

g. a corporate structure flow chart illustrating all directors, key officers, positions and title for each entity(s) listed on their ownership chart.

K. Withdrawal of Application

1. A request to withdraw an application shall be made in writing to the chairman or division at any time prior to issuance of the determination with respect to the application. The board or division may deny or grant the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:259 (February 2021).

§309. Suitability and Requirements

A. An applicant and its associated persons shall be required to submit to an investigation to determine suitability, and shall meet and maintain the suitability standards as provided for the Act or these regulations, including, but not limited to, R.S. 27:28 and Section 2901 of Part III of this Title.

B. The board or division shall not issue a license, permit or finding of suitability to any person who fails to prove by clear and convincing evidence that he is suitable and qualified in accordance with the provisions of the Act and these regulations.

C. The applicant must prove by clear and convincing evidence that it has the competence and experience to conduct fantasy sports contests, by demonstrating through training, education, business experience, or a combination thereof, the adequate business probity, competence, experience, and capability to conduct fantasy sports contests.

D. The applicant shall demonstrate that the proposed financing of the applicant and business operation is adequate for the nature of operating fantasy sports contests and is from a source suitable and acceptable to the board. Any lender or other source of money or credit that the board finds does not meet the standards set forth in this Subsection may be deemed unsuitable.

E. An application for a license to conduct fantasy sports contests constitutes a request for a suitability determination, as described in R.S. 27:28, of the general character, honesty, integrity, and ability of any person associated with the applicant to engage in or be associated with fantasy sports contests.

F. Before obtaining a license to offer fantasy sports contests in this state, an applicant shall:

1. be a person domiciled in Louisiana or a domestic business entity with a certificate of existence from the Secretary of State and in good standing or a foreign corporation with a certificate of authority to transact business in this state from the Secretary of State and in good standing;

2. obtain and maintain applicable parish and/or municipal occupational and other required permits and licenses to operate within said parish or municipality and pay all fees required to secure the aforementioned licenses and permits prior to being issued a license; and

3. provide the board with financial statements indicating any gross fantasy sports contest revenue for the previous three years.

G. An applicant, licensee, and all associated persons shall remain current in filing all applicable tax returns and in the payment of all taxes, interest and penalties owed to the state of Louisiana and the Internal Revenue Service, excluding items under formal appeal in accordance with applicable statutes and regulations, and items for which the Department of Revenue and Taxation or the Internal Revenue Service has accepted a payment schedule for taxes owed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:261 (February 2021).

§311. Continuing Suitability, Duty to Report

A. Suitability is an ongoing process. An applicant, licensee or permittee, or person required to submit to suitability by the Act or these regulations has a continuing duty to inform the board and division of any action which could reasonably be believed to constitute a violation of the Act or these regulations. This obligation to report is to be construed in the broadest possible manner; any question that exists regarding whether a particular action or circumstance constitutes a violation shall be decided in favor of reporting. The board and division shall be notified no later than 15 days from the date the applicant, licensee or permittee, or person knew or should have known of the possible violation. No person who so informs the board and division shall be discriminated against by an applicant, licensee or permittee because of supplying such information.

B. An applicant, licensee or permittee, or person required to submit to suitability by the Act or these regulations shall also have a continuing duty to inform the board and division of material changes in their affiliations, businesses, financial standing, operations, ownership relationships, corporate management personnel, officers or directors within 15 days of the change. However, in the case of a publicly traded company, this obligation shall be satisfied if such company files with the board and division copies of all form 10Ks, 10Qs, and 8Ks filed with the Securities and Exchange Commission within 15 days of the filing with the Securities and Exchange Commission.

C. An applicant, licensee or permittee, or person required to submit to suitability by the Act or these regulations shall also have a continuing duty to inform the board and division of all administrative actions instituted or pending in any other jurisdiction against or involving the applicant, licensee, permittee, or the parent corporation or affiliate of the applicant, licensee or permittee, within 15

days of receipt of notice of the administrative actions instituted or pending in any other jurisdiction.

D. Failure to report or provide notice required by this Section may constitute grounds for delaying consideration of the application or denial of the application, revocation, suspension, administrative action, or the imposition of a civil penalty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:262 (February 2021).

§313. Other Considerations for Licensing

A. The board may consider the following criteria when deciding whether to issue a license or a finding of suitability to conduct fantasy sport contest or whether to continue licensing or finding a person suitable to engage in fantasy sports contests. The various criteria set forth may not have the same importance in each instance. Other factors may present themselves in the consideration of licensing and a finding of suitability. The following criteria are not listed in order of priority:

1. applicant or licensee and its operation is properly financed;

2. adequate security. The board may consider whether the platform is designed and secured in a manner that provides adequate security for all aspects of its operation and for players;

3. character and reputation. The board may consider the character and reputation of all persons identified with the ownership and operation of the applicant or licensee and their capability to comply with regulations and the Act; and

4. miscellaneous. The board may consider such other factors as may arise in the circumstances presented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:262 (February 2021).

§315. Surrender of a License

A. A license may not be surrendered without the prior approval of the board.

B. If a request to surrender a license is approved, the person is immediately eligible to apply for a license, unless the board or division has placed a condition that the applicant shall have to fulfill in order to reapply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:262 (February 2021).

Chapter 5. Rules; Operations

§501. Fantasy Sports Contest Operator Requirements and Restrictions; Internal Controls

A. Licensees may only conduct fantasy sports contests expressly authorized by the Act, these regulations, or its internal controls.

B. Fantasy sports contests authorized by the Act shall be conducted pursuant to the Act, these regulations, and a licensee's internal controls.

C. An applicant shall submit its internal controls with its application for licensing. Licensees shall submit updated internal controls to ensure the division is in possession of the licensee's current internal controls at all times.

D. Licensee's internal controls shall implement commercially reasonable procedures for fantasy sports contests with an entry fee to ensure compliance with all requirements of the Act, these regulations and the following:

1. prohibit participation of a player in fantasy sports contests while the player is located in a prohibited parish;
2. comply with all applicable tax laws and regulations including, without limitation, laws and regulations applicable to winnings and tax withholding to taxing authorities and players;
3. prevent entries into fantasy sports contests as follows:
 - a. no more than one entry per player in a contest involving 12 or few entries;
 - b. no more than two entries per player in a contest involving 13 to 36 entries;
 - c. no more than three entries per player in a contest involving 37 to 99 entries; and
 - d. no more than the lesser of three percent of all entries or 150 entries in a contest involving one hundred or more entries;
 - e. notwithstanding Subparagraphs a through d of this Paragraph, a licensee may establish fantasy sports contests in which there are no restrictions on the number of entries if those contests constitute less than two percent of the total number of contests it offers and if the licensee clearly discloses that there are no limits on the number of entries per player and the entry fee is \$50 or more per entry;
4. prevent players from participating in a fantasy sports contest where the entry fee is greater than the balance in the player's account;
5. prevent employees of the licensee, and relatives of an employee living in the same household as an employee of a licensee, from competing in fantasy sports contests offered by a licensee in which the licensee offers a cash prize to the general public;
6. prevent sharing of confidential information that could affect fantasy sports contests with third parties until the information is made publicly available;
7. that no winning outcome is based on the score, point spread, or any performance of any single real-world sports team or combination of such teams or solely on any single performance of an individual athlete or person engaged in any single real-world sporting event;
8. that the following persons do not participate in fantasy sports contests:
 - a. athletes and individuals who engage in or officiate a game or competition that is a real-world sport or athletic event that is the subject of a fantasy sports contest; and
 - b. any sports agent, team employee, referee, or league official associated with a real-world sport or athletic event that is the subject of a fantasy sports contest;
9. verify that a fantasy sports contest player is 21 years of age or older;
10. provide fantasy sports contest players with access to information on responsible play;
11. provide fantasy sports contest players with access to the fantasy sports contest player's play history and account details that are not confidential;

12. allow individuals to restrict themselves from entering a fantasy sports contest upon request and provide reasonable steps to prevent the person entering fantasy sports contests offered by a licensee;

13. segregate fantasy sports contest player funds from operational funds or maintain a reserve that exceeds the amount of player funds on deposit, which may not be used for operational activities. Reserve funds may take the form of cash, cash equivalents, payment processor reserves, payment processor receivables, an irrevocable letter of credit, a bond, or a combination thereof, in the amount that must exceed the total balances of the fantasy sports contest players' accounts. If a licensee chooses to utilize a special purpose segregated account for the purpose of segregation or reserve funds, it shall submit to the division all information and documentation regarding the account and shall receive approval prior to using the account for such purposes;

14. prohibit the use of unauthorized scripts or scripting programs for any contest that gives an unfair advantage over other players in fantasy sports contests and ensure that commercially reasonable measures are in place to deter, detect, and, to the extent reasonably possible, prevent cheating, collusion, and the use of cheating devices, including unauthorized software programs that submit entry fees or adjust the athletes selected by a player;

15. not offer fantasy sports contests based on the performances of athletes or persons that engage in high school or youth athletic events;

16. not offer a fantasy sports contest to the general public that does not establish and make known all prizes and awards offered to winning players in advance of the game or contest;

17. withhold all winnings from players determined to be under the age of 21 or determined to have participated in a fantasy sports contest from within a prohibited parish;

18. allow players to file complaints regarding the fantasy sports contest operation and the handling of the player's fantasy sports contest account;

19. verify the following for players requesting to open an account:

- a. identity; and
- b. date of birth.

20. publish and facilitate parental control procedures to allow parents or guardians to exclude minors from access to any contest or platform; and

21. determine the geographical location of a player when participating in a fantasy sports contest.

E. Licensees shall report all winnings withheld and remit all withheld amounts to the division quarterly.

F. Licensees shall provide information regarding the player's ability to file a complaint with the division, provide the information necessary to file such a complaint, and notify the division of any complaints.

G. Licensees shall ensure that all information required by the Act, these regulations, or its internal controls to be provided to players is easily accessible through the licensee's platform, is clear and concise in language, and provides a mean to contact the licensee with questions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:262 (February 2021).

§503. Platforms; Identification of Licensee; Duties of Licensee

A. To ensure the protection of players, a platform shall identify the person or entity that is the licensee.

B. Licensees shall provide a set of terms and conditions readily accessible to the player on its platforms.

C. Licensees shall provide a readily accessible privacy policy to the player on its platforms. The privacy policy shall state the information that is required to be collected, the purpose for information collection, and the conditions under which information may be disclosed. Any information about a player's account that is not subject to disclosure pursuant to the privacy policy shall be kept confidential, except where the release is required by law or requested by the board or division. Player information shall be securely erased from hard disks, magnetic tapes, solid state memory, and other devices before the device is decommissioned. If erasure is not possible, the storage device must be destroyed.

D. A licensee shall ensure that fantasy sports contests on its platform comply as follows:

1. a licensee shall not offer or award a prize to the winner of, or athletes in, the underlying competition itself; and

2. a licensee shall not offer fantasy sports contests based on the performances of athletes or persons that engage in high school or youth athletics.

E. A licensee shall have procedures that do all of the following prior to operating in this state:

1. prevent unauthorized withdrawals from a player's account by the licensee or others;

2. make clear that funds in a player's account are not the property of the licensee and are not available to the licensee's creditors;

3. ensure any prize won by a player from participating in a fantasy sports contest is deposited into the player's account within forty-eight hours of winning the prize;

4. ensure players can withdraw the funds maintained in their individual accounts in accordance with the act and these regulations;

5. allows a player to permanently close his account at any time for any reason; and

6. offers players access to their play history and account details.

F. A licensee shall establish procedures for a player to report complaints to the licensee regarding whether his account has been misallocated, compromised, or otherwise mishandled, and a procedure for the licensee to respond to those complaints. Licensees shall maintain a record of all complaints.

1. A player who believes his account has been misallocated, compromised, or otherwise mishandled may notify the board or division. Upon notification, the board or division shall investigate the claim and may take any action the board deems appropriate pursuant to the provisions of the Act or these regulations.

G. A licensee shall not issue to a player any form of credit governed by the provisions of the Louisiana Consumer Credit Law, R.S. 9:3510 et seq.

H. If a session is terminated due to a player inactivity timeout, the player's device must display to the player that the session has

timed out and inform him of the steps needed to be taken to reestablish the session. If the session is terminated due to a player inactivity timeout, no further activity is permitted unless and until a new session is established by the player. This process shall include, at a minimum, the manual entry of the player's secure password.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:264 (February 2021).

§505. Scripts

A. Licensees shall use commercially reasonable efforts to prevent the use of unauthorized scripts in fantasy sports contests. Unauthorized scripts include:

1. Those deemed to offer an unfair advantage over other players for reasons including, but limited to:

a. facilitating entry of multiple fantasy sports contests with a single line-up;

b. facilitating changes in many line-ups at one time; or

c. facilitating use of commercial products designed to identify advantageous fantasy sports contest strategies.

B. Licensees may prohibit the use of any and all scripts.

C. Licensees shall monitor fantasy sports contests to detect the use of unauthorized scripts and restrict players found to have used such scripts from entering or participating in further fantasy sports contests.

D. Licensees shall make information regarding authorized scripts readily available to all players, provided that a licensee shall clearly and conspicuously publish its rules on what types of scripts may be authorized in the fantasy sports contest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:264 (February 2021).

§507. Prohibited Parish; Geolocation, Geofencing; Proxy Servers

A. No licensee nor any licensee's employee shall allow a player to participate in a fantasy sports contest while located in a prohibited parish.

B. Licensees shall implement and abide by protocols and procedures to ensure a player is not utilizing a proxy server, virtual private network, spoofing, or other means to disguise their physical location or their computer or device's physical location when participating in or attempting to participate in a fantasy sports contest. Licensees shall use, at a minimum:

1. geolocation and geo-fencing techniques and capability; and

2. commercially reasonable standards for the detection and restriction of proxy servers, virtual private networks, spoofing, or other means of disguising one's location.

C. Licensees shall prohibited participation in a fantasy sports contest if a player is utilizing any means to disguise his identity or physical location or his computer or device's physical location or attempting to act as a proxy for another player.

D. If a licensee discovers a player utilizing any means to disguise their identity or physical location or their computer's or device's physical location or acting as a proxy for another player in order to participate in a fantasy sports contest, the licensee shall immediately suspend the player's

participation in any fantasy sports contest and follow protocols to reach a final determination about the player's account and future access and account privileges. Licensees shall maintain a record of all information, documentation, or evidence of such activity.

E. Licensees shall immediately notify the division of any entries into fantasy sports contests made when the player was located in a prohibited parish and shall provide the division with all information, documentation, and other evidence of such activity.

F. Licensees who violate this Section shall be penalized in accordance with R.S. 27:309(C)(2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:264 (February 2021).

§509. Player Registration with Licensee Required

A. A person shall register with a licensee prior to participating in fantasy sports contests on a platform that can be accessed by persons located in the State of Louisiana. Licensees shall not allow any person to participate in fantasy sports contests on its platform unless that person is registered.

B. With respect to registration, a licensee shall do all of the following:

1. implement security standards to prevent participation in fantasy sports contests by a person whose location and age have not been verified in accordance with the act, these regulations, or internal controls;

2. ensure that all persons provide their age and state of residence, before participating in a fantasy sports contest;

3. utilize commercially reasonable steps to confirm that a person registering for an account is at least 21 years of age before such person participates in fantasy sports contests; and

4. clearly and conspicuously publish and facilitate parental control procedures to allow parents or guardians to exclude minors from access to any contest or platform.

C. During the registration process, a person shall agree to the privacy policy and the following applicable terms and conditions of service:

1. registration information provided by the person to the licensee is accurate;

2. the person has been informed, and acknowledges, that as a player he is prohibited from allowing any other person access to or use of his account;

3. specify the handling of entry fees where the entry of a player is canceled;

4. specify the handling of entry fees for paid fantasy sports games that are voided or abandoned;

5. clearly define the rules by which any unrecoverable malfunctions of hardware or software are addressed;

6. advise the player to keep his password and login ID secure;

7. Advise the player on requirements regarding forced password changes, password strength, and other related items;

8. no individual less than twenty-one year of age is permitted to participate in fantasy sports contest;

9. the method by which players will be notified of updates to the terms and conditions and privacy policy;

10. the conditions under which an account is declared inactive and explain what actions will be undertaken on the account once this declaration is made including the forfeiting of any monies remaining in the account; and

11. clearly define what happens to the entry fees placed if a player has entered a paid fantasy sports contest prior to any self-imposed or licensee-imposed exclusion, including the return of all paid entries to the player, or settling all entries, as appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:265 (February 2021).

§511. Limitation on Active Accounts; Obligations to Players

A. A licensee shall:

1. limit each authorized player to one active and continuously used account and username;

2. implement rules and publish procedures to terminate all accounts of any player that establishes or seeks to establish more than one username or more than one account, whether directly or by use of another person as a proxy;

3. publish and facilitate parental control procedures to allow parents or guardians to exclude minors from access to any contest or platform. The procedures shall include a toll-free number to call for help in establishing such parental controls;

4. make clear conspicuous statements that are not inaccurate or misleading concerning the chances of winning and the number of winners when referencing the chances or likelihood of winning;

5. permit any player to permanently close an account registered to the player, on any and all platforms supported by the licensee, at any time and for any reason; and

6. implement measures to protect the privacy and online security of players, their account, and their personal financial information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:265 (February 2021).

§513. Designation of Players; Games Offered

A. A licensee shall identify all highly experienced players in any contest by a symbol attached to the players' usernames, or by other visible means, on all platforms supported by the licensee.

B. A licensee shall implement and maintain on-boarding procedures for new players that explain opportunities to learn about fantasy sports contest play and how to identify highly experienced players, and shall recommend beginner fantasy sport contests and low-cost private fantasy sports contests with friends for their value as a learning experience.

C. A licensee shall develop fantasy sports contests that are limited to beginner players and shall keep non-beginner players from participating, either directly or through another person as a proxy, in those fantasy sports contest games. A licensee shall suspend the account of any non-beginner player that enters a beginner player fantasy sports contest directly or through another person as a proxy and shall ban such individual from further play unless good faith can be

demonstrated. A licensee may allow a non-beginner player who is not a highly experienced player to enter up to ten beginner player fantasy sports contests in any sport in which that player has not already entered 20 fantasy sports contests.

D. A licensee shall develop fantasy sports contest games in which highly experienced players cannot, either directly or through another person as a proxy, participate. A licensee shall suspend the account of any highly experienced player who enters a fantasy sports contest that excludes highly experienced players, directly or through another person as a proxy, and shall ban such individual from further play.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:265 (February 2021).

§515. Charging for Inactive Accounts

A. A licensee shall not charge a player for an inactive account.

B. A licensee shall charge players only for entry fees placed on contests entered. No player shall be charged for failure to enter a fantasy sports contest or for failure to deposit certain amounts of cash or cash equivalent into any account.

C. Licensees shall follow state law as it regards unclaimed property for inactive accounts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:266 (February 2021).

§517. Protection for Problem or Compulsive Gamblers

A. Self-Restriction

1. Licensees shall allow a player to restrict themselves from entering a fantasy sports contest or accessing a fantasy sports contest account for a specific period of time, minimum of which shall be three months, as determined by the player and shall implement procedures to prevent the person from participating in the licensee's fantasy sports contests.

2. Licensees shall develop and maintain an online self-restriction form and a process to exclude any person from participating in fantasy sports contests who completes and submits the form to the licensee and shall provide a web link on its platforms to the online self-restriction form. The licensee shall retain each submitted online self-restriction form and restrict such persons from play and close the player's account for the specified time.

3. Online self-restriction is different than submitting a self-exclusion form excluding a person from a casino gaming establishment. When a player chooses the option of self-restriction, he shall be notified of the option to also self-exclude from casino gaming in Louisiana and the link to the self-exclusion form on the board's website.

B. Self-Imposed Limits

1. Licensees shall implement and maintain procedures that allow players to limit themselves from:

a. entering into a maximum set number of fantasy sports contests in a set period of time;

b. paying more than a certain amount of money for any entry fee; and

c. depositing more than a set amount of funds into their account.

C. Players shall have the option to adjust the time period of the self-restriction or to adjust the self-limits to make them more restrictive as often as they choose, but shall not have the option to make the time period or limits less restrictive within 90 days of setting. Any change must provide a prompt to ensure the player is aware of the change and the player must then confirm the change.

D. Licensees shall enforce the limitations placed upon player accounts by:

1. providing a plan to honor requests from players to self-restrict or self-limit;

2. providing a plan to ensure that, immediately upon a player self-restricting from participating, no new entry fees or deposits are accepted from that player until the self-restriction expires or is removed;

3. providing a plan to allow a player that self-restricts to access and withdraw remaining funds from his account;

4. ensuring self-restricted persons do not receive marketing or advertisement during the period of self-restriction.

E. Licensees shall train employees on problem and compulsive gambling. Such training shall include, but not be limited to: training on policies and best practices for identifying and assisting players who may be problem or compulsive gamblers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:266 (February 2021).

§519. Advertising, Mandatory Signage

A. A licensee shall not advertise fantasy sports contests to a person by phone, email, or any other form of individually targeted advertisement or marketing material if the person has self-restricted or is excluded pursuant to the provisions of the Act or these regulations, or if the person is otherwise barred from participating in fantasy sports contests (including, but not limited to, advertisements targeted to persons under the age of twenty-one).

B. Advertisements and marketing material shall not depict minors, students, schools, or school settings.

C. A licensee shall not advertise or run promotional activities at any primary or secondary schools, as defined by Louisiana law and including elementary, middle, and high schools, or sports venues exclusively used for primary or secondary schools.

D. Licensees shall ensure that all advertisements of fantasy sports contests and prizes do not target prohibited players, persons under the age of twenty-one, or self-restricted persons.

E. A licensee shall not misrepresent the frequency or extent of winning in any fantasy sports contest advertisement.

F. A licensee shall provide on its platform, any websites, and in any advertisement of fantasy sports contests or prizes for such the toll-free telephone number available for information and referral services regarding compulsive or problem gambling as required in R.S. 27:27.3.

G. A licensee shall comply with the provisions of §2927 of Part III of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:266 (February 2021).

Chapter 7. Records; Accounting; Confidentiality

§701. Financial Statements and Records

A. Each licensee, in such manner as the division may approve or require, shall keep accurate, complete, legible, and permanent records of all transactions pertaining to revenue that is taxable or subject to fees under the Act.

B. Each licensee shall keep general accounting records on a double entry system of accounting, with transactions recorded on a basis consistent with generally accepted accounting principles, maintaining detailed, supporting, subsidiary records, including but not limited to:

1. records identifying:
 - a. revenues by day;
 - b. expenses;
 - c. assets;
 - d. liabilities;
 - e. location percentage;
2. records required by the internal controls;
3. journal entries and all work papers, electronic or manual, prepared by the licensee and their independent accountant;
4. financial statements and supporting documents; and
5. any other records the division requires.

E. Each licensee shall create and maintain records sufficient to accurately reflect income and expenses relating to its operations.

F. If a licensee fails to keep the records used to calculate net revenue, gross fantasy sports contest revenues, and location percentages, or if the records are not adequate to determine these amounts, the division may compute and determine the amount of net revenues, gross fantasy sports contest revenues or location percentages based on an audit and statistical analysis conducted by the division.

G. Reporting gross fantasy sports contest revenues.

1. Each licensee shall report gross fantasy sports contest revenues in accordance with requirements provided by the division.

2. The payment of taxes in accordance with R.S. 27:316 shall be paid monthly and is due by the twentieth of the following month. If the due date is a non-banking day, the fees are due the closest banking day prior to the twentieth unless it is more than two days before the twentieth in which case the taxes are due the first banking day after the twentieth.

3. Taxes shall be deposited electronically in accordance with guidelines provided by the division. Overpayments may be deducted from future taxes owed, but shall not result in a refund to the licensee unless caused by the division or if the licensee is withdrawing from the state and returning its license to operate.

H. In accordance with R.S. 27:306(B)(3), licensees shall submit to the division financial statements indicating any gross fantasy sports contest revenue for the previous three years at the time of application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:267 (February 2021).

§703. Record Retention and Backup

A. Upon request and at a location designated by the division, each licensee shall provide the division with the records required to be maintained by this Chapter. Each licensee shall retain all such records for a minimum of five years in a location approved by the division. In the event of a change of ownership, records of prior owners shall be retained in a location approved by the division for a period of five years unless a different period is authorized by the division. Electronic records may be maintained in other locations if access to the records is available on computers located at the principal place of business or other location approved by the division.

B. Each licensee shall conduct a complete system data backup to an off-site location a minimum of once a month. For purposes of this Section, the licensee shall submit the name, location, and security controls of the off-site storage facility to the division. Licensees shall submit changes to the location and security controls of the off-site storage facility at least 30 days prior to the change. Any changes less than 30 days in advance must include justification for the late submission. For licensees using managed cloud service backups, the name of the cloud service and region where the primary copy of the data shall be provided at the time of licensure and at the time of any change thereafter. A complete system data backup includes, but is not limited to:

1. all revenue reports;
2. all fantasy sports contest results;
3. patron account information; and
4. the geographical location of every player participating in a fantasy sports contest on a platform of the licensee.

C. Licensees shall have a written contingency plan in the event of a system failure or other event resulting in the loss of system data. The plan shall address backup and recovery procedures and shall be sufficiently detailed to ensure the timely restoration of data in order to resume operations after a hardware or software failure or other event that results in the loss of data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:267 (February 2021).

§705. Funds; Segregation of Funds

A. Licensees shall:

1. segregate fantasy sports contest player funds from operational funds in accordance with R.S. 27:308(A)(9); or
2. maintain a reserve in the form of cash, cash equivalents, payment processor reserves, payment processor receivables, an irrevocable letter of credit, a bond, or a combination of these sources that is at least equal to the amount of money deposited in fantasy sports contest player accounts.

B. Licensees may satisfy the requirements of Subsection A by establishing a special purpose segregated account that is maintained and controlled by a properly constituted corporate entity that has a governing board that includes one

or more independent corporate directors. The corporate entity must require a unanimous vote of all corporate directors to file bankruptcy and must have articles of incorporation that prohibit commingling of funds with those of the fantasy sports contest operator, except as necessary to reconcile the accounts.

1. Licensees shall provide the division with any and all information and documentation regarding its special purpose segregated account and shall receive approval of such account by the division prior to the implementation of such.

C. Licensees shall provide the division with documentation of the amount of deposits in Louisiana players' accounts and the amount in cash reserves as of the last day of each month by the tenth day of the following month.

D. Licensees shall continuously monitor and maintain a record of all player deposits and its cash reserves to ensure compliance with the cash reserves requirement. If at any time the licensee's total available cash and cash equivalent reserve is less than the amount required, the licensee shall notify the division within 48 hours of the deficiency, the reason, and the resolution to correct the deficiency.

E. Licensees shall prohibit a player from transferring funds through his account or the platform to any other player.

F. Except as provided in subsection (E), licensees shall allow a player to withdraw the funds maintained in his account within five business days of the request being made. For purposes of this Paragraph, a request for withdrawal is considered honored if it is processed by the licensee but delayed by a payment processor, credit card issuer, or by the custodian of a financial account through no fault, action or inaction of the licensee.

G. A licensee may decline to honor a player's request to withdraw funds only if the licensee believes in good faith that the player engaged in fraudulent conduct or other conduct that would put the licensee in violation of the Act or these regulations. In such cases, the licensee may withhold the funds for a reasonable investigatory period until the investigation is resolved, if the licensee provides notice of the nature of the investigation to the player and conducts its investigation in a reasonable and expedient fashion providing the player additional written notice of the status of the investigation every tenth business day starting from the day the original notice was provided to the player.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:267 (February 2021).

§707. Audits and Reporting

A. Licensees shall comply with the provisions of R.S. 27:308(D) and 310.

B. Licensees shall provide the following information upon demand by the division. As appropriate, the information shall include, at a minimum, month to date and year to date.

1. For each paid fantasy sports contest offered, the following information:

- a. the date and time the fantasy sports contest started (began accepting entries) and ended (results finalized);
- b. the contest identifier;
- c. the prize structure;

- d. the players who entered the fantasy sports contest;
- e. the selections each player made for their team;
- f. the total number of points earned by each player's team;
- g. the total amount of entry fees paid;
- h. the results, including the points earned by the winning player or players;
- i. the total amount of winnings to the players;
- j. the total amount of cash equivalents awarded to the players; and
- k. the information used to determine the location percentage.

2. Overall reports providing the following information for all players associated with the licensee:

- a. total player deposits for the requested period;
- b. total player withdrawals for the requested period;
- c. total entry fees collected from players;
- d. total winnings paid to players; and
- e. the same information in Subparagraph c and d of this Paragraph for Louisiana players included in the calculation of the location percentage.

3. A time-stamped player log of the following:

- a. a unique player identification;
- b. all deposits to the player's account;
- c. all withdrawals to the player;
- d. all cash equivalents added to the player's account; and
- e. all manual adjustments or modifications to the player's account.

4. The following player account information:

- a. a unique player identification;
- b. the player's identity details including, but not limited to: participant's legal name; age; and address;
- c. any self-restrictions;
- d. any previous accounts; and
- e. the date and IP address from which the player account was registered or accessed.

C. Annual financial statements shall be provided to the division not later than May 1 each year or 120 days after the end of the fiscal year if not December 31.

D. A licensee shall submit to the division one copy of any report required to be filed with the Securities and Exchange Commission or other domestic or foreign securities regulatory agency by the licensee, and their holding company, intermediate company, or parent company. These reports shall be delivered to the division within 15 days of the time of filing with such commission or agency or within 15 days of the due date prescribed by such commission or regulatory agency, whichever comes first.

E. Each licensee shall submit to the division annual audited financial statements reflecting all financial activities of the licensee's fantasy sports contest operations subjected to an examination conducted according to generally accepted auditing standards by an independent Certified Public Accountant (CPA).

1. This shall include auditing total entry fees, entry fees from players located in Louisiana, location percentage calculations, winnings paid, net revenue, and taxes paid to Louisiana based on net revenues. The auditor shall reconcile these audited amounts to similar amounts on the annual audited financial statements and system reports.

2. All audits and reports required by this Section shall be prepared at the sole expense of the licensee.

F. Annual Review of Operations

1. Each licensee shall require the independent CPA, engaged for purposes of examining the financial statements, to submit to the licensee two signed copies of a written report detailing the continuing effectiveness and adequacy of the internal controls.

2. The auditor shall include in this report any items discovered by the auditor or brought to the auditor's attention where the operator does not act in accordance with the internal controls and procedures provided to the division. The report should also include notification and explanation for all occasions when the operator denies a player's request to withdraw funds and all occasions when the operator discovers the use of unauthorized scripts on its platform.

a. Denial of a withdrawal means the operator or its agent issues the decision to deny a player's request to withdraw. Issues not controlled by the operator, such as banking system issues, incorrect deposit account numbers, or other issues not controlled by the operator are not included.

b. Reportable script items includes unauthorized scripts discovered on the platform whether used or not.

3. This report is due no later than 30 days after the due date of the audited financial statements required in Subsection C of this Section.

G. Each licensee shall engage an independent Certified Public Accountant (CPA). The CPA shall examine the statements in accordance with generally accepted auditing standards. The CPA is prohibited from providing internal audit services. Should the CPA previously engaged as the principal accountant to audit the licensee's financial statements resign or be dismissed as the principal accountant, or if another CPA is engaged as principal accountant, the licensee shall file a report with the division within 10 days following the end of the month in which the event occurs, setting forth the following:

1. The date of the resignation, dismissal, or engagement;

2. Any disagreements with a former accountant, in connection with the audits of the two most recent years, on any matter of accounting principles, or practices, financial statement disclosure, auditing scope or procedure, which disagreements, if not resolved to the satisfaction of the former accountant, would have caused him to make reference in connection with his report to the subject matter of the disagreement; including a description of each such disagreement; whether resolved or unresolved;

3. Whether the principal accountant's report on the financial statements for any of the past two years contained an adverse opinion or a disclaimer of opinion or was qualified. The nature of such adverse opinion, disclaimer of opinion, or qualification shall be described; and

4. A letter from the former accountant furnished to the licensee and addressed to the division stating whether the CPA agrees with the statements made by the licensee in response to this Section.

H. Unless the division approves otherwise in writing, the statements required must be presented on a comparative basis. Consolidated financial statements may be filed by commonly owned or operated operations, but the

consolidated statements must include consolidating financial information or consolidated schedules presenting separate financial statements for each licensee. The CPA shall express an opinion on the consolidated financial statements as a whole and shall subject the accompanying consolidating financial information to the auditing procedures applied in the examination of the consolidated financial statements.

I. Each licensee shall submit to the division two originally signed copies of its audited financial statements and the applicable CPA's letter of engagement not later than May 1 or 120 days after the last day of the licensee's business year if not December 31.

J. If a licensee changes its fiscal year, the licensee shall prepare and submit to the division audited financial statements covering the period from the end of the previous business year to the beginning of the new business year not later than 120 days after the end of the period.

K. Each licensee shall submit a quarterly financial report including gross fantasy sports contests revenues, net revenues, location percentage calculations, and taxes paid on net revenues. The report shall be forwarded to the division not later than 30 days after the last day of the applicable quarter.

L. The division may request additional information and documents from either the licensee or their CPA, regarding the financial statements or the services performed by the CPA. The division may review any and all work papers of the CPA at a time and place determined by the division. These requirements shall be included in agreements between the licensee or its affiliates and the CPA.

M. The licensee shall submit to the division, postmarked by the United States Postal Service or deposited for delivery with a private or commercial interstate carrier, or in another manner approved by the division, any audit report prepared by the Internal Revenue Service (IRS) and issued to the licensee. The report is due within 30 days of receipt from the IRS.

N. Impairments to the independence of a CPA to perform a financial audit include, but are not limited to:

1. during the period of professional engagement to perform an audit, or at the time the opinion was issued, the auditing person:

a. had or was committed to acquire any direct or indirect financial interest in the licensee;

b. was a trustee of any trust or executor or administrator of any estate if the trust or estate had or was committed to acquire any direct or indirect financial interest in the licensee;

c. had any joint closely held business investment with the licensee or any key person or owner thereof that was material in relation to the auditing person or the auditing person's firm's net worth; or

d. had any loan to or from the licensee or any key person or owner thereof, when made under normal lending procedures, terms, and requirements, except:

i. loans that are not material to the net worth of the borrower;

ii. home mortgages; or

iii. other secured loans, except loans guaranteed by the auditing person's firm that are otherwise unsecured.

2. during the period covered by the licensee's financial statements, during the period of the professional engagement to perform an audit, or at the time the opinion is issued, the auditing person was:

a. connected with the licensee as a promoter, underwriter, voting trustee, key employee, or in any capacity equivalent to that of a key employee; or

b. a trustee for any pension or profit-sharing trust of the licensee;

3. functioning as if a key employee of the licensee;

4. performing an audit of the independent CPA or independent CPA's firm's own work;

5. advocacy for the licensee; or

6. having any other role with the licensee or its affiliates other than as independent auditor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:268 (February 2021).

§709. Public and Confidential Records

A. Except as provided in Louisiana Revised Statutes Title 44:1 et seq. and R.S. 27:21, records of the board and division shall be public records.

B. Louisiana Revised Statutes Title 44:1 et seq., R.S. 27:21, and Chapter 39 of Part III of this Title shall govern this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:270 (February 2021).

Chapter 9. Computer Systems; Security

§901. Computer Systems and Platforms

A. Licensees shall implement, maintain, and comply with procedures, protocols, and security measures required by Chapter 28 of Part III of this Title and this Part.

B. Licensees shall utilize a designated gaming laboratory specified by the division or board to complete an initial technical certification of the fantasy sports operator's platform to ensure the platform is in operational compliance with the Act, these regulations, division technical guidelines, and internal controls. A copy of the certification report shall be included with the information and documentation submitted to the division when applying for and renewing a license. The certification report shall, at a minimum, identify applicable methods, programs, protocols and security measures implemented by the licensee, a permittee, or an approved third party for the following:

1. player identification and age verification;

2. location verification methods utilized by the platform;

3. detection of proxy server or VPN use;

4. methods to detect unauthorized scripts;

5. process to detect or prevent unauthorized access to sensitive areas of the platform; and

6. procedures to prevent unauthorized access to or manipulation of sensitive player data.

C. At the discretion of the division, additional testing or certification of the platform by a designated gaming laboratory specified by the division or board may be

required. The licensee shall incur all costs associated with the testing of the platform. Failure on the part of the licensee to incur these costs may be grounds for administrative action by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:270 (February 2021).

§903. Data Security

A. Licensees shall comply with all applicable state and federal requirements for data security.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:270 (February 2021).

Chapter 11. Procedures; Access; Investigations

§1101. Access to Premises and Records

A. The board and division, upon displaying proper credentials, shall be given immediate access to any premises, platform, and geolocation systems to be used in the operation of an applicant or licensee for the purpose of inspecting or examining:

1. Premises, platforms, geolocation systems, etc. belonging to or under the control of or related to the operation of fantasy sports contests and any activity relating to the provisions of the Act and these regulations;

2. Records or documents required to be kept under the provisions of the Act and these regulations;

3. Gaming equipment to be used in the licensed operation; or

4. The conduct of any gaming activity in the licensed operation.

B. The board and division are empowered to inspect, examine, audit, photocopy and if necessary seize, all papers, books, records, documents, information and electronically stored media of an applicant or licensee pertaining to the operation or activity on all premises where such information is maintained. The division shall provide an evidence receipt to the applicant or licensee providing a general description of all documents and items seized.

C. Board and division agents shall have unrestricted contemporaneous access to all records, data, documents and electronic media of a licensee and its operation.

D. Failure to allow access and inspection as provided in this Section may constitute grounds for delaying consideration of the application, denial of the application, or administrative action against the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:270 (February 2021).

§1103. Refusal to Answer

A. Refusal to provide information to, answer questions of, or cooperate in any investigation by the division or board, or a claim of privilege with respect to any testimony or evidence, may constitute sufficient grounds for denial of the application or administrative action including revocation, suspension, and penalty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:270 (February 2021).

§1115. Assisting in or Notification of Violations

A. No licensee or their employee, agent, or representative shall assist another person in violating any provision of the Act or these regulations; any order, authorization or approval from the board or division; or the internal controls. Such assistance shall constitute a violation of these regulations.

B. It is incumbent upon a licensee or their employee, agent, or representative to promptly notify the division of any possible violation of any federal, state or municipal law, the Act, these regulations, any order, authorization or approval from the board or division, or the internal controls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:271 (February 2021).

Chapter 13. Hearings; Administrative Actions; Penalties

§1301. Administrative Actions

A. The board or division may initiate administrative action authorized by the Act for any violation of the Act or of the rules after notice of the proposed administrative action and after opportunity to request a hearing before the board.

B. The board or division may initiate administrative action authorized by the Act for any violation of any condition, restriction, or limitation imposed by the board on a license or permit.

C. The board or division may initiate administrative action against a licensee, permittee, or person required to submit to suitability by the Act or these regulations who, or whose affiliate or parent company, has been subject to administrative action in another jurisdiction for gaming related activity.

D. The board or division may initiate administrative action authorized by the Act for violation of a licensee’s internal controls as approved by the division.

E. Administrative action includes revocation, suspension, finding of unsuitability, or conditioning of a license or permit, imposition of a civil penalty or such other costs as the board or division deems appropriate. The appropriate sanction may be determined by considering factors contained in the Act including, but not limited to:

1. The risk to the public and the integrity of fantasy sports contest operations created by the conduct;

2. The seriousness of the conduct and whether the conduct was purposeful and with knowledge that the conduct was in violation of the Act or rules promulgated in accordance with the Act;

3. A justification or excuse for the conduct;

4. The history of the licensee or permittee with respect to gaming activity and the operation of fantasy sports contests;

5. The corrective action taken to prevent similar misconduct from occurring in the future;

6. Whether there was any material involvement, directly or indirectly, with the licensee or permittee by a disqualified person as defined in the Act; and

7. In the case of a civil penalty or fine, the amount of the fine in relation to the severity of the misconduct and the financial means of the licensee or permittee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:271 (February 2021).

§1303. Civil Penalties

A. Pursuant to R.S. 27:311, and these regulations, the division may impose a civil penalty as provided for in the penalty schedule contained in Subsection B of this Section.

B. Penalty Schedule

Section Reference	Description	Proscriptive Period (Months)	1st	2nd	3rd or Subsequent
Revised Statutes, Title 27. Louisiana Gaming Control Law					
27:309(A)(1)	A Person Under 21 Participating in Fantasy Sports Contest When Fantasy Sports Contest Operator or Agent Reasonably Believes Person was 21 or Older per R.S. 27:309(C)(1)(a)	12	\$1,000 or Admin Action	\$1,000 or Admin Action	Admin Action
27:309(A)(1)	A Person Under 21 Participating in Fantasy Sports Contest When Fantasy Sports Contest Operator or Agent is Shown to Have Known or Reasonably Believed Person was Under 21 or if Person was Under Age of 15 Regardless of Knowledge or Reasonable Belief per R.S. 27:309(C)(1)(b)	12	\$1,000 or Admin Action	\$1,000 or Admin Action	Admin Action
27:309(A)(2)	A Person Participating in Fantasy Sports Contest While Located in a Parish that Voted Against Fantasy Sports Contests per R.S. 27:309(C)(2)	12	\$1,000 or Admin Action	\$1,000 or Admin Action	Admin Action

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 47:271 (February 2021).

Michael Noel
Chairman

2102#005

RULE

Department of Revenue Policy Services Division

Mandatory Electronic Filing of Certain Excise Tax Returns and Payment of Taxes (LAC 61:III.1539-1546)

Under the authority of R.S. 26:354(F), 47:831, 47:1511, 47:1519, and 47:1520, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has adopted LAC 61.III.1539 through 1546, to provide mandatory electronic filing and payment requirements for the Alcoholic Beverage Tax Return, State and Parish and Municipal Beer Tax Return, Return for Wines Shipped Direct to Consumers, Hazardous Waste Disposal Tax Return, Transportation and Communication Utilities Tax Return, and Report of Inspection and Supervision Fee.

R.S. 47:1519(B)(1) authorizes the secretary to require payments by electronic funds transfer, and R.S. 47:1520(A)(2) authorizes the secretary the discretion to require electronic filing of tax returns or reports by administrative rule promulgated with legislative oversight in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. The purpose of this regulation is to mandate electronic filing of all Alcoholic Beverage, Hazardous Waste Disposal, Transportation and Communication Utilities, and Inspection and Supervision Fee returns and reports and electronic payment of all Alcoholic Beverage, Hazardous Waste Disposal, Transportation and Communication Utilities, and Inspection and Supervision taxes and fees. This Rule is hereby adopted on the day of promulgation.

Title 61

REVENUE AND TAXATION

Part III. Administrative and Miscellaneous Provisions

Chapter 15. Mandatory Electronic Filing of Tax Returns and Payment

§1539. Alcoholic Beverage Tax Returns—Electronic Filing Requirements

A. For taxable periods beginning on or after April 1, 2021, every manufacturer and wholesale dealer handling beverages of high and low alcoholic content and every out-of-state wine producer, manufacturer and retailer who sells and ships wine directly to a consumer in Louisiana shall be required to file all alcoholic beverage tax returns and reports electronically with the Department of Revenue using the electronic format prescribed by the department.

B. Manufacturers, wholesale dealers, and out-of-state wine producers, manufacturers, and retailers may not send paper versions of any returns or reports required to be filed.

C. 1. Failure to comply with the electronic filing requirement of this section will result in the assessment of a penalty as provided for in R.S. 47:1520(B).

2. Waiver of the penalty provided for in paragraph 1 of this subsection shall only be allowed as provided for in R.S. 47:1520(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:354(F), 47:1511, and 47:1520.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 47:272 (February 2021).

§1540. Alcoholic Beverage Taxes—Electronic Payment Required

A. R.S. 47:1519(B)(1) allows the secretary to require payment of taxes on all alcoholic beverages by electronic funds transfer.

B. Effective for all reporting periods beginning on or after April 1, 2021, all payments of the tax on alcoholic beverages shall be electronically transferred to the Department of Revenue on or before the fifteenth of the month following the close of the reporting period for beverages of high alcoholic content, and the twentieth day of the month following the close of the reporting period for beverages of low alcoholic content and wine shipped directly to a consumer in Louisiana using the electronic format provided by the department.

C. For purposes of this Rule, specific requirements relating to the procedures for making payments by electronic funds transfer are set forth in R.S. 47:1519 and LAC 61.I.4910.

D. Failure to comply with the electronic funds transfer requirements shall result in the tax payment being considered delinquent and subject to penalties and interest as provided under R.S. 47:1601 and 1602.

E. If a taxpayer has made a good faith attempt and exercises due diligence in initiating a payment under the provisions of R.S. 47:1519, this Rule, and LAC 61.I.4910, but because of unexpected problems arising at financial institutions, Federal Reserve facilities, the automated clearinghouse system, or state agencies, the payment is not timely received, the delinquent penalty may be waived as provided by R.S. 47:1603. Before a waiver will be considered, taxpayers must furnish the department with documentation proving that due diligence was exercised and that the delay was clearly beyond their control.

F. In any case where the taxpayer can prove payment by electronic funds transfer would create an undue hardship, the secretary shall exempt the taxpayer from the requirement to transmit funds electronically.

G. The tax returns must be filed electronically separately from the electronic transmission of the remittance. Specific requirements relating to the mandatory electronic filing of the return required by the Department of Revenue are set forth in LAC 61.III.1539.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:354(F), 47:1511, and 47:1519.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 47:272 (February 2021).

§1541. Hazardous Waste Disposal Tax Return— Electronic Filing Requirements

A. For taxable periods beginning on or after April 1, 2021, every generator and disposer of hazardous waste subject to the tax levied in Chapter 7-A of Subtitle II of Title 47 of the Louisiana Revised Statutes shall be required to file all Hazardous Waste Disposal Tax Returns and Schedules electronically with the Department of Revenue using the electronic format prescribed by the department.

B. Generators and disposers of hazardous waste may not send paper versions of any returns or schedules required to be filed.

C.1. Failure to comply with the electronic filing requirement of this section will result in the assessment of a penalty as provided for in R.S. 47:1520(B).

2. Waiver of the penalty provided for in Paragraph 1 of this Subsection shall only be allowed as provided for in R.S. 47:1520(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:831, 47:1511, and 47:1520.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 47:272 (February 2021).

§1542. Hazardous Waste Disposal Tax—Electronic Payment Required

A. R.S. 47:1519(B)(1) allows the secretary to require payment of the tax on disposal and storage of hazardous waste by electronic funds transfer.

B. Effective for all taxable periods beginning on or after April 1, 2021, all payments of the tax on disposal and storage of hazardous waste shall be electronically transferred to the Department of Revenue on or before the twentieth day following the close of the reporting period using the electronic format provided by the department.

C. For purposes of this Rule, specific requirements relating to the procedures for making payments by electronic funds transfer are set forth in R.S. 47:1519 and LAC 61.I.4910.

D. Failure to comply with the electronic funds transfer requirements shall result in the tax payment being considered delinquent and subject to penalties and interest as provided under R.S. 47:1601 and 1602.

E. If a taxpayer has made a good faith attempt and exercises due diligence in initiating a payment under the provisions of R.S. 47:1519, this Rule, and LAC 61.I.4910, but because of unexpected problems arising at financial institutions, Federal Reserve facilities, the automated clearinghouse system, or state agencies, the payment is not timely received, the delinquent penalty may be waived as provided by R.S. 47:1603. Before a waiver will be considered, taxpayers must furnish the department with documentation proving that due diligence was exercised and that the delay was clearly beyond their control.

F. In any case where the taxpayer can prove payment by electronic funds transfer would create an undue hardship, the secretary shall exempt the taxpayer from the requirement to transmit funds electronically.

G. The tax returns must be filed electronically separately from the electronic transmission of the remittance. Specific requirements relating to the mandatory electronic filing of the return required by the Department of Revenue are set forth in LAC 61.III.1541.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:831, 47:1511, and 47:1519.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 47:273 (February 2021).

§1543. Transportation and Communication Utilities Tax Return—Electronic Filing Requirements

A. For taxable periods beginning on or after April 1, 2021, every public utility as defined by R.S. 47:1003 shall be required to file the Transportation and Communication Utilities Tax Return electronically with the Department of Revenue using the electronic format prescribed by the department.

B. Public utilities may not send paper versions of any returns required to be filed.

C.1. Failure to comply with the electronic filing requirement of this section will result in the assessment of a penalty as provided for in R.S. 47:1520(B).

2. Waiver of the penalty provided for in paragraph 1 of this subsection shall only be allowed as provided for in R.S. 47:1520(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 47:1520.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 47:273 (February 2021).

§1544. Transportation and Communication Utilities Tax—Electronic Payment Required

A. R.S. 47:1519(B)(1) allows the secretary to require payment of the transportation and communication utilities tax by electronic funds transfer.

B. Effective for all taxable periods beginning on or after April 1, 2021, all payments of the transportation and communication utilities tax shall be electronically transferred to the Department of Revenue on or before the twentieth day following the close of the reporting period for monthly filers and the thirtieth day following the close of the reporting period for quarterly filers using the electronic format provided by the department.

C. For purposes of this Rule, specific requirements relating to the procedures for making payments by electronic funds transfer are set forth in R.S. 47:1519 and LAC 61.I.4910.

D. Failure to comply with the electronic funds transfer requirements shall result in the tax payment being considered delinquent and subject to penalties and interest as provided under R.S. 47:1601 and 1602.

E. If a taxpayer has made a good faith attempt and exercises due diligence in initiating a payment under the provisions of R.S. 47:1519, this Rule, and LAC 61.I.4910, but because of unexpected problems arising at financial institutions, Federal Reserve facilities, the automated clearinghouse system, or state agencies, the payment is not timely received, the delinquent penalty may be waived as provided by R.S. 47:1603. Before a waiver will be considered, taxpayers must furnish the department with documentation proving that due diligence was exercised and that the delay was clearly beyond their control.

F. In any case where the taxpayer can prove payment by electronic funds transfer would create an undue hardship, the secretary shall exempt the taxpayer from the requirement to transmit funds electronically.

G. The tax returns must be filed electronically separately from the electronic transmission of the remittance. Specific requirements relating to the mandatory electronic filing of the return required by the Department of Revenue are set forth in LAC 61.III.1543.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 47:1519.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 47:273 (February 2021).

§1545. Report of Inspection and Supervision Fee—Electronic Filing Requirements

A. For fee periods beginning on or after April 1, 2021, every common carrier and public utility required to file the quarterly report of inspection and supervision fee shall file the report electronically with the Department of Revenue using the electronic format prescribed by the department.

B. Common carriers and public utilities may not send paper versions of any reports required to be filed.

C.1. Failure to comply with the electronic filing requirement of this section will result in the assessment of a penalty as provided for in R.S. 47:1520(B).

2. Waiver of the penalty provided for in Paragraph 1 of this Subsection shall only be allowed as provided for in R.S. 47:1520(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, and 47:1520.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 47:273 (February 2021).

§1546. Inspection and Supervision Fee - Electronic Payment Required

A. R.S. 47:1519(B)(1) allows the secretary to require payment of the inspection and supervision fee by electronic funds transfer.

B. Effective for all reporting periods beginning on or after April 1, 2021, all payments of the inspection and supervision fee shall be electronically transferred to the Department of Revenue on or before the last day of the third month following the close of the reporting period using the electronic format provided by the department.

C. For purposes of this Rule, specific requirements relating to the procedures for making payments by electronic funds transfer are set forth in R.S. 47:1519 and LAC 61.I.4910.

D. Failure to comply with the electronic funds transfer requirements shall result in the fee payment being considered delinquent and subject to penalties and interest as provided under R.S. 47:1601 and 1602.

E. If a fee-payer has made a good faith attempt and exercises due diligence in initiating a payment under the provisions of R.S. 47:1519, this Rule, and LAC 61.I.4910, but because of unexpected problems arising at financial institutions, Federal Reserve facilities, the automated clearinghouse system, or state agencies, the payment is not timely received, the delinquent penalty may be waived as provided by R.S. 47:1603. Before a waiver will be considered, taxpayers must furnish the department with documentation proving that due diligence was exercised and that the delay was clearly beyond their control.

F. In any case where the fee-payer can prove payment by electronic funds transfer would create an undue hardship, the secretary shall exempt the fee-payer from the requirement to transmit funds electronically.

G. The reports must be filed electronically separately from the electronic transmission of the remittance. Specific requirements relating to the mandatory electronic filing of the report required by the Department of Revenue are set forth in LAC 61.III.1545.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 47:1519.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 47:274 (February 2021).

Kimberly Lewis Robinson
Secretary

2102#048

RULE

**Workforce Commission
Plumbing Board**

Multi-Site Signage
(LAC 46:LV.101 and 301)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953, the State Plumbing Board (board), has amended LAC 46:LV.101 to define terms utilized in the proposed amendment to §301.F and R which is necessary to provide for alternative signage regulations when working on a multi-site project. This Rule is hereby adopted on the day of promulgation.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LV. Plumbers

Chapter 1. Introductory Information

§101. Definitions

* * *

Multi-Site—any location where the employing entity is performing work as defined in §101 in or on more than one adjacent structure.

* * *

Site—any location where the employing entity is performing work as defined in §101 in or on a single structure.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1277 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the department of Labor, State Plumbing Board, 1968, amended and promulgated by Department of Employment and Training, State Plumbing Board, LR 17:57 (January 1991), repromulgated by the Department of Labor, State Plumbing Board, LR 30:2068 (September 2004), amended by the Workforce Commission, Plumbing Board, LR 47:274 (February 2021).

Chapter 3. Licenses

§301. Licenses Required

A. - E. ...

F. Every employing entity shall maintain an established place of business, with facilities for receiving complaints, calls and notices during normal business hours, from any person for whom it is performing plumbing or from the board and its representatives. It shall display a sign, plainly visible from the street at every place where it and its employees are performing plumbing work. If the employing entity is the sole-employing entity for a multi-site project, where employees are performing plumbing work, it may post one sign, plainly visible from the street, at the entrance of the project. All posted signs shall designate the employing entity's full name, address, telephone number and master plumber license number issued by the board to the designated active master plumber in its employ. The sign posted at a single site shall include legible lettering at least 2 inches high with the words "Louisiana Licensed Master

Plumber" (or abbreviated "LA Lic. Master Plumber" or "LMP _____"). For multi-site projects, where only a single sign is posted, in addition to the above requirement, the lettering must be at least 4 inches high. The employing entity shall also identify itself by permanent signs or lettering affixed to its service vehicles on both sides of such vehicles indicating the same information required of job-site signs in at least 2-inch lettering." All public advertising, solicitations, customer invoices, and business correspondence issued by or on behalf of an employing entity shall set forth the information described herein.

G. - Q. ...

R. Every employing entity shall maintain an established place of business, with facilities for receiving complaints, calls and notices during normal business hours, from any person for whom it is performing gas fitting or from the board and its representatives. It shall display a sign, plainly visible from the street at every place where it and its employees are performing gas-fitting work. If the employing entity is the sole-employing entity for a multi-site project, where employees are performing natural gas work, it may post one sign, plainly visible from the street, at the entrance of the project. All posted signs shall designate the employing entity's full name, address, telephone number and master gas fitter license number issued by the board to the designated active master gas fitter in its employ. The sign posted at a single site shall include legible lettering at least 2 inches

high with the words "Louisiana Licensed Master Gas Fitter" (or abbreviated "LA Lic. Master Gas Fitter" or "LMNGF _____"). For multi-site projects, where only a single sign is posted, in addition to the above requirement, the lettering must be at least 4 inches high. The employing entity shall also identify itself by permanent signs or lettering affixed to its service vehicles on both sides of such vehicles indicating the same information required of job-site signs, in at least 2-inch lettering." All public advertising, solicitations, customer invoices, and business correspondence issued by or on behalf of an employing entity shall set forth the information described herein.

S. - Y. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated by the Department of Employment and Training, Plumbing Board, LR 17:49 (January 1991), amended by the Department of Labor, Plumbing Board LR 19:897 (July 1993), LR 19:1593 (December 1993), LR 21:1348 (December 1995), LR 25:1857 (October 1999), amended by the Workforce Commission, Plumbing Board, LR 42:576 (April 2016), LR 43:541 (March 2017), LR 43:972 (May 2017), LR 47:274(February 2021).

Ashley Jones Tullier
Executive Director

2102#027

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Forestry

Electronic Transfer/Driver Cards (LAC 7:XXXIX.1503)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and pursuant to the authority set forth in R.S. 3:4413, notice is hereby given that the Department of Agriculture and Forestry (“Department”), through the Office of Agricultural and Environmental Sciences, intends to amend LAC 7:XXXIX.1503. The proposed rule change allows purchasing/receiving facilities the option to utilize electronic transfer/driver card systems to identify individual assigned drivers and sets forth requirements for facilities and drivers participating in such systems. The proposed rule change also incorporates minor clarifications regarding the identification of the timber owner’s name and landowner’s name on scale tickets.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 15. Timber Harvesting and Receiving Records

§1503. Scale/Load Tickets: Required Information; Distribution; Maintenance of Records; Electronic Transfer/Driver Cards

A. Scale tickets must be maintained for a period of not less than six years. Information required by the scale ticket regulations may be kept on a load ticket provided that the scale ticket can be cross-referenced to the load ticket. When both are used, the load ticket and scale ticket must be maintained for a period of not less than six years.

B. On any per-unit sale the purchaser of the timber must provide the timber owner hard copies of the scale tickets relating to any partial or final settlement made during the course of the harvest. Mill generated settlement sheets may be provided to the timber owner in lieu of a copy of the scale ticket provided it includes the load number, scale ticket number, date and time, product and species description, volume and/or weight.

C. Each scale ticket must contain the following information:

1. scale ticket number—each scale ticket issued at a wood receiving facility must be numbered;
2. parish/county and state—the parish/county and state where the timber was harvested;
3. date and time—date and time that the forest product was received (required on scale ticket only);
4. type and quantity of forest product delivered:
 - a. type—description of forest product received;
 - b. quantity—board feet, tonnage, or cords;

clarification

NOTE: The following items must be documented on a scale ticket or documented on a load ticket that can be cross referenced to the scale ticket.

5. timber owner's name—owner or owners of timber at the time it was severed

a. On a per-unit sale the seller must be listed as the timber owner;

6. landowner—name of the owner of the land where the timber was severed.

a. For a multi-owned tract of land, the name of the estate, corporation, or what the site is commonly known as, may be listed;

b. For industrial land, the company tract number may be listed;

7. producer—company or individual who is responsible for harvesting the timber;

8. load number—the load number designated by the loaders log book;

9. driver's signature—signature of driver delivering the forest product. Must be legible and as shown on the driver’s commercial driver’s license.

D. A scale ticket may be kept in electronic form. If a scale ticket is kept in electronic form, it shall contain all required information set forth in Subsection C of this regulation and be maintained for a period of not less than six years. The use of an electronic scale ticket does not relieve the purchaser of the timber from the obligations set forth in Subsection B of this regulation. If scale tickets are kept in electronic form as provided by this Rule, the signature required by Paragraph C.9 of this Section may also be in electronic form.

E. Electronic transfer/driver cards capturing electronic signatures may be used by the purchasing/receiving facility. If a purchasing/receiving facility chooses to utilize electronic transfer/driver cards, the assigned driver shall complete and submit a sworn statement of identity to the facility, in a form provided by the department.

1. The sworn statement of identity shall include the following:

- a. name and physical address of the purchasing/receiving facility;
- b. assigned driver’s legal name;
- c. assigned driver’s date of birth;
- d. assigned driver’s current home physical address, and mailing address, if different; and
- e. driver’s signature.

2. A copy of the assigned driver’s commercial driver’s license shall be submitted with the sworn statement of identity.

3. The purchasing/receiving facility shall maintain the sworn statement and copy of the commercial driver’s license for a period of not less than six years.

4. Upon receipt of an assigned driver’s sworn statement and copy of his CDL, the purchasing/receiving facility may issue a unique and individual card to the assigned driver.

5. Electronic transfer/driver cards issued pursuant to this Section, are non-transferable and shall not be used by anyone except the driver to whom they have been issued.

F. Restrictions. Wood-receiving facilities cannot accept any load of timber unless all information required by these regulations is provided at the time of delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4278.3.

HISTORICAL NOTE: Promulgated by the Department Agriculture and Forestry, Office of Forestry, Forestry Commission, LR 27:31 (January 2001), amended LR 27:1005 (July 2001), LR 37:2985 (October 2011), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 42:734 (May 2016); LR 47:

Family Impact Statement

The proposed Rule should 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 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.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule. This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

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 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 Wade Dubea, Assistant Commissioner for Forestry, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge,

LA 70806 and must be received no later than 4 p.m. on the 10th day of March, 2021.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Electronic Transfer/Driver Cards

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

Implementation of this proposed rule change will result in no net change in government costs or revenues to either the Louisiana Department of Agriculture and Forestry ("LDAF") or state or local governmental units other than the cost of rule promulgation which is normally included in the department's annual operating budget. The proposed rule merely allows purchasing/receiving facilities the option of utilizing electronic transfer/driver cards. If a facility elects to utilize such cards, it would be at the cost of the facility and/or individual drivers.

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 as the optional utilization of electronic transfer/driver cards would be issued by purchasing/receiving facilities and would not yield any revenue to LDAF or to other state or local government units.

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

The proposed rule change would allow purchasing/receiving facilities the option of utilizing electronic transfer/driver cards. If used, the costs of utilizing such cards would be incurred by either the purchasing/receiving facility or the individual drivers and may result in a cost to either party. The exact cost, while unknown, is expected to be nominal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not anticipated to effect competition and/or employment.

Dane K. Morgan
Assistant Commissioner
2102#045

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Forestry

Forestry Productivity Program
(LAC 7:XXXIX.1303 and 1307)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and pursuant to the authority set forth in R.S. 3:4412 and 4413, notice is hereby given that the Department of Agriculture and Forestry ("Department"), through the Office of Agricultural and Environmental Sciences, intends to amend LAC 7:XXXIX.1303 and 1307. The proposed amendment to LAC 7:XXXIX.1303 adds the definition of "Commission," to mean the Louisiana Forestry Commission. The proposed amendment to LAC 7:XXXIX.1307 will allow the commissioner of the Department of Agriculture and Forestry to determine the state's annual level of involvement in the Program, based upon the recommendation of the

Forestry Commission, who shall base its recommendation on available program funding and landowner requests for program participation. Furthermore, the proposed rule change would eliminate the specific maximum cost share rates presently set forth in the Rule.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 13. Forestry Productivity Program

§1303. Definitions

A. ...

* * *

Commission—Louisiana Forestry Commission

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1678 (September 1998); LR 47:

§1307. Extent of State Participation

A. The commissioner shall determine the state's annual level of involvement in the program. The determination shall be made upon recommendation from the commission. The commission shall base its recommendation on available program funding and landowner requests for program participation.

B. Financial assistance by the state to any one landowner participating in this program shall be limited to a total value not to exceed \$15,000 during a fiscal year.

C. The state's participation under any cooperative agreement shall be limited to either or both of the following types of assistance:

1. a direct grant, for the purpose of assisting the landowner in implementing an approved forestry practice authorized by a cooperative agreement through the use of the landowner's resources or through the landowner's contacts with private firms; or

2. utilization of the state's personnel, equipment, or materials to implement an approved forestry practice authorized by a cooperative agreement, if private sector services are unavailable.

D. A direct grant shall not exceed the approved rate(s), as established in Subsection A, of the cost of implementing the cooperative agreement. In the event that state personnel, equipment, or materials are utilized to implement an approved forestry practice, the landowner shall be invoiced by the department for the cost of implementing the forestry practice. The landowner shall promptly pay such invoice and may subsequently submit the paid invoice for reimbursement under this program and these rules and regulations.

E. The current cost share rate(s) shall be posted on the department website.

F. The state shall not provide reimbursement under this program for any forestry practice implemented by a landowner unless a cooperative agreement is on file with the department prior to implementation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4412 and R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1679 (September 1998), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 28:267 (February 2002), LR 34:2338 (November 2008), LR 41:2102 (October 2015), LR 42:733 (May 2016), LR 42:1868 (November 2016); LR 47:

Family Impact Statement

The proposed Rule should 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 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.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule. This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

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 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 Wade Dubea, Assistant Commissioner for Forestry, Department of

Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806 and must be received no later than 4 p.m. on the 10th day of March, 2021.

Mike Strain, DVM
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Forestry Productivity Program**

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

Besides the cost of rule promulgation, which is normally included in the department's annual operating budget, the proposed rule change will not result in any costs or savings to either the Louisiana Department of Agriculture and Forestry ("LDAF") or state or local governmental units. The proposed rule allows the Commissioner of LDAF to determine the State's annual level of involvement in the Forestry Productivity Program ("FPP") based upon the recommendation of the Forestry commission. The FPP expends all available funds every fiscal year. The proposed rule change will not increase the overall expenditure of available funds. Also, the proposed rule change eliminates the specific maximum cost share rates presently set forth.

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 as the FPP is funded through a statutory dedication of timber severance taxes.

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

The proposed rule change will allow the Commissioner of Agriculture & Forestry, upon recommendation of the Louisiana Forestry Commission, to determine the State's level of participation in the Forestry Productivity Program (FPP). The determination will be based on annual available funding and program interest. The estimated economic benefits to directly affected persons, small businesses, or non-governmental groups will result in setting program parameters to maximize benefits to a larger number of program participants.

Forest landowners who participate in the Forestry Productivity Program and whose costs will equal or exceed the maximum cost-share rate will be affected indirectly since the amount of reimbursement will increase. There is no way to determine how many of such landowners will be affected or the amount they will receive. The program operates on a "first come-first served" basis and there is no way to predict how many landowners will be chosen to participate or the amount of costs that will be submitted.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This Rule change will have no estimated effect on Competition and Employment.

Dane K. Morgan
Assistant Commissioner
2102#046

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment
Standards and Practices
(LAC 28:XI.5105, 5107, 5305, 5701, 5907, 6151, 6153, 6803, 6819, 6823, 6825, 6829, 6901, 6913, 7209, 7301, 7501, 7701, 7703, 8301, 8303, 8306, 8307, 8501, and 8507)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement to revise *Bulletin 118—Statewide Assessment Standards and Practices*. The proposed revisions adjust timelines to allow for flexibility in the event of a future pandemic or natural disaster; update assessments that are included in statewide administrations and the corresponding achievement levels to transition from End-of-Course (EOC) tests to LEAP 2025 high school and from LAA1 to LEAP Connect; align accommodations to new assessments; eliminate language related to LEAP grade 4 and 8 summer retests; and simplify requirements for promotion of students in fourth and eighth grades.

**Title 28
EDUCATION**

**Part XI. Accountability/Testing
Subpart 3. Bulletin 118—Statewide Assessment
Standards and Practices**

Chapter 51. General Provisions

**§5105. Testing and Accountability
[Formerly LAC 28:CXI.105]**

- A. ...
- B. All LEAs must administer all assessments according to the testing schedule dates approved by the LDE and reported annually to BESE.

C. - C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:10.1.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1526 (July 2005), amended LR 33:255 (February 2007), LR 44:462 (March 2018), LR 44:2129 (December 2018), LR 47:

**§5107. Assessment Programs
[Formerly LAC 28:CXI.107]**

- A. ...
- B. Louisiana Educational Assessment Program (LEAP) 2025. Criterion-referenced tests in English language arts, mathematics, science, and social studies in grades 3-8 and tests administered upon completion of English I, English II, algebra I, geometry, biology, and U.S. history in high school assess student performance relative to specific benchmarks established in the state's content standards and provide data for evaluating student, school, and district performance.

1. The tests assess a student's complex thinking skills as well as knowledge and application of information.

2. The assessments will be administered to high school students enrolled in and/or receiving credit for a high school course having a LEAP assessment or retesting for the purposes of graduation, as well as for students in the third year assessment cohort as defined in Part XI, Subpart 1, §409.

C. LEAP Connect. The LEAP Connect is an alternate assessment, designed for students with significant disabilities, which evaluates each eligible special education student's knowledge and skills in targeted areas.

D. - F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1526 (July 2005), amended LR 32:233 (February 2006), LR 33:255 (February 2007), LR 36:477 (March 2010), LR 40:2509 (December 2014), LR 44:462 (March 2018), LR 47:

§5305. Test Security Policy

[Formerly LAC 28:CXL305]

A. - A.9.i.ii. ...

iii. In accordance with R.S. 42:11 et seq., the LDE shall annually convene a test irregularity review committee by no later than 60 days after the close of the testing window. The test irregularity review committee shall conduct a records review of the investigative results from the school system as well as any additional relevant evidence from the LDE.

9.i.iv. - 17. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:391.7(C)-(G).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1528 (July 2005), amended LR 32:233 (February 2006), LR 33:255 (February 2007), LR 33:424 (March 2007), LR 33:2033 (October 2007), LR 34:65 (January 2008), LR 34:431 (March 2008), LR 34:1351 (July 2008), LR 35:217 (February 2009), LR 37:858 (March 2011), repromulgated LR 37:1123 (April 2011), amended LR 38:747 (March 2012), LR 39:1018 (April 2013), LR 40:2510 (December 2014), LR 43:634 (April 2017), LR 44:463 (March 2018), LR 44:1857 (October 2018), LR 47:

Chapter 57. Assessment Program Overview

§5701. Overview of Assessment Programs in Louisiana

[Formerly LAC 28:CXL701]

A. Norm-Referenced and Criterion-Referenced Testing Programs Since 1986

Name of Assessment Program	Assessment Population	Administered

EOCT	English III	fall 2011-summer 2019 (available for students who have entered a high school cohort prior to 2017-2018 school year-state administered) (fall 2019-district administered)

Special Population Assessments		
LEAP Connect	Students with Individualized Education Programs (IEPs) who meet participation criteria in grades 3-11	ELA and Math Grades 3 to 8: Spring 2018- ELA and Math Grade 11: Spring 2019- Science grades 4, 8, 11: Spring 2020

Name of Assessment Program	Assessment Population	Administered

LAA 1	ELA and Mathematics (grade spans 3-4; 5-6; 7-8; 9-10); Science (grades 4, 8, and 11)	Revised spring 2008-2017 (ELA and Math) (available for high school students who need to participate in 2017-2018 only) Spring 2008-2019 (Science) (no longer administered)

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1534 (July 2005), amended LR 32:235 (February 2006), LR 34:66 (January 2008), LR 34:1352 (July 2008), LR 35:218 (February 2009), LR 36:967 (May 2010), LR 37:858 (March 2011), LR 38:34 (January 2012), LR 39:74 (January 2013), LR 39:1019 (April 2013), LR 40:1319 (July 2014), LR 40:2512 (December 2014), LR 44:465 (March 2018), LR 44:2127 (December 2018), LR. 46:15 (January 2020), LR 47:

Chapter 59. Kindergarten Entry Assessment

§5907. Agency Administrative Participation

[Formerly LAC 28:CXL907]

A. - B.1. ...

2. Beginning with the 2021-2022 academic year and annually thereafter, assessment administration and reporting shall occur by October 31.

3. The LDE may extend the deadline to no later than November 30 in academic years in which a natural disaster or emergency is declared.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq., and R.S. 17:139 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1535 (July 2005), amended LR 44:467 (March 2018), LR 47:

Subchapter C. LEAP 2025 Assessment Structure

§6151. Retests and Rescores

[Formerly LAC 28:CXL1151]

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1547 (July 2005), amended LR 32:236 (February 2006), LR 36:974 (May 2010) repealed LR 47:

§6153. Transfer Students

[Formerly LAC 28:CXL1153]

A. The following rules apply for transfer students who are Louisiana residents transferring into Louisiana public schools from out-of-state schools, nonpublic schools, or approved home study programs.

1. Requirements for transfer students in grade 4 or 8 or those who are seeking to enroll in grade 5 or 9 who have never been in membership in a public school in Louisiana or who were in membership in Louisiana public schools and transferred out-of-state or who transferred from Louisiana nonpublic schools or from an approved home study program are as follows.

a. A fourth or eighth grade student who transfers to a Louisiana public school must take and pass either the spring administration of LEAP English Language Arts and

Mathematics (ELA/Math) tests or the LEAP 2025 state placement test prior to enrollment in grades five or nine.

b. Grade placement determinations for students in grades 4 or 8 who transfer from out of state, nonpublic or home study and seek enrollment in grade 5 or 9, and do not pass both the ELA and mathematics test, shall be made in accordance with promotion policy as outlined in Part XXXIX.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1547 (July 2005), amended LR 32:236 (February 2006), LR 47:

Chapter 68. LEAP 2025 Assessments for High School

Subchapter A. General Provisions

§6803. Introduction

[Formerly LAC 28:CXI.1803]

A. - B.1.5. ...

6. U.S. history.

C. - E. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:214 (February 2009), LR 36:477 (March 2010), amended LR 38:35 (January 2012), LR 40:2514 (December 2014), LR 44:469 (March 2018), LR 44:2129 (December 2018), LR 47:

Subchapter C. LEAP 2025 for High School

Administrative Rules

§6819. Double Jeopardy Rule

[Formerly LAC 28:CXI.1819]

A. If a school administers LEAP 2025 tests that the student has already passed and the student scores Unsatisfactory on the retest, the passing score will be used to determine the student's eligibility for a standard high school diploma.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:977 (May 2010), amended LR 44:470 (March 2018) LR 47:

§6823. Rescores

[Formerly LAC 28:CXI.1823]

A - C. ...

D. Students may request a rescore of LEAP 2025 tests at specified achievement levels and scaled score ranges. If the following criteria is met, the rescore will be expedited.

1. The test has a scaled score that is within 10 points below the *Unsatisfactory* achievement level (Algebra I, Geometry, Biology, or U.S. History) or within 20 points below the *Approaching Basic* achievement level (English I or English II).

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 36:977 (May 2010), amended LR 37:820 (March 2011), LR 47:

§6825. LEAP 2025 for High School Administration

Rules

[Formerly LAC 28:CXI.1825]

A. Students enrolled in LEAP 2025 courses shall take the LEAP 2025 test for that course at the conclusion of the course.

B. - C. ...

D. If a student was issued a HiSET diploma and subsequently meets the requirements for the LEAP 2025, the student may surrender the HiSET diploma and be issued a standard high school diploma.

E. ...

F. Students who request a retest for the Louisiana high school diploma endorsements may retest during the fall, spring, or summer retest administration only one time for each LEAP 2025 test.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:977 (May 2010), amended LR 39:77 (January 2013), LR 44:471 (March 2018), LR 47:

§6829. LEAP 2025 Transfer Rules

[Formerly LAC 28:CXI.1829]

A. - A.2. ...

3. A transfer student may choose to take a LEAP 2025 test for a course he/she already successfully completed if:

a. the student scored *Unsatisfactory* on a LEAP 2025 test in another course;

b. and the student has passed the LEAP 2025 test for one of the LEAP 2025 pairs.

B. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:978 (May 2010), amended LR 37:820 (March 2011), LR 44:471 (March 2018), LR 46:1372 (October 2020), LR 47:

Chapter 69. LEAP Connect Alternate Assessment

Subchapter A. Background

§6901. Overview

[Formerly LAC 28:CXI.1901]

A. The LEAP Connect alternate assessment is a specially designed assessment program that evaluates students with the most significant cognitive disabilities. LEAP connect represents an assessment of connector standards relative to the general education components of the LEAP 2025. As such, it meets ESSA requirements to assess students with the most significant cognitive disabilities in the state, with its results contributing to school, district, and state accountability decisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(F)(3) and R.S. 17:183.1-17:183.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1556 (July 2005), amended LR 32:239 (February 2006), LR 33:425 (March 2007), LR 35:208 (February 2009), LR 44:471 (March 2018), LR 47:

Subchapter D. Alternate Achievement Levels and Performance Standards

§6913. Performance Standards

[Formerly LAC 28:CXI.1913]

A. Performance standards for LEAP Connect English language arts, mathematics, and LEAP Connect science tests are finalized in scaled-score form.

B. LEAP Connect Alternate Achievement Levels and Scaled-Score Growth Ranges

B.1. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(F)(3) and R.S. 17:183.1-17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:426 (March 2007), amended LR 35:209 (February 2009), amended by the Board of Elementary and Secondary Education, LR 44:472 (March 2018), LR 44:1237 (July 2018), LR 47:

Chapter 72. ACT Program

§7209. WorkKeys

[Formerly LAC 28:CXL.2209]

A. - A.2. ...

3. WorkKeys certificates awarded based on a remote site test administration that was not proctored or monitored, will not be used for accountability purposes.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 40:1320 (July 2014), amended LR 44:474 (March 2018), LR 47:

Chapter 73. English Language Proficiency Test (ELPT)

Subchapter A. Background

§7301. Overview

[Formerly LAC 28:CXL.2301]

A. The federal Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeed Act (ESSA), requires standards-based assessment of the progress of all English learners enrolled in grades kindergarten through 12 in attaining English proficiency, including speaking, listening, reading, and writing skills in English.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1557 (July 2005), amended LR 33:259 (February 2007), LR 44:474 (March 2018), LR 46:15 (January 2020), LR 47:

Chapter 75. Field Testing

§7501. General Provisions

[Formerly LAC 28:CXL.2501]

A. - C.2.iv....

v. EL, and Section 504, and school size;

C.2.c. - C.2.f.iii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1558 (July 2005), amended LR 35:220 (February 2009), LR 47:

Chapter 77. Placement Tests

§7701. Administration and Scoring

[Formerly LAC 28:CXL.2701]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1558 (July 2005), amended LR 35:220 (February 2009), repealed LR 47:

§7703. Security

[Formerly LAC 28:CXL.2703]

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1558 (July 2005), repealed LR 47:

Chapter 83. Assessment of Special Populations

§8301. Participation

[Formerly LAC 28:CXL.3301]

A. - A.2. ...

3. English learners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1945.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1560 (July 2005), amended LR 44:476 (March 2018), LR 47:

§8303. Students with Disabilities

[Formerly LAC 28:CXL.3303]

A. All students with disabilities must participate in statewide assessments. Students are to take the test that corresponds to the grade in which they are enrolled. Students who meet specific participation criteria as stated in *Bulletin 1530—Louisiana’s IEP Handbook for Students with Exceptionalities* and whose individualized education plans (IEPs) indicate they will participate in an alternate assessment may participate in the LEAP Connect assessment. The assessment in which the student is to participate and any accommodations the student is to receive for instruction and assessment must be documented annually on the program/services page of the student’s IEP. Test accommodations cannot be different from or in addition to the accommodations indicated on the student’s IEP and provided in regular classroom instruction and assessment.

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1945.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1560 (July 2005), amended LR 32:239 (February 2006), LR 36:983 (May 2010), LR 38:37 (January 2012), LR 40:2515 (December 2014), LR 44:476 (March 2018), LR 47:

§8306. Approved Accommodations for Students with IEPs or 504 Plans

[Formerly LAC 28:CXL.3306]

A. - A.5.a. ...

6. Communication Assistance Script

a. Students who are deaf or hard of hearing and have the communications assistance script accommodation for testing must have a test administrator who is fluent in the cuing or signing modality routinely used by a student. The test administrator should be available to repeat or clarify directions and sign portions of the test if warranted by the student’s reading level as documented on the IEP or IAP.

b. Students with Communication Assistance accommodation may have all of the LEAP 2025 tests signed. However, no passages, questions, or distractors (multiple choices) of reading comprehension session(s) may be signed or cued for GEE, LAA 2, or English III EOC. Directions only to these sessions may be signed or cued. When signing or cueing, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide signs or cues that convey answers.

7. - 7.a....

8. Tests Read Aloud

a. Students with a Tests Read Aloud accommodation can have all of the LEAP 2025 tests read aloud. However, no passages, questions, or distractors (multiple choices) of reading comprehension session(s) may be read aloud for GEE, English III EOC, and LAA 2. Directions only to these sessions may be signed or cued. When signing or cueing, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide signs or cues that convey answers.

9. - 9.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24 et seq., R.S. 17:391-400, R.S. 17:1941 et seq., R.S. 17:397, R.S. 17:1946, and R.S. 17:1947.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:263 (February 2007), amended LR 33:1010 (June 2007), LR 44:477 (March 2018), LR 47:

§8307. English Language Learners

[Formerly LAC 28:CXL3307]

A. - B.6.c. ...

C. Approved Accommodations for English Learners

1. The following accommodations may be provided for ELL students participating in the LEAP 2025, GEE, LAA 2, LEAP Connect, English III EOC or high school LEAP 2025 assessments.

a. - b. ...

c. Tests Read Aloud. Students with accommodation of test read aloud may have all parts of the LEAP 2025 tests read aloud. When reading aloud, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide signs or cues that convey answers.

C.1.d. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:1941 et seq., and R.S. 17:24.4(F)(3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1562 (July 2005), amended LR 32:240 (February 2006), LR 33:264 (February 2007), LR 33:1010 (June 2007), LR 36:983 (May 2010), LR 37:821 (March 2011), LR 41:616 (April 2015), LR 44:478 (March 2018), LR 46:16 (January 2020), LR 47:

Chapter 85. Assessment of Students in Special Circumstances

§8501. Approved Home Study Program Students

[Formerly LAC 28:CXL3501]

A. - F. ...

G. Students enrolled in state-approved home study programs or non-public/non-scholarship schools are not eligible to participate in LEAP Connect, ELPT, or the state administration of WorkKeys or ACT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1-17:236.2, R.S. 17:6(A)(10)(11)(15), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-17:391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1563 (July 2005), amended by the Board of Elementary and Secondary Education, LR 32:240 (February 2006), LR 33:264 (February 2007), LR 36:983 (May 2010), LR 37:821 (March 2011), LR 39:1430 (June 2013), LR 40:1320 (July 2014), LR 40:2515 (December 2014), LR 47:

§8507. Office of Juvenile Justice

[Formerly LAC 28:CXL3507]

A. Students enrolled in grade levels K through 12 who are under the supervision of correctional facilities shall take the appropriate assessment for their enrolled grade.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:151.3 and R.S. 17:24.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1563 (July 2005), amended LR 33:2043 (October 2007), LR 44:479 (arch 2018), LR 47:

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 rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules 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 rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules 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 authority? 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 R.S. 49:965.6, 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

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 cost to the providers to provide the same level of service; or
3. 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 12 p.m. (noon), March 12, 2021 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 be hand-delivered to Shan N. 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 118—Statewide Assessment
Standards and Practices**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed revisions will not result a fiscal impact to state or local governmental units.
The proposed revisions transfer the responsibility of setting testing schedule dates to the Louisiana Department of Education (LDE) rather than BESE; adjust timelines to allow for flexibility in the event of a future pandemic or natural disaster; update assessments that are included in statewide administrations and the corresponding achievement levels to transition from End-of-Course (EOC) tests to LEAP 2025 high school and from LAA1 to LEAP Connect; align accommodations to new assessments; eliminate language related to LEAP grade 4 and 8 summer retests; and simplify requirements for promotion of students in fourth and eighth grades.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no estimated impacts on revenue collections as a result of the proposed policy revisions.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed policy revisions.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There are no estimated effects on competition and employment as a result of the proposed revisions.

Beth Scioneaux
Deputy Superintendent
2102#036

Alan Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools—Charter School Renewals and Virtual Charter School Attendance
(LAC 28:CXXXIX.103, 311, and Chapter 5)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education proposes to amend LAC 28:CXXXIX (Bulletin 126). Proposed amendments better ensure alignment between BESE and local charter authorizing processes, provide for the inclusion of intentional questions requiring applicants to substantiate that the proposed school will improve outcomes for the intended student population, and reflect updated authorizing priorities aligned to national best practices.

Title 28

EDUCATION

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 1. General Provisions

§103. Definitions

A. - A.1. . . .

2. a different definition is prescribed for a particular provision.

* * *

Charter—the agreement and authorization to operate a charter school, which includes the charter contracts and exhibits.

Charter Management Organization (CMO)—nonprofit entities that manage two or more charter schools.

Charter Operator—the nonprofit corporation or school board authorized to operate a charter school.

* * *

Domicile—the place where the student predominantly sleeps, takes meals, and maintains personal belongings.

Education Service Provider (ESP)—any third-party entity, whether non-profit or for-profit, that provides comprehensive education management services to a school via contract with the school governing board.

Face Covering—a piece of material used to cover both the nose and mouth for the purpose of forming a barrier to droplets or airborne particles that are coughed, sneezed, or exhaled when talking. Face coverings are meant to protect both the wearer of the face covering and surrounding individuals.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:439.1, 17:3391, 17:3981, and 17:3973.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1357 (July 2008), amended LR 37:867 (March 2011), LR 37:2383 (August 2011), LR 38:37 (January 2012), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 38:1583 (July 2012), LR 39:3062 (November 2013), LR 40:1321 (July 2014), LR 42:1018 (July 2016), LR 43:2476 (December 2017), LR 46:1670 (December 2020), LR 47:

Chapter 3. Charter School Authorizers

§311. Application Process for Locally-Authorized Charter Schools

A. - A.6. ...

B. Competitive Process

1. The charter application process shall be a competitive process whereby any entity meeting eligibility requirements may be approved.

2. The charter application shall be in the form of a request for applications.

3. The release of a request for application must include:

a. public notice;

b. notice to national, regional, and state organizations that support charter schools; and

c. notice to all known interested parties.

4. Local school boards, as the authorizer of type 1 and type 3 charter schools, shall make public through the local school board website, and in printed form upon request, the guidelines for submitting a charter proposal, all forms required for submission of a charter proposal, the timelines established for accepting and reviewing charter proposals, the process used to review charter proposals submitted to the board, and the name and contact information for a primary point of contact for charter proposals.

5. Charter Applicant Orientation. The local authorizer shall provide an orientation session for interested applicants prior to full application submission. The orientation shall provide applicants a clear understanding of the application process, expectations for high-quality applications, evaluation criteria, and authorizer expectations upon approval.

C. Application Evaluation

1. Local school boards must provide for an independent evaluation of the charter proposal by a third party with educational, organizational, legal, and financial expertise.

2. Local school boards must engage in a transparent application review process that complies with the latest *Principles and Standards for Quality Charter School Authorizing*, as promulgated by the National Association of Charter School Authorizers.

3. Final decisions regarding the approval of charter applications must be made by local school boards according to the local district charter application timeline.

4. Prior to approving a charter for a Type 1 or Type 3 school, the local school board shall hold a public meeting for the purpose of considering the proposal and receiving public input. Such meeting shall follow applicable open meeting laws and shall be held after reasonable efforts have been made by the local school board to notify the public of the meeting and content.

5. Prior to the consideration of a charter school proposal by any local school board, each charter applicant shall be afforded the opportunity to provide a written response to the independent evaluation of the application. Such response shall be available to the independent reviewers for consideration prior to issuing a final recommendation to the chartering authority.

6. The local board shall send to the charter applicant, either by electronic means or hand delivery, the final evaluation and recommendations of the third-party evaluator.

Such information shall be sent no later than five business days prior to the meeting at which the local board will take action on the charter proposal.

7. The local school board shall notify the department of the receipt of charter applications and any local board action taken on such applications in accordance with procedures developed as part of the local district timeline.

8. If a proposal is not approved by the local school board and then also not approved by BESE within the same approval cycle, then the proposal shall be submitted to the local school board for consideration during the next approval cycle prior to being submitted to BESE.

D. Common Charter Application

1. Each local school board shall use a common charter application developed by the department and approved by BESE, but may request additional information from applicants as needed.

2. BESE shall annually approve the common application to be used by local school boards. If there are no changes to be made to the common application from a previous year, BESE will not be required to vote to approve the common charter application.

E. Appeals to State Process

1. If a charter applicant believes that a local school board has not complied with the requirements in §306 of this part, the charter applicant may submit the proposal to BESE for review and approval as a type 2 charter as part of the annual request for applications.

a. Upon local receipt of the application from the local charter applicant, the department shall investigate and make a determination as to whether the local school board failed to comply with §306 of this part.

b. If the department determines that the local school board failed to comply with §306, the LDE shall notify the local school board of that determination within 30 days, and BESE may proceed with review of the charter application.

2. The charter applicant may submit a proposal to BESE for review and approval as a type 2 charter for other reasons as provided for in §503 of this part.

F. Partnerships with the Department

1. A local school board may enter into an agreement with the Louisiana Department of Education by which the department will conduct the local school board charter application and evaluation process, Local school boards that have entered into such agreements shall be exempt from Subsection A of this Section, and shall instead follow timelines established by the department.

2. The department shall create the process and timeline by which such agreements can be created and implemented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3981, 17:93, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 44:231 (February 2018), LR 47:

Chapter 5. Application and Approval Process for BESE-Authorized Charter Schools

§503. Eligibility to Apply for a Type 2 Charter School

A. - A.2. ...

3. have a board of directors with a minimum of three members and at least 60 percent of the board of directors shall reside in the Parish or Parishes in which the school seeks to enroll;

4. ...

5. except as provided in Subsection B or C of this Section, has submitted a proposal for a type 1 or type 3 charter school to the local school board in whose jurisdiction the charter school is proposed to be located which:

a. has been denied in the most recent application cycle, as evidenced by a motion or resolution of the local school board; or

A.5.b. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, R.S. 17:3981, R.S. 17:3982, R.S. 17:3983, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1360 (July 2008), amended LR 37:868 (March 2011), LR 38:3117 (December 2012), LR 39:1431 (June 2013), LR 39:3064 (November 2013), LR 44:232 (February 2018), LR 47:

§511. Application Process for BESE-Authorized Charter Schools

A. - B.3.c. ...

4. BESE, as the authorizer of type 2, type 4, and type 5 charter schools, shall make public through the BESE website, and in printed form upon request, the guidelines for submitting a charter proposal, all forms required for submission of a charter proposal, the timelines established for accepting and reviewing charter proposals, the process used to review charter proposals submitted to BESE, and the name and contact information for a primary point of contact for charter proposals.

5. Charter Applicant Orientation. The department shall provide an orientation session for interested applicants prior to full application submission. The orientation shall provide applicants a clear understanding of the application process, expectations for high-quality applications, evaluation criteria, and authorizer expectations upon approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1361 (July 2008), amended LR 39:1431 (June 2013), LR 39:3064 (November 2013), LR 44:233 (February 2018), LR 47:

§513. Stages of Application Cycle for BESE-Authorized Charter Schools

A. - B.2. ...

C. Application Process Components

1. Letter of Intent. As a prerequisite for application submission, the charter applicant shall submit a letter of intent to the department in accordance with BESE Charter Application timelines. The letter of intent shall include the mission, vision, instructional model, grades to be served, anticipated number of students, and potential physical location.

2. Eligibility Determination. Applicants shall submit the required documents to the department to determine eligibility prior to the submission of the full application.

3. Charter Board Capacity Interview. The charter applicant and charter board shall demonstrate the capacity to execute and operate a high-quality charter school. A majority of the identified charter board members of the charter applicant group shall attend the capacity interview. Members of the charter board shall be prepared to discuss the content of the application, inclusive of the academic, organizational, and financial proposals.

D. Evaluators shall make recommendations to the LDE for approval or denial of each charter school application.

E. Prior to the consideration of a charter school proposal by BESE, each charter applicant shall be afforded the opportunity to provide a written response to the independent evaluation of the application. Such response shall be available to the independent reviewers for consideration prior to issuing a final recommendation to BESE.

F. Prior to approving a charter for a Type 2, Type 4, or Type 5 school, BESE shall hold a public meeting for the purpose of considering the proposal and receiving public input. Such meeting shall be held after reasonable efforts have been made by BESE to notify the public of the meeting and agenda content.

G. The department shall forward to the charter applicant, either by electronic means or hand delivery, the final evaluation and recommendations of the third-party evaluator. Such information shall be sent no later than five business days prior to the meeting at which BESE will take action on the charter proposal.

H. The department shall notify the local school district superintendent of the receipt of a charter application and any BESE action taken on such application in accordance with procedures developed as part of the BESE approved timeline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1361 (July 2008), amended LR 37:869 (March 2011), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 38:3118 (December 2012), LR 39:1431 (June 2013), LR 43:2477 (December 2017), LR 44:233 (February 2018), LR 47:

§515. Application Components for BESE-Authorized Charter Schools

A. - B. ...

C. The charter school application questions contained in the BESE request for applications shall consist of questions in the following areas: executive summary, education program design and capacity, organizational plan and capacity, and financial plan and capacity.

D. - D.6. ...

7. minimum budgeted and maximum enrollment per grade per year for the term of the charter contract;

8. evidence of community engagement throughout the development of the charter application and the mechanisms by which community stakeholders will be engaged in decision-making processes throughout the proposed charter term;

9. - 10. ...

11. the proposed school calendar and sample daily student schedules representing a population of diverse learners, including students with exceptionalities and English language learners;

12. ...

13. a description of the school's instructional design, including the type of learning environment (such as classroom-based or independent study), class size and structure, curriculum overview, and teaching methods, and how the program will meet the needs of students from diverse backgrounds, circumstances and ability levels;

14. the school's plans for identifying and successfully serving students with disabilities, English language learners, students who are academically behind, and gifted and talented students, as applicable, in order to comply with applicable laws and regulations;

15. - 22. ...

23. plans for recruiting, developing, and retaining a diversified school leadership and staff;

24. - 35. ...

36. evidence of anticipated fundraising contributions, if claimed in the application;

37. academic, organizational, and financial goals to be achieved within the contract term, and how results will be measured and assessed;

38. - 39. ...

40. rationale and purpose for seeking to serve the proposed student population;

41. - 46. ...

47. provisions regarding the inspection and operation of all fire prevention and safety equipment at the school;

48. - 49. ...

50. research-based evidence demonstrating the proposed educational model will lead to increased academic performance for the proposed student population;

51. the school plan for providing trauma-informed care, administering mental health screeners, and providing social emotional supports;

52. a detailed, hybrid learning plan which outlines the circumstances under which the plan would be implemented and details regarding the school plan to acquire and disseminate technology, track and monitor attendance, utilize a learning management system, provide technical support, and communicate with students, families, and staff;

53. a proposed Student Code of Conduct or Discipline Policy and Procedures; and

54. parent and employee grievance process and policies.

E. For a proposed public charter school that intends to contract with an education service provider for substantial educational services, management services, or both types of services, the request for proposals shall additionally require the applicants to:

1. provide evidence of provider success in serving student populations similar to the targeted population, including demonstrated academic achievement, fiscal responsibility, and organizational effectiveness;

2. provide the contract or MOU setting forth the proposed duration of the service contract; roles and responsibilities of the governing board, the school staff, and the service provider; scope of services and resources to be provided by the service provider; performance evaluation measures and timelines; compensation structure, including clear identification of all fees to be paid to the management organization; methods of contract oversight and enforcement; investment disclosure; and conditions for renewal and termination of the contract; and

3. disclose and explain any existing or potential conflicts of interest between the school governing board and proposed service providers or any affiliated business entities;

4. provide a detailed plan outlining the mechanisms by which the charter board will oversee and will hold the management organization or vendor to agreed upon terms, as well as the conditions under which the contractual relationship may be terminated; and

5. provide rationale for consideration of an education service provider and evaluation of all providers considered.

F. For a public charter school proposal from an applicant that is an education service provider or is using an education service provider that currently operates one or more schools in any state or nation, the request for proposals shall additionally require the applicant to provide evidence of past performance and current capacity for growth, financial audits, and details regarding any previous, pending, or current litigation.

G. - H.9. ...

10. a plan for verifying student participation and performance, including specific intervention procedures the school will take when students are not participating as required;

11. a plan for complying with Title 28, Chapter 11, §1119, Health Screening as part of enrollment and the ongoing functioning of the school;

12. a plan for student engagement, attendance and truancy; and

13. a plan to provide at least 20 percent of instruction to struggling students in-person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:3981, and 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1362 (July 2008), amended LR 37:869 (March 2011), LR 37:2383 (August 2011), LR 38:38 (January 2012), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 38:1583 (July 2012), LR 38:3118 (December 2012), LR 39:1432 (June 2013), LR 43:2477 (December 2017), LR 44:233 (February 2018), LR 44:2130 (December 2018), LR 47:

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 rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules 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 rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules 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 authority? 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 R.S. 49:965.6, 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 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 cost to the providers to provide the same level of service; or

3. 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 12 p.m. (noon), March 12, 2021 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 be hand-delivered to Shan N. 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 126—Charter Schools—Charter School Renewals and Virtual Charter School Attendance

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

The proposed revisions will not have a fiscal impact to state governmental units. Local school districts that are authorizers of Type 1 and 3 charter schools may experience increased costs, although this is indeterminable.

The majority of the proposed revisions to Bulletin 126 are updates to correspond with existing policy and current practice regarding the charter school application process. However, the revisions will require local school districts that are authorizers of Type 1 and 3 charter schools to host an orientation session for interested applicants that provides a clear understanding of the application process, expectations for high-quality applications, evaluation criteria, and authorizer expectations upon approval. To the extent such districts do not already provide orientation sessions, this may result in additional workload, although these costs are indeterminable.

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

There are no estimated impacts on revenue collections as a result of the proposed policy revisions.

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

The proposed revisions are not anticipated to result in additional costs to charter school applicants as they reflect existing policy and practice regarding the charter school application process.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition and employment as a result of the proposed revisions

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NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 139—Louisiana Child Care and Development Fund Programs—CCAP Household Eligibility (LAC 28:CLXV.509 and 515)

In accordance with R.S. 17:6 and R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education proposes to amend *Bulletin 139—Louisiana Child Care and Development Fund Programs*. The proposed amendments provide for revisions related to Child Care Assistance Program (CCAP) increases, payments to providers at state maximum rate, and updates to CCAP income eligibility.

**Title 28
EDUCATION**

**Part CLXV. Bulletin 139—Louisiana Child Care and
Development Fund Programs**

**Chapter 5. CCAP Household Eligibility
§509. Certification Requirements for Non-
Categorically Eligible Households**

A. - A.2. ...

3. have household income that does not exceed 65 percent of the state median income for a household of the same size. *Household income* is defined as:

A.3.a. - A.5.e.iii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.28. and 45 CFR Parts 98 and 99.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:43 (January 2016), amended LR 42:2175 (December 2016), LR 44:261 (February 2018), effective March 1, 2018, LR 45:900 (July 2019), LR 46:1373 (October 2020), LR 47:

§515. Payments Made on Behalf of Households

A. The state maximum daily rates for CCAP care are as follows.

Child Care Provider Type	Regular Care	Regular Care for Toddlers	Regular Care for Infants	Special Needs Care Incentive	Special Needs Care Incentive for Toddlers	Special Needs Care Incentive for Infants
Type III Early Learning Center	\$30.00	\$31.05	\$35.65	\$37.80	\$39.12	\$44.92
School Child Care Center	\$24.00	\$24.00	\$24.00	\$30.24	\$30.24	\$30.24
Family Child Care Provider	\$25.00	\$25.75	\$29.65	\$31.50	\$32.45	\$37.36
In-Home Provider	\$25.00	\$25.25	\$26.65	\$31.50	\$31.82	\$33.58
Military Child Care Centers	\$30.00	\$31.05	\$35.65	\$37.80	\$39.12	\$44.92

B. Categorically Eligible Households

1. Payments made to providers on behalf of categorically eligible households will be the state maximum daily rate for CCAP care as provided in Subsection A of this Section.

B.2. - C.2. ...

3. Payments made to providers on behalf of non-categorically eligible households will be a portion of the state maximum daily rate for CCAP care as provided in Subsection A.

D. - G. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:6 and 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2116 (October 2015), amended LR 42:44 (January 2016), LR 42:1870 (November 2016), LR 44:801 (April 2018), LR 45:1745 (December 2019), LR 47:

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 rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules 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 rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules 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 authority? 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 R.S. 49:965.6, 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 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 cost to the providers to provide the same level of service; or
3. 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 12 p.m. (noon), March 12, 2021, 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 be hand-delivered to Shan N. 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 139—Louisiana Child Care and Development Fund Programs CCAP Household Eligibility**

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

The proposed rule change is anticipated to increase expenditures for the Department of Education (LDE) from federal Child Care Development Funds (CCDF) as a result of proposed changes to Child Care Assistance Program (CCAP) base reimbursement rates and income eligibility. The amount of such increases is indeterminable at this time. Total expenditures are constrained by the amount of CCDF allocations in any given fiscal year. To the extent the proposed revisions cause demand for program services to exceed available federal grant allocations, the LDE will need to restrict services through waitlisting or seek alternative means of financing to bridge any funding shortfalls.

The proposed revisions increase the daily CCAP reimbursement rates from the 25th percentile to at least the 75th percentile of provider rates based on results from the updated 2020 Market Rate Survey and allow providers to be reimbursed at the state maximum daily rate, irrespective of the provider's own rates. Proposed rules would set CCAP rates for infant care at \$2.65 above the 75th percentile in order to anticipate future tuition increases. These changes are projected to increase the average monthly CCAP payments to child care providers for the base population by up to approximately 35 percent, or \$2.9 M, from \$8.35 M to \$11.26 M.

In addition, the proposed revisions increase the income eligibility for households participating in CCAP from 55 percent to 65 percent of the State Median Income (SMI). This is anticipated to result in an increased number of eligible applicants, although it is unknown how many children and families will become eligible.

The increased rates may further increase demand for the program as well as the number of child care providers participating in CCAP. As the number of applicants currently exceeds available federal grant allocations, CCDF funds will have to be reallocated to continue the provider payments at the increased rates for existing participants; the number of participants at the new rate structure will have to be reduced through waitlisting; or LDE will need to identify another revenue source to bridge any funding shortfalls. Finally, increased demand may lead to additional workload for LDE staff to assist in processing CCAP applications.

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

There are no estimated impacts on revenue collections of state or local governmental units as a result of the proposed policy revisions.

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

Child care providers participating in CCAP will experience enhanced rate payments made on behalf of eligible households as a result of the proposed reimbursement rates. The proposed revisions will further allow providers to be reimbursed at the state maximum daily rate, irrespective of the provider's own rates. LDE anticipates the proposed revisions will increase the quality of care provided, enable more child care providers to remain open, and may incentivize some Type I or II centers to convert to a Type III center. However, it is unknown how many providers will receive net additional funds as a result of this provision. CCAP participating child care centers may realize economic benefits from the enhanced payment structure depending on the number of eligible children enrolled. Participating child care centers may realize a negative economic impact if newly eligible children wish to enroll but are waitlisted due to limited funding. The net impact is indeterminable, but some providers are likely to realize positive impacts while others realize negative.

Families with children in the CCAP program may benefit from reduced child care payments as a result of the proposed rate increases. These families may have access to a wider choice of providers. Families may become eligible for services through CCAP through the expanded eligible income range.

However, to the extent the proposed revisions cause demand for program services to exceed available federal grant allocations (and supplemental state funding), fewer families may be served through CCAP and will be waitlisted until such funding becomes available. The expansion of eligibility to families with a higher income may lead some lower-income families who might otherwise have gained access to the program to instead be placed on the waitlist.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed policy revisions may enable child care providers to hire staff with higher levels of education and experience. Increased CCAP rates may enable more child care providers to remain open, which would prevent job losses for center staff and preserve child care services for parents that are working or in school.

To the extent the proposed revisions lead to increased waitlisting of newly eligible applicants, parents unable to access child care services may experience disruptions to work or school.

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NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1903—Regulations and Guidelines for Implementation of the Louisiana Law for the Education of Dyslexic Students (LAC 28:XXXV. Chapter 1)

In accordance with R.S. 17:6 and R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education proposes to repeal *Bulletin 1903—Regulations and Guidelines for Implementation of the Louisiana Law for the Education of Dyslexic Students* and re-establish Bulletin 1903 in accordance with Act 206 of the 2020 Regular Legislative Session and R.S. 17:7.

Title 28

EDUCATION

Part XXXV. Bulletin 1903—Louisiana Handbook for Students with Dyslexia

Chapter 1. General Provisions

§101. Definitions

Accommodation—any technique that alters the academic setting or environment but generally does not change the information or amount of information learned to enable a student to exhibit knowledge more accurately.

Assessment—the act or process of gathering data in order to better understand the strengths and weaknesses of student learning through observation, testing, interviews, screening, and evaluation.

Developmental Auditory Imperception—difficulties in perceiving and using what is heard such that the student may have difficulty with auditory processing, auditory discrimination, and learning sound-symbol associations.

Dysgraphia—difficulty with producing written symbols, usually resulting in slow and poor quality handwriting.

Dyslexia—an unexpected difficulty in reading for an individual who has the intelligence to be a much better reader, most commonly caused by a difficulty in phonological processing, which affects the ability of an individual to speak, read, and spell, noting that phonological processing is the appreciation of the individual sounds of spoken and written language.

Dysphasia—severe difficulty with expressive and receptive oral language.

Evaluation—the in-depth process of review, examination, and interpretation of intervention efforts, test results, interviews, observations, and other assessment information relative to predetermined criteria.

Expressive Language—the act of conveying information through writing, speaking, or gesturing.

Fluency—the clear, easy, written or spoken expression of ideas.

Grapheme—a written or printed representation of a phoneme (e.g., t, ch, z).

IDEA—Individuals with Disabilities Education Act (Public Law 105-17), also referred to as the special education statute.

Linguistics—the science of language, including phonology, morphology, syntax, and semantics.

Morphology—the study of words and how they are formed.

Phoneme—the smallest unit of sound capable of signaling semantic distinction or meaning (e.g., /sh/, /i/, /p/).

Phoneme Manipulation—dropping, adding, or moving phonemes to create new words or detached syllables.

Phoneme Segmentation—the ability to separately articulate the sounds of a spoken word in order.

Phonemic Awareness—the awareness that spoken words or syllables can be divided into a sequence of phonemes which pertains to the rule system and is a subcategory of phonological awareness.

Phonics—an approach to teaching reading and spelling that stresses symbol-sound relationships, especially in beginning reading instruction.

Phonological Awareness—an understanding that words are made up of individual speech sounds as distinct from word meaning and that those sounds can be manipulated.

Phonology—the study of the speech sounds of a language and the underlying rules of usage.

Receptive Language—the act of understanding information by listening, reading, or gesturing.

Related Disorders—disorders similar to or related to dyslexia such as developmental auditory imperceptions, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability.

Screening—a brief examination which determines the presence or absence of an important impediment to learning.

Section 504 of the Rehabilitation Act of 1973—federal law found at 29 U.S.C. Secs. 706(7), 794, 794a, 794b. "No otherwise qualified disabled individual...shall, solely by the reason of his/her handicap, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance."

Semantics—the study of meaning in language.

Syntax—the study of how sentences are formed and of the grammatical rules that govern sentence formation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:

§103. Local Education Agency (LEA) Responsibilities

A. LEAs shall employ school personnel to oversee student screening, assessment, and evaluation for determination of program eligibility.

B. LEAs shall implement programs for students with characteristics of dyslexia and other related disorders in accordance with state and federal requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:

§105. School Level Responsibilities

A. School leaders shall select a School Building Level Committee (SBLC) comprised of members knowledgeable of student data and assessment processes.

B. SBLC members shall include, but are not limited to:

1. a teacher of student identified for review,
2. at least two additional education professionals knowledgeable about the student data and history, as well as indicators of condition in the individual school setting.

C. School leaders shall appoint a chairperson of the committee who is tasked with data collection, maintenance of records, scheduling and planning meetings, monitoring

progress, obtaining necessary consent, and disseminating information to the committee members, educators, and parents.

D. Professional development shall be provided about state and federal regulations regarding dyslexia, the characteristics of dyslexia, and the LEA policies for implementation of the assessment and program process.

E. Educator training shall include information necessary to implement specialized instructional interventions and strategies for students with characteristics of dyslexia.

F. An intervention plan shall be established for students identified as demonstrating characteristics of dyslexia according to assessment and program determinations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:

§107. School Building Level Committee (SBLC) Responsibilities

A. Request for SBLC review from a parent or educator shall initiate the preliminary gathering of data to assist in addressing the educational progress of a student who is consistently struggling or having difficulty attaining expected academic progress, despite receiving instruction in a high quality curriculum with the implementation of additional instructional intervention strategies within the framework of a multi-tiered system of support.

B. Data gathering and review may include, but is not limited to, the following information to establish a profile of the whole child:

1. student and family history, including relevant developmental, health, or home information;
2. speech and language information, including assessment of phonological awareness;
3. academic, cognitive, and behavior records;
4. teacher observations of aptitude, behavior, and concerns;
5. criterion referenced, norm referenced, and/or standardized test results;
6. interventions implemented;
7. formal and/or informal assessment and progress monitoring data;
8. samples of student work;
9. observations of student effort at home and/or school;
10. student academic and non-academic strengths and interests;
11. most recent vision and hearing screening results;

C. The SBLC will determine if relevant data indicates the need for further action that may include:

1. additional assessment;
2. continuation of specialized instructional interventions and progress monitoring;
3. development of a 504 Plan to provide classroom accommodations;
4. referral to pupil appraisal for evaluation to determine eligibility for special services as provided by IDEA;
5. return to regular classroom without further strategies or interventions.

D. The SBLC may repeat the review process should characteristics of dyslexia become evident or emerge at a later date.

E. Private evaluation results and documentation submitted by a parent or guardian must be reviewed by the SBLC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:

§109. Screening Requirements

A. In accordance with Bulletin 741: *Louisiana Handbook for School Administrators*, all students enrolled in kindergarten through third grade shall be administered an early literacy screener within the first 30 days of the school year.

B. Students in kindergarten and fall semester of first grade shall be screened with an early literacy instrument to measure:

1. phonemic awareness,
2. letter naming fluency, and
3. letter sound recognition.

C. Students in spring semester of first grade through third grade shall be screened with an early literacy instrument to measure:

1. decoding skills for blending and reading real and nonsense words accurately; and
2. oral reading fluency rate and accuracy in connected text.

D. A score that indicates deficits shall result in additional screening to include:

1. kindergarten and fall semester of first grade students:
 - a. phonological awareness such as rhyming and syllable manipulation; and/or
 - b. rapid automatic naming skills such as colors, objects, and numbers.
2. spring semester of first grade through third grade students:
 - a. phonological/phonemic awareness such as syllable manipulation, phoneme segmentation, or phoneme manipulation;
 - b. rapid automatic naming skills such as colors, objects, letters, and/or numbers;
 - c. encoding skills using spontaneous spelling;
 - d. oral and written language skills.

E. A student demonstrating deficits after additional screening is considered to have characteristics of dyslexia and shall be provided appropriate structured language and literacy interventions.

F. Screening is not limited to students in kindergarten through third grade and may be administered at any grade level if a student exhibits impediments to a successful school experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:

§111. Multisensory Structured Language and Literacy Program Criteria

A. A multisensory structured language and literacy program shall consist of specific content components to include:

1. phonological awareness;
2. phoneme-grapheme association;
3. phonics;

4. syllable instruction;
5. linguistics;
6. language-based instruction that integrates all aspects of language and comprehension
 - a. receptive language skills of listening and reading,
 - b. oral expression in word selection and sequencing,
 - c. written expression in spelling, mechanics, and coherence, and
 - d. handwriting;

7. Meaning-based instruction provided in words and sentences to extract meaning in addition to teaching isolated letter-sound correspondence.

B. Instructional methodology for a multisensory structured language and literacy program must be:

1. Explicit. Literacy instruction requires direct teaching of concepts with continuous student-teacher interaction and does not assume students deduce concepts.

2. Systematic. Material is organized and taught in a way that is logical and fits the nature of language which refers to the way sounds combine to form words and words combine to form sentences to represent knowledge. The ways are determined by a system of rules.

3. Sequential. The learner moves step by step, in order, from simple, well-learned material to that which is more complex, as the student masters the necessary body of language skills.

4. Cumulative. Each step is incremental and based on the skills already learned.

5. Individualized. Teaching is planned to meet the differing needs of individual learners, but may be of similar scope and sequencing.

6. Diagnostic. Teachers must be adept at individualizing instruction (even within groups) based on careful and continuous assessment, both informal (e.g., observation) and formal (e.g., with standardized measures). Content must be mastered to the degree of automaticity needed to free attention and cognitive resources for comprehension and oral/written expression.

7. Automaticity of Performance. Fluent processing of information that requires little effort or attention as in sight word recognition. Adequate practice with decodable text is to be provided for mastery of skills and application of concepts.

8. Simultaneous Multisensory. Instructional approaches use a simultaneous combination of internal visual, auditory, kinesthetic, and tactile learning pathways to achieve proficiency in language processing.

9. Synthetic to Analytic Phonics. A process of teaching letter sounds to create words.

a. Synthetic phonics first teaches letter sounds and then combines or blends the sounds to create words.

b. Analytic phonics uses prior knowledge of letters and the corresponding sounds to decode and form new words.

C. Program Implementation

1. Multisensory structured language and literacy programs are to be routinely provided within the regular school day within the framework of multi-tiered systems of support in:

- a. regular classroom setting;
- b. separate classroom setting;
- c. individual or small group instruction;

d. any additional accommodations that are developed by the SBLC; or

e. any combination thereof.

D. Review of Student Progress

1. Progress monitoring data shall be maintained on students receiving instruction in a multisensory structured language and literacy program.

2. The SBLC shall conduct a periodic review of the data to determine the effectiveness of the program for the student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:

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 rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules 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 rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules 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 authority? 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 R.S. 49:965.6, 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 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 cost to the providers to provide the same level of service; or
3. 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 12 p.m. (noon), March 12, 2021 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 be hand-delivered to Shan N. 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 1903—Regulations and Guidelines for Implementation of the Louisiana Law for the Education of Dyslexic Students

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

The proposed revisions may result in an increase in state Minimum Foundation Program (MFP) costs associated with the special education weight, to the extent the revised screening processes lead to an increase in students with dyslexia who are served through an individualized education program (IEP).

The proposed revision will have an indeterminable impact on costs to local school districts and other public schools. Districts could experience significant costs to the extent the new screening processes result in an increase in the number of students identified with dyslexia; however, this is indeterminable as current practices vary from district to district.

The proposed revisions provide for the following: renames the bulletin in a manner consistent with other bulletins; aligns the definition of dyslexia with Act 206 of the 2020 Regular Legislative Session; updates the characteristics of dyslexia to reflect current research and grade level appropriateness; amends dyslexia screening requirements to existing law and best practices; and formats and organizes the policy in a

sequential format with a clear focus on identifying and providing support to students at risk for dyslexia. Currently the Department of Education (LDE) requires the use of four tests (DIBELS Next, DIBELS 8th, STEP, or STEEP) to meet early literacy screening required by law. Districts use the test results in conjunction with other considerations as indicators for dyslexia. Under the proposed revisions, local school districts will be able to continue to screen students through the existing early literacy instruments.

There may be costs associated with the implementation of revised screening requirements for dyslexia, although such costs are indeterminable. Potential costs to districts may vary to the extent their current practices align with the proposed revisions. The proposed revisions eliminate the current process for the identification of dyslexia, in which a student must meet five out of six characteristics. In its place, the revisions would establish a “gated screening process,” which requires students whose initial scores indicate deficits to be subject to additional screening; deficits in the additional screening will be considered a determination that the student has characteristics of dyslexia. The new screening requirements will require districts to review their existing processes, which may involve costs associated with staff training or the purchase of materials. Districts may incur additional costs to provide specialized educational services and interventions in the event that the new screening requirements lead to an increase in the number of students identified with dyslexia. As an example, under the current screening process, a student identified with four out of six characteristics would not be eligible for services provided through the multisensory structured language and literacy program, however such a student may be deemed eligible through the new screening process. Additionally, districts may experience savings to the extent the new screening requirements lead to more accurate assessments resulting in fewer false positives.

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

To the extent the revised screening processes lead to an increase in students with dyslexia who are served through an individualized education program (IEP), local school districts and other public schools may experience an increase in revenues derived from state Minimum Foundation Program (MFP) funds (associated with the special education weight) and federal IDEA funding, although this is indeterminable. Generally, students with dyslexia are served through an individualized accommodation plan (IAP) under Section 504 and not eligible for additional state or federal funding. However, students whose dyslexia impacts their academic achievement such that they require specially designed instruction should receive more targeted instruction through IDEA and must have an IEP.

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

The proposed revision will not result in costs or benefits to persons, small businesses, or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed policy revisions will have no effect on employment or competition.

Beth Scioneaux
Deputy Superintendent
2102#038

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Achieving a Better Life Experience (ABLE) Program
(LAC 28:VI.507, 509, 511, 513, 517, 519, and 521)

The Louisiana Tuition Trust Authority announces its intention to amend its administrative rules (R.S. 17:3091 et seq.).

This rulemaking implements 2020 Final Federal Regulations and makes technical changes. (ST21195NI). Proposed changes primarily concern the process of opening and maintaining an ABLE account and are technical in nature. They do not promote or hinder the opening of new accounts, nor do they add an excessive additional workload to maintain accounts.

**Title 28
EDUCATION**

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

**Chapter 5. Achieving a Better Life Experience
(ABLE)**

§507. Applicable Definitions

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

* * *

Redemption Value—the cash value of the money in an ABLE Account invested in a fixed earnings option that are attributable to the sum of the principal deposited and the earnings on principal authorized to be credited to the account by the LATTA, less any disbursements and refunds. Redemption value is not applicable to an ABLE account invested in variable earnings.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:639 (April 2017), amended LR 44:1888 (October 2018), LR 47:

§509. Establishment of an ABLE Account

A. - C.3. ...

D. Through April 30, 2021, an ABLE account may be established by the account owner or an administrator who is authorized by law or by authentic act to administer the account on behalf of the account owner.

1. An administrator who is not the account owner may establish an account on behalf of an eligible individual upon provision of documentation to LOSFA evidencing that person has the legal right to act on behalf of the eligible individual.

2. Documentation required to establish an account on behalf of an eligible individual includes:

- a. if a parent, a copy of the eligible individual's birth certificate;
- b. if an adoptive parent, documentation evidencing the adoption of the eligible individual;

c. if a custodian, court documents evidencing the appointment of the custodian by a court of law;

d. if designated by the eligible individual to administer his affairs, documentation evidencing such designation;

e. if a juridical entity, documentation evidencing that the eligible individual, or a person authorized to act on his behalf, as indicated in §509.D.2.a-d above, has designated the juridical entity to act on his behalf for purposes of an LA ABLE account program account.

E. Beginning on May 1, 2021, an ABLE account may be established by or on behalf of an eligible individual by the highest ranked person listed below, who shall certify, under penalty of perjury, that he or she is authorized to establish an ABLE account on behalf of an eligible individual and that there is no other person with a higher priority who is willing or able to do so:

- 1. a person selected by the eligible individual or by an agent appointed by the eligible individual;
- 2. a custodian appointed by a court of law or a legal guardian;
- 3. the spouse of the eligible individual;
- 4. a parent of the eligible individual;
- 5. a sibling of the eligible individual;
- 6. a grandparent of the eligible individual;
- 7. a representative payee appointed by the Social Security Administration.

F. Program Enrollment Period. An account may be established at any time during the calendar year.

G. Completing the Owner's Agreement

1. This agreement must be completed and signed by the administrator.

2. The administrator who is also the account owner may designate a limited power of attorney to an administrator who would be authorized to act on his behalf in the event the account owner becomes incapacitated.

3. The administrator must certify:

a. that the person for whom the account is being established is an *eligible individual* as defined in §507;

b. that the eligible individual is a Louisiana resident;

c. that the eligible individual meets the citizenship requirements set forth in §509.B;

d. that if he is not the eligible individual, that he is authorized by law or by authentic act to open and administer the ABLE account on behalf of the eligible individual and that there is no other person higher in priority as provided in Subsection E.1-7 who is willing and able to do so;

e. that he will provide the documentation necessary to establish the certifications made for Subsections D.2.a-d upon request by LOSFA or the Internal Revenue Service;

f. that he will notify LOSFA immediately upon a determination that the person for whom the ABLE account was opened has ceased to be an eligible individual as that term is defined in §507.

g. that he will annually certify that the person for whose benefit the account was opened continues to be an *eligible individual* as defined in §507

f. that he has read and understands the owner's agreement and participation materials.

4. The administrator agrees to the following terms when completing the account owner's agreement.

a. All transactions involving the ABLE account will be reported to the Social Security Administration on a monthly basis.

b. Fees

i. Except for penalties which may be imposed on refunds, the LATTA shall not charge fees for the opening or the maintenance of a fixed earnings account.

ii. Fees imposed by investment institutions for opening or maintenance of variable earnings accounts may be charged to the account owner.

c. Financial and investment institutions may be authorized by the LATTA to offer prospective owners information and assistance in opening an ABLE account.

d. Only the account owner, his heirs, or his estate may be designated to receive refunds from the ABLE account. In the event of the death of the account owner when the account owner is designated to receive the refund or when no successor beneficiary is named, the refund shall be made to the account owner's estate.

H. Acceptance of the Owner's Agreement

1. A properly completed and submitted owner's agreement will be reviewed within 48 hours of receipt for completeness. If additional information is required to accept the owner's agreement, the Administrator will be contacted to provide that information.

2. Upon acceptance of the owner's agreement, the LATTA will establish the ABLE account.

I. Providing Personal Information

1. The administrator is required to disclose personal information regarding the eligible individual, including:

- a. his Social Security number;
- b. his date of birth; and
- c. his relationship to the administrator.

2. If not the eligible individual, the administrator will be required to disclose the following information:

- a. his relationship to the eligible individual;
- b. if a parent of the eligible individual, his Social Security number.

3. The eligible individual's Social Security number and federal and state employer identification numbers will be used for purposes of federal and state income tax reporting to access individual account information for administrative purposes, and to provide necessary reports to the Social Security Administration.

4. The following protected health information is collected only for IRS reporting purposes:

- a. basis for the eligible individual's eligibility:
 - i. code A—Social Security disability Income—title II SSA;
 - ii. code B—Social Security income—title XVI SSA;
 - iii. code C—eligible individual is the subject of a disability certification filed with the IRS for 2016;
- b. type of disability:
 - i. code 1—developmental disorders, including autistic spectrum disorder, Asperger's disorder, development delays, learning disabilities;
 - ii. code 2—intellectual disability. May be reported as mild, moderate or severe intellectual disability;

iii. code 3—psychiatric disorders, including schizophrenia, major depressive disorder, post-traumatic stress disorder (PTSD), anorexia nervosa; attention deficit/hyperactivity disorder (AD/HD), bipolar disorder;

iv. code 4—nervous disorders, including blindness, deafness, cerebral palsy, muscular dystrophy, spina bifida, juvenile-onset Huntington's disease, multiple sclerosis, severe sensorineural hearing loss, congenital cataracts;

v. code 5—congenital anomalies: chromosomal abnormalities, including down syndrome, osteogenesis imperfecta, xeroderma pigmentosum, spinal muscular atrophy, fragile X syndrome, Edwards syndrome;

vi. code 6—respiratory disorders: cystic fibrosis;

vii. code 7—other: includes tetralogy of fallot, hypoplastic left heart syndrome, end-stage liver disease, juvenile-onset rheumatoid arthritis, sickle cell disease, hemophilia; and any other disability not listed under codes 1-6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:640 (April 2017), amended LR 44:1888 (October 2018), amended LR 47:

§511. Deposits to ABLE Accounts

A. Application Fee and Initial Deposit Amount

1. No application fee will be charged to those applying for an ABLE account on behalf of an eligible individual.

2. Financial and investment institutions may be authorized by the LATTA to offer assistance in establishing an ABLE account. (See fees in §509.G4.).

3. An initial deposit is not required to open an ABLE account; however, a deposit of at least \$10 must be made within 180 days from the date on the letter of notification of approval of the account.

4. A lump sum deposit may not exceed the annual contribution limit unless such deposit is the result of a rollover from another ABLE Program.

B. Deposit Options

1. The administrator shall select one of the following deposit options during the completion of the owner's agreement; however, the administrator may change the monthly deposit amount at any time and the payment method by notifying the LATTA:

- a. occasional lump sum payment(s) made directly to the LATTA or to a LATTA-approved investment institution;
- b. monthly payments made directly to the LATTA or to a LATTA-approved financial or investment institution;
- c. automatic account debit, direct monthly transfer from the Administrator's checking or savings account to the LATTA or a LATTA-approved investment institution;
- d. payroll deduction, if available through the administrator's employer.

C. Limitations on Deposits

1. All deposits must be rendered in amounts of at least \$10 and must be made in cash, check, money order, automatic account debit or payroll deduction, defined as any of the deposit options listed in §511.B.1.

2. Once the cumulative contributions and earnings on contributions have reached or exceeded the maximum allowable account balance, principal deposits will no longer

be accepted to the account until a distribution is made which reduces the account balance below the maximum allowable account balance.

3. ABLE account balances of up to \$100,000 will not affect Social Security income (SSI) benefits. However, once an account exceeds \$100,000, SSI benefits will be suspended until such time as the balance is reduced below \$100,000.

4. If the person for whose benefit an ABLE account was opened ceases to be an eligible individual as defined in §507, no further deposits will be accepted unless and until such time as the person becomes an eligible individual again.

D. - E.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:641 (April 2017), amended LR 47:

§513. Disbursement of Account Funds for Payment of QDEs

A. Request for Disbursement

1. An ABLE account administrator may request a disbursement at any time, but no more than twice per month.

2. The request for disbursement must include:

- a. the ABLE account number;
- b. the eligible Individual's name, address, and Social Security number;
- c. the administrator's signature (may be electronic); and
- d. the amount to be disbursed.

3. Requests for disbursements must be in whole dollar increments, must be no less than \$200 and may be no more than the account balance.

4. In the event funds are invested in more than one investment option, the disbursement shall be made proportionally from each investment option in the account.

5. Disbursements will be made only to the administrator of the account.

6. Disbursements from investment options with variable earnings shall be assigned a trade date of one business day after the business day of receipt of the transfer request.

7. Disbursements made during a period in which the person for whose benefit the account was opened is not an eligible individual as defined in §507 will not be considered qualified disbursements.

B. Rate of Expenditure

1. The amount to be disbursed from an account shall be drawn from deposits and interest in the same ratio as these funds bear to the total value of the account as of the date of the disbursement.

2. The administrator may not withdraw an amount in excess of the QDEs of the eligible individual or the value of the account, whichever is less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:642 (April 2017), amended LR 47:

§517. Termination, Refund, and Rollovers of an Education Savings Account

A. Account Termination

1. The administrator may terminate an ABLE account at any time.

2. Through April 30, 2021, in the event the person for whose benefit the account was opened is no longer an *eligible individual* as defined in §507, the administrator shall

- a. terminate the account; or
- b. transfer the account to another eligible individual who is also a member of the family of the original *eligible individual* within 60 days of the determination that the original eligible individual is no longer qualified.

3. Beginning on May 1, 2021, in the event the person for whose benefit the account was opened ceases to be an *eligible individual* as defined in §507, the account may remain open through the end of the fifth full calendar year during which the person ceases to be an *eligible individual* as defined in §507. The administrator shall exercise one of the following options by the end of the applicable calendar year:

- a. terminate the account; or
- b. transfer the account to another eligible individual who is also a member of the family of the eligible individual.

4. The LATTA may terminate an account as follows.

a. If LATTA determines that funds have been disbursed for expenses other than QDEs, LATTA may require the return of the funds to the ABLE account. If funds are not returned to the account within 60 days of a request to do so, LATTA, in its sole discretion, may refund any balance remaining and close the account.

b. The LATTA may terminate an account if no deposit of at least \$10 has been made within 180 days from the date of notification of approval of the account.

c. The LATTA may terminate an account if the eligible individual for whom the account was opened no longer meets the criteria to be an eligible individual and a new eligible individual is not named by the end of the fifth full calendar year during which the person for whose benefit the account was opened ceases to be an eligible individual.

d. The LATTA may terminate an owner's agreement if it finds that the account owner or beneficiary provided false or misleading information (see §507).

i. If the LATTA terminates an owner's agreement under this Subsection, all interest earnings on principal deposits may be withheld and forfeited, with only principal being refunded.

ii. An individual who obtains program benefits by providing false or misleading information will be prosecuted to the full extent of the law.

B. Refunds

1. Requests for refund may result in the termination of the account and in the refund of:

- a. the deposits invested in fixed earnings, if the account has been open for less than 12 months;
- b. the redemption value, if the account has been open for 12 or more months;

c. the deposits to or the current value of an account invested in a variable earnings option, whichever is less, if the account has been open for less than 12 months;

d. the current value of an account invested in variable earnings, if the account has been open for 12 or more months.

2. Refunds from investment options with variable earnings shall be assigned a trade date of one business day after the business day of receipt of the request.

C. Designation of a Refund Recipient. The refund recipient can only be the account owner, his heirs, or his estate, and the administrator shall designate the refund recipient when completing the owner's agreement.

D. Voluntary Termination of an Account

1. Refunds shall be equal to the redemption value of the ABL account at the time of the refund, and shall be made to the person designated in the owner's agreement or by rule.

D.2. - G.2.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:642 (April 2017), amended LR 44:1888 (October 2018), amended LR 47:

§519. Substitution, Assignment, and Transfer

A. Substitute Beneficiary. The beneficiary of an ABL account may be changed to a substitute beneficiary provided the account owner completes a beneficiary substitution form and the following requirements are met:

1. the substitute beneficiary is a member of the family as defined under §107;

2. the substitute beneficiary meets the citizen/resident alien requirements of §301.F, and, if the account owner is a nonresident of the state of Louisiana, the substitute beneficiary meets the applicable residency requirements (see §301.G).

B. Substitution/Transfer of Account Ownership. The administrator may transfer ownership of an ABL account only with the written approval of the LATTA and only to a member of the family of the eligible individual for whom the account was opened.

C. Assignment of Account Ownership. Ownership of an ABL account cannot be assigned.

D. Changes to the Owner's Agreement

1. The administrator may request changes to the owner's agreement.

2. Changes must be requested in writing and be signed by the administrator.

3. Changes, if accepted, will take effect as of the date the notice is received by the LATTA.

4. The LATTA shall not be liable for acting upon inaccurate or invalid data which was submitted by the administrator.

5. The administrator will be notified by the LATTA of any changes affecting the owner's agreement which result from changes in applicable federal and state statutes and rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:643 (April 2017), amended LR 47:

§521. Miscellaneous Provisions

A. - J.1. ...

2. Through April 30, 2021, funds in excess of the maximum allowable account balance may remain in the account and continue to accrue interest and may be disbursed in accordance with §309, or will be refunded in accordance with §311 upon termination of the account.

3. Beginning May 1, 2021, Funds in excess of the maximum allowable account balance, along with any interest earned on those amounts, will be returned to the contributor on a last-in-first-out basis as an unqualified disbursement.

K. Withdrawal of Funds. Funds may not be withdrawn from an ABL account except as set forth in §513 and §515.

L. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:643 (April 2017), amended LR 47:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed changes (SG21194NI) until 4:30 p.m., March 10, 2021, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P. O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively
Senior Attorney

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Achieving a Better Life Experience (ABLE) Program

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

The proposed policy revisions will have no effect on costs or savings to state or local governmental units. The proposed changes in this rulemaking implement final federal regulations issued in October 2020. Proposed changes primarily concern the process of opening and maintaining an ABL account and are technical in nature. They do not promote or hinder the opening of new accounts, nor do they add an excessive additional workload to maintain accounts, thus these changes should have no impact on the administrative cost of the program to the state.

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

Revenue collections of state and local governments will not be affected by the proposed changes.

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

There will be no estimated costs and/or economic benefits to directly affected persons, small businesses, or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

Robyn Rhea Lively
Senior Attorney
2102#020

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Examiners of Psychologists**

Fees (LAC46:LXIII.601)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Examiners of Psychologists intends to amend §601 related to licensing fees for psychologists in accordance with the Louisiana Licensing Law for Psychologist 37:2353.C(1), 37:2354B(1), C(1) and E(2), 37:2356A(6), 37:2357A(2), 37:2365.C and D; the Administrative Procedure Act §§968 and 971; and current requirements promulgated under the LAC 46:LXIII.305, 701.B, and 1101.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXIII. Psychologists

Subpart 1. General Provisions

Chapter 6. Fees

§601. Licensing Fees

Licensing Fees	Amount
Application for Licensure	\$200
Application for Provisional Licensure	200
Application for Temporary Registration	200
Application for Authorization to Provide Telesupervision (Valid 1 year, per supervisor, per application)	\$25 for first supervisee, \$10 for each thereafter
Jurisprudence Examination Fee	75
Oral Examination (Licensure, specialty change or additional specialty)	250
License Renewal	400
License Renewal Fee for Psychologists Qualifying under R.S. 37:2354.E. for a reduced rate	200
Provisional License Renewal	100
Reinstatement of Lapsed License (Application plus renewal fee)	600
Processing Fees for Paper Renewals	50
License Renewal Extension Request	25

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:648 (April 2007), amended LR 39:311 (February 2013), amended LR 41:2618 (December 2015), amended LR 47:

Family Impact Statement

The Board of Examiners of Psychologists hereby issues this Family Impact Statement as set forth in R.S. 49:972. The proposed Rule related to the licensing fees imposed by this agency are not anticipated to have an impact on the stability of the family; authority and rights of parents regarding the education and supervision of their children; functioning of the family; behavior and personal responsibility of children as it relates to promptly facilitating the licensure of qualified professionals who may work with families and families of school aged children to promote their health, education and well-being; family earnings and family budget; or the ability of the family or a local government to perform the function as contained in the proposed rule.

Poverty Impact Statement

The proposed modifications impact licensed psychologists. The rules do not have any known or foreseeable negative impact on any child, individual or family as defined by R.S. 49:973.B. Specifically, there is no known or foreseeable effect on the general public or impoverished household income, assets, and financial security; early childhood development and preschool through postsecondary education development; employment and workforce development; taxes and tax credits; or, child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

In accordance with R.S. 49:965.6, the Board of Examiners of Psychologists has conducted a Regulatory Flexibility Analysis and found that the proposed amending of this Rule only impacts the fee schedule and will have negligible to zero impact on small businesses compliance or reporting requirements.

Provider Impact Statement

The proposed rules are anticipated to have a negligible impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Specifically, this rule assesses a nominal increase in fees that will impact license renewals, temporary registration applications for out of state psychologists providing services in Louisiana, or individuals requesting alternative means for providing in person supervision. However, there is no known or foreseeable negative effect or additional requirements placed on the provider that would impact services, staffing level requirements, or qualifications required to provide the same level of service or the overall ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Jaime T. Monic, Executive Director, 4334 S. Sherwood Forest Blvd., Suite C-150, Baton Rouge, LA 70816. All comments must be submitted by 12 noon on March 8, 2021.

Jaime T. Monic
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Fees

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

It is estimated that the costs associated with the implementation of this rule will be \$236 which represent the

costs associated with the promulgation of this rule and assessed on the LA State Board of Examiners of Psychologists (LSBEP) in FY2020-21. The proposed rule change will not otherwise create implementation costs or savings for state or local governmental units.

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

It is estimated that the proposed rule will increase the revenue collections of the Board for FY 22 and 23 by approximately \$37,100. The proposed rule change will not otherwise impact revenue collections for state or local governmental units.

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

This proposed amendment increases six different fees assessed by the board for license renewal, license reinstatement, paper processing, temporary registrations and applications to provide telesupervision as follows: first, applications for the annual licensing renewal fee for approximately 677 psychologists will increase from \$350 to \$400. Second, the annual license renewal fee for approximately 64 qualifying psychologists who are 65 years of age or older will increase from \$175 to \$200 in accordance with RS 37:2354.E(2). Third, under RS 37:2354.C, the reinstatement fee will increase by \$50 which is applicable only if a psychologist allows their license to lapse for failure to pay the required renewal fee or submit continuing education as required by the laws and rules that govern this Board. Fourth, fees to process paper renewals will increase from \$15 to \$50 and will impact only those licensees who choose not to take advantage of free online renewals. Fifth, applications for temporary registrations for an out-of-state psychologist to practice in Louisiana under RS 37:2365.D will increase from \$175 to \$200. Finally, the proposed amendment adds an application fee for licensed psychologists who are requesting an exception to current supervision requirements, for authorization to provide supervision to unlicensed individuals via electronic (telepsychology) in the amount of \$25 for the first supervisee and \$10 for each supervisee thereafter per application/per year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Supervisors who seek and receive approval to provide Telesupervision may gain competitively over those that do not seek such approval through the expansion of supervised practice opportunities. However, the aggregate effect on competition is unknown.

Jamie T. Monic
Executive Director
2102#025

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Nursing**

**Advanced Practice Registered Nurses
(LAC 46:XLVII.Chapter 45)**

Editor's Note: This Notice of Intent is being repromulgated in its entirety to correct a submission error. The original Notice of Intent can be viewed on pages 123-125 of the January 20, 2020 edition of the *Louisiana Register*.

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:917-918, that the Louisiana State Board of Nursing (LSBN) will update LAC

46:XLVII Chapter 45, Sections 4505, 4507, 4513. The Louisiana State Board of Nursing (LSBN) proposes revisions and technical changes to Chapter 45, Sections 4505, 4507 and 4513. The revisions will align with a federal act that was signed by President Donald Trump and became law on October 24, 2018. The SUPPORT for Patients and Communities Act provides authority for advanced practice registered nurses (APRNs) to prescribe buprenorphine through medication-assisted treatment (MAT). Act 414 of the 2019 Louisiana legislature followed suit in upholding the federal guidelines for APRNs. Louisiana APRNs, within approved collaborative practice agreements with physicians, will be eligible to treat up to 100 patients per year for five years. In addition to MAT, the LSBN will make the following changes listed below:

1. LSBN will align rules and language for the APRN to the Nurse Licensure Compact. This change will allow for APRNs to either hold a current, unencumbered, unrestricted and valid registered nurse license in Louisiana or hold an active RN multistate license in a compact state other than Louisiana while exercising his/her privilege to practice.

2. LSBN will clarify reference to the Louisiana Pharmacy Practice Act. Due to a change in the Louisiana State Board of Pharmacy rules, LSBN will revise the pharmacy reference in section 4513. The reference is related to formatting prescriptions.

3. A technical change will be made to reflect the cross reference in section 4513. LAC XLV.6515 should read LAC XLV.6915 in the Administrative Procedure Act.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLVII. Nurses: Practical Nurses and Registered
Nurses**

Subpart 2. Registered Nurses

Chapter 45. Advanced Practice Registered Nurses

§4505. Definitions

* * *

Medication Assisted Treatment (MAT)—the use of Food and Drug Administration (FDA) approved opioid agonist medications for the maintenance treatment of opioid use disorders and opioid agonist medication to prevent relapse to opioid use. MAT is only one aspect of substance use disorder management and is intended to be used in conjunction with evidence based behavioral health interventions such as counseling and other behavioral therapies. In compliance with Act 414 of the 2019 Louisiana legislative session, in order for an APRN to prescribe MAT, the collaborating physician must also be authorized and in compliance with all federal and state laws and rules authorizing MAT.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918. HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 27:724 (May 2001), amended LR 31:2013 (August 2005), LR 40:60 (January 2014), LR 44:275 (February 2018), LR 47:

**§4507. Licensure as Advanced Practice Registered
Nurse**

A. - A.1. ...

a. holds a current, unencumbered, unrestricted and valid registered nurse license in Louisiana or holds an active RN multistate license in a compact state other than Louisiana while exercising his/her privilege to practice and

there are no grounds for disciplinary proceedings, as stated in R.S. 37:921;

A.1.b. - B.1. ...

a. holds an active, unencumbered, unrestricted and valid registered nurse license in Louisiana or holds an active RN multistate license in a compact state other than Louisiana while exercising his/her privilege to practice;

B.1.b. - C.1.d. ...

e. verification of current unencumbered, unrestricted license in the registered nurse and advanced practice nursing role and population focus directly from the jurisdiction of current or most recent employment as an APRN. Verification of an active RN multistate license in a compact state other than Louisiana meets the requirement for RN licensure in another jurisdiction;

C.1.f. - F.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:281 (April 1996), amended LR 27:724 (May 2001), LR 29:580 (April 2003), LR 31:1340 (June 2005), LR 31:2015 (August 2005), LR 32:247 (February 2006), LR 37:3027 (October 2011), LR 40:61 (January 2014), LR 42:406 (March 2016), LR 45:1201 (September 2019), LR 47:

§4511. Advanced Practice Registered Nurse Professional Certification Programs

A. - A.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:283 (April 1996), amended LR 31:2023 (August 2005), LR 40:63 (January 2014), LR 47:

§4513. Authorized Practice

A. - D.1 ...

a. hold a current, unencumbered, unrestricted and valid registered nurse license in Louisiana or holds an active RN multistate license in a compact state other than Louisiana while exercising his/her privilege to practice and has no pending disciplinary proceedings as stated in R.S. 37:921, except as provided in LAC 46:XLVII.3328.A-H;

D.1.b. - D.2.a.v. ...

b. Controlled Substances. The board may authorize an APRN with prescriptive authority to prescribe or distribute controlled substances as defined, enumerated or included in federal or state statutes or regulations 21 CFR 1308.11-15, R.S. 40:964, on an individual practice basis. Upon initial application with the board and request for approval to prescribe controlled substances, the APRN must provide evidence of successful completion of three hours of continuing education approved by the board on controlled substance prescribing practices as delineated in LAC 46:XLVII.4516. Such board approved continuing education shall include instruction relating to drug diversion training, best practices regarding prescribing of controlled substances, and appropriate treatment for addiction. An APRN who is so authorized shall provide their Drug Enforcement Administration registration number on all written, electronic, oral, or faxed prescriptions for controlled substances and shall comply with all scheduled drug prescription requirements in accordance with LAC 46:LIII.2511 and in the Louisiana Pharmacy Practice Act:

i. an APRN granted authority to prescribe or distribute controlled substances shall not utilize such substances in connection with the treatment of:

(a). chronic or intractable pain, as defined in LAC 46:XLV.6915-6923;

(b). obesity, as defined in LAC 46:XLV.6901-6913; or

(c). oneself, a spouse, child or any other family member;

D.2.b.ii. - 17.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K) and R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:598 (August 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 22:283 (April 1996), amended by the Department of Health and Hospitals, Board of Nursing and Board of Medical Examiners, LR 22:981 (October 1996), LR 25:1245 (July 1999), LR, amended by the Department of Health and Hospitals, Board of Nursing, 27:727 (May 2001), amended by the Department of Health and Hospitals, Board of Nursing and Board of Medical Examiners, LR 28:487 (March 2002), repromulgated LR 28:1205 (June 2002), amended by the Department of Health and Hospitals, Board of Nursing, LR 31:2023 (August 2005), LR 33:1870 (September 2007), LR 40:63 (January 2014), LR 40:2249 (November 2014), LR 42:572 (April 2016), amended by the Department of Health, Board of Nursing, LR 44:276 (February 2018),), LR 45:1202 (September 2019), LR 47:

Family Impact Statement

The proposed additions and/or changes to the rules of the board, Louisiana State Board of Nursing should not have any known or foreseeable impact on any family as defined by R.S. 49.972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

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

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on child, individual, or family poverty in relation to individual or community asset development as described on 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 not have an impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments on the proposed Rule to Karen C. Lyon, 17373 Perkins Road, Baton Rouge, LA 70810, or by facsimile to (225) 755-7585. All comments must be submitted by 5 p.m. on or before January 10, 2021.

Dr. Karen Lyon
Executive Director

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing**

Intermediate Care Facilities for Persons with
Intellectual Disabilities
Temporary Reimbursement for Private Facilities
(LAC 50:VII.32904)

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Advanced Practice Registered Nurses**

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

The proposed rule changes will result in a one-time publication cost of \$350 for the LA State Board of Nursing (LSBN) in FY 21. The proposed rule changes will update LAC XLVII Chapter 45, Sections 4505, 4507 and 4513. These changes will allow LSBN to be in accordance with the SUPPORT for Patients and Communities Act (federal H.R.6 enacted by the 115th U. S Congress), that became law on October 24, 2018. The federal act permits Louisiana APRNs, within approved collaborative practice agreements with physicians, to be eligible to treat patients diagnosed with substance use disorders using buprenorphine. Eligible APRNs may treat up to 100 patients per year for five years.. Another proposed change will align LSBN rules with the Nurse Licensure Compact. APRNs are required to either hold a current, unencumbered, unrestricted and valid single state RN license in Louisiana or hold an active RN multistate license in a compact state other than Louisiana as well as an active, unencumbered Louisiana APRN license. One clarification, related to formatting prescriptions, will be made in compliance with the Louisiana Pharmacy Act. Finally, a technical change will be made to reflect the cross reference in 4513. The technical change corrected (a) . chronic or intractable pain, as defined in LAC 46:XLV. 6915 – 6923. The proposed rule changes will authorize APRNs to administer buprenorphine to persons diagnosed with substance abuse disorders.

**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, SMALL BUSINESSES, OR
NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule changes will authorize APRNs to administer buprenorphine to persons diagnosed with substance abuse disorders.

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

The proposed rule changes will not affect competition and employment.

Karen C. Lyon
Executive Director
2102#009

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:I.32904 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 promulgated an Emergency Rule which adopted provisions governing the temporary rates for intermediate care facilities for persons with intellectual disabilities (ICFs/IID) that have a cooperative endeavor agreement with the Office for Citizens with Developmental Disabilities and have a high concentration of people who have intellectual/developmental disabilities, significant behavioral health needs, and high risk behavior resulting in previous interface with the judicial system, and for whom no other private ICFs/IID provider is able to support. This Rule is being proposed to continue the provisions of the February 1, 2021 Emergency Rule.

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

**§32904. Temporary Reimbursement for Private
Facilities**

A. Effective February 1, 2021, the department shall establish temporary Medicaid reimbursement rates of \$352.08 per day per individual for a 15-bed private ICF/IID community home and \$327.08 for an 8-bed private ICF/IID community home that meet the following criteria. The community home:

1. shall have a fully executed cooperative endeavor agreement (CEA) with the Office for Citizens with Developmental Disabilities for the private operation of the facility;

a. the provider shall be subject to the direct care floor as outlined in the executed CEA;

2. shall have a high concentration of people who have intellectual/developmental disabilities, significant behavioral health needs, high risk behavior, i.e. criminal-like resulting in previous interface with the judicial system, use of restraint, and elopement. These shall be people for whom no

other private ICF/IID provider is able to support as confirmed by the Office for Citizens with Developmental Disabilities;

3. incurs or will incur higher existing costs not currently captured in the private ICF/IID rate methodology; and

4. shall have no more than 15 beds in one facility and 8 beds the second facility.

B. The temporary Medicaid reimbursement rate shall only be for the period of four years.

C. The temporary Medicaid reimbursement rate is all-inclusive and incorporates the following cost components:

1. direct care staffing;
2. medical/nursing staff;
3. medical supplies;
4. transportation
5. administrative; and
6. the provider fee.

D. The temporary rate and supplement shall not be subject to the following:

1. inflationary factors or adjustments;
2. rebasing;
3. budgetary reductions; or
4. other rate 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, Bureau of Health Services Financing, LR 47:

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.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

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, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of

service as described in HCR 170 since this proposed Rule increases payments to providers for the same services they already render.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on April 1, 2021.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on March 12, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on March 31, 2021 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after March 12, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Intermediate Care Facilities for Persons with Intellectual Disabilities

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

It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$212,716 for FY 20-21, \$445,397 for FY 21-22 and \$443,301 for FY 22-23. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 20-21 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$593,057 for FY 20-21, \$940,785 for FY 21-22, and \$942,881 for FY 22-23. It is anticipated that \$324 will be collected in FY 20-21 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, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule continues the provisions of the February 1, 2021 Emergency Rule which adopted provisions governing the temporary rates for intermediate care facilities for persons with intellectual disabilities (ICFs/IID) that have a cooperative endeavor agreement with the Office for Citizens with

Developmental Disabilities and have a high concentration of people who have intellectual/developmental disabilities, significant behavioral health needs, and high risk behavior resulting in previous interface with the judicial system, and for whom no other private ICFs/IID provider is able to support. This proposed Rule will be beneficial to recipients by ensuring the continuation of appropriate care in the appropriate setting. Qualifying ICFs/IID will benefit from implementation of this proposed Rule as it increases reimbursement rates temporarily for the provision of services to these recipients until a permanent facility can be identified that can provide the care needed for this population. It is anticipated that implementation of this proposed Rule will increase payments to qualifying ICFs/IID by approximately \$805,125 for FY 20-21, \$1,386,182 for FY 21-22, and \$1,386,182 for FY 22-23.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Interim Medicaid Director
2102#033

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing
and
Office of Aging and Adult Services**

Personal Care Services
Long Term Care
(LAC 50:XV.Chapter 129)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:XV.Chapter 129 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services (OAAS) propose to amend the provisions governing long-term personal care services (LT-PCS) in order to: 1) clarify that instrumental activities of daily living can be provided outside of the participant's home, if approved; 2) remove language regarding relatives that can be direct service workers (DSWs); 3) remove language requiring documentation of place of service in hardcopy service logs; 4) clarify language regarding payment of DSWs at least at the current federal or state minimum hourly wage; and 5) add language regarding the state's authority to set and change LT-PCS rates and/or provide lump sum payments to providers based upon funds allocated by the legislature.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long Term Care

§12903. Covered Services

A. - A.8. ...

B. IADLs are those activities that are considered essential but may not require performance on a daily basis. IADLs include tasks such as:

B.1. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2578 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2507 (September 2013), LR 42:902 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 42:1931 (November 2016), LR 47:

§12913. Service Delivery

A. Personal care services shall be provided in the recipient's home or in another location outside of the recipient's home if the provision of these services allows the recipient to participate in normal life activities pertaining to the IADLs cited in the plan of care. The recipient's home is defined as the place where he/she resides such as a house, an apartment, a boarding house, or the house or apartment of a family member or unpaid primary care-giver. IADLs cannot be performed in the recipient's home when the recipient is absent from the home, unless it is approved by OAAS or its designee on a case-by-case basis.

B. ...

C. Participants are not permitted to live in a home or property owned, operated, or controlled by an owner, operator, agent, or employee of a licensed provider of long-term care services, and providers are prohibited from providing and billing for services under these circumstances. Participants may not live in the home of their direct support worker unless the direct support worker is related to, and it is the choice of, the participant.

1. ...

D. Place(s) of service must be documented in the plan of care.

E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended LR 30:2833 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Financing and the Office of Aging and Adult Services, LR 39:2509 (September 2013), LR 41:541 (March 2015), LR 42:903 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR:47:

§12917. Reimbursement

A. ...

B. The minimum hourly rate paid to personal care workers shall be at least the current federal or state minimum hourly wage.

C. The state has the authority to set and change LT-PCS rates and/or provide lump sum payments to LT-PCS providers based upon funds allocated by the legislature.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:253 (February 2008), LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1901 (September 2009), LR 36:1251 (June 2010), LR 37:3267 (November 2011), LR 39:1780 (July 2013), LR 42:904 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR:47:

§12919. Cost Reporting Requirements

A. LT-PCS providers must complete annual cost reports.

B. Each LT-PCS provider shall complete the LDH approved cost report and submit the cost report(s) to the department no later than five months after the state fiscal year ends (June 30).

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 39:1052 (April 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR:47:

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.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

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, 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 Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box

91030, Baton Rouge, LA 70821—9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on April 1, 2021.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on March 12, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on March 31, 2021 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after March 12, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Personal Care Services Long Term Care

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

It is anticipated that implementation of this proposed rule may result in a fiscal impact to the state for FY 20-21, FY 21-22, and FY 22-23, due to the state's ability to adjust rates or pay lump-sum payments as a result of legislative appropriations, if the legislature appropriates funds in the future. It is anticipated that \$864 (\$432 SGF and \$432 FED) will be expended in FY 20-21 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 20-21. It is anticipated that \$432 will be collected in FY 20-21 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, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing long-term personal care services (LT-PCS) in order to: 1) clarify that instrumental activities of daily living can be provided outside of the participant's home, if approved; 2) remove language regarding relatives that can be direct service workers (DSWs); 3) remove language requiring documentation of place of service in hardcopy service logs; 4) clarify language regarding payment of DSWs at least at the current federal or state minimum hourly wage, which does not impact the fee schedule

and/or payments that the state pays to provider agencies; and 5) add language regarding the state's authority to set and change LT-PCS rates and/or provide lump sum payments to providers based upon funds allocated by the legislature. It is anticipated that implementation of this proposed rule may result in costs for LT-PCS services for FY 20-21, FY 21-22 and FY 22-23 due to the state's ability to adjust rates or pay lump-sum payments as a result of legislative appropriations, if the legislature appropriates funds in the future, and will be beneficial to providers and small businesses by clarifying and updating the LT-PCS requirements in the administrative Rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Interim Medicaid Director
2102#034

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health

Licensed Professional Counselors Board of Examiners

Consulting with Medical Practitioners (LAC 46:LX.2109)

In accordance with the applicable provisions of the Louisiana Administrative Procedures Act (R.S.49:950 et seq.) and through the authority of the Mental Health Counselor Licensing Act (R.S. 37:1101 et seq.), the Louisiana Licensed Professional Counselors Board of Examiners proposes removing §2109.A.2.e which requires consulting with Medical Practitioners. During the 2017 legislative session, Act 235 removed the requirement to consult with Medical Practitioners when diagnosing for Serious Mental Illness.

The Louisiana Licensed Professional Counselors Board of Examiners hereby gives Notice of Intent to adopt rules for publication in the February 20th, 2021 edition of the Louisiana Register.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS REVISED

Part LX. Licensed Professional Counselors Board of Examiners

Subpart 1. Licensed Professional Counselors

§2109. Relationships with Other Professionals

A.1 - 2.d. ...

e. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:625 (August 1989), amended LR 24:443 (March 1998), LR 29:146 (February 2003), LR 39:1800 (July 2013), LR 41:732 (April 2015), amended LR 47:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of these rules on family has been considered. This proposal to create licensee

statuses has no impact on family functioning, stability, or autonomy as described in R.S. 49:972.

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, 11410 Lake Sherwood Avenue North Suite A, Baton Rouge, LA 70816 by March 10, 2021 at 5:00 p.m.

Jamie S. Doming
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Consulting with Medical Practitioners

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 state or local governmental units. During the 2017 legislation session, Act 235 removed the requirement to consult regarding the diagnosis of serious mental illnesses. The proposed change is a technical revision to remove language in Section 2109.

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

The proposed rule change is not anticipated to impact revenue collections for state or local governmental units.

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

The proposed technical rule change will not directly affect persons, non-governmental groups or small businesses. Licensees are no longer required to consult with medical practitioners in order to diagnose for serious mental illnesses. The new law, enacted in 2017, requires this technical change to the rules in order to be in compliance with current legislation. The rule change will rescind Section 2109, which required

consultation with other professional colleagues in order to diagnose for serious mental illnesses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not anticipated to affect competition and employment. This is a technical change to the current rules.

Jamie S. Doming
Executive Director
2102#021

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Rule 9—Prelicensing Education (LAC 37:XI.Chapter 5)

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., hereby gives notice of its intent to amend Rule 9 - Prelicensing Education. The proposed rule amends Rule 9, originally promulgated in 2011, to conform to current statutes pertaining to Prelicensing Education requirements. The proposed rule implements the provisions of R.S. 22:1545(C), R.S. 22:1546(A), R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2(C), and R.S. 22:1808.3(A)(4) by establishing (1) curricula for programs of instruction required to be completed by applicants seeking an insurance license in the state of Louisiana; (2) criteria for approval of prelicensing program providers of the programs of instruction; and (3) a mechanism of examination and review of the performance and quality of the instruction. The proposed rule applies to all individuals seeking to be licensed as an insurance producer or insurance consultant who are required by statute to complete a prelicensing program prior to taking an insurance examination, as well as providers of the prelicensing program and the instructors for said programs.

Title 37 INSURANCE Part XI. Rules

Chapter 5. Rule Number 9—Prelicensing Education

§501. Authority

A. This Rule is promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571 and R.S. 22:1808.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2168 (July 2011), amended LR 47:

§503. Purpose

A. The purpose of this Rule is to implement the provisions of R.S. 22:1545(C), R.S. 22:1546(A), R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2(C), and R.S. 22:1808.3(A)(4) by establishing curricula for programs of instruction required to be completed by applicants seeking an insurance license in the state of Louisiana; to establish

criteria for approval of prelicensing program providers of the programs of instruction; and to establish a mechanism of examination and review of the performance and quality of the instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2168 (July 2011), amended LR

§505. Applicability and Scope

A. This Rule shall apply to all individuals seeking to be licensed as an insurance producer or insurance consultant who are required by statute to complete a prelicensing program prior to taking an insurance examination. Further, this Rule shall apply to the providers of the prelicensing program and the instructors for said programs.

B. The following shall be exempt from any prelicensing education requirements:

1. A person applying for a license as an insurance producer for authorization to write life insurance or an insurance consultant to consult on life insurance and having any of the following designations:

- a. certified employee benefit specialist (CEBS);
- b. chartered financial consultant (ChFC);
- c. certified insurance counselor (CIC);
- d. certified financial planner (CFP);
- e. chartered life underwriter (CLU);
- f. Fellow, Life Management Institute (FLMI); or
- g. the LUTC fellow designation (LUTCF).

2. A person applying for a license as an insurance producer for authorization to write accident and health or sickness insurance or an insurance consultant to consult on the line of health and accident and having any of the following designations:

- a. registered health underwriter (RHU);
- b. certified employee benefit specialist (CEBS);
- c. registered employee benefits consultant (REBC);

or

- d. health insurance associate (HIA).

3. A person applying for a license as an insurance producer for authorization to write property or casualty insurance or an insurance consultant to consult on property and casualty and having any of the following designations:

- a. accredited advisor in insurance program (AAI);
- b. associate in risk management (ARM);
- c. certified insurance counselor (CIC); or
- d. chartered property and casualty underwriter (CPCU).

4. A person applying for a license as an insurance producer to write any line of insurance or an insurance consultant to consult on any line of insurance and having a bachelor's degree or higher from an accredited college or university with major course work in insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2168 (July 2011), amended LR 47:LR

§507. Effective Date

A. This Rule shall become effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2168 (July 2011), amended LR

§509. Definitions

A. In this Rule, unless the context otherwise requires, the following definitions shall be applicable.

Candidate—either a consultant license candidate or a producer license candidate as defined herein.

Commissioner—the commissioner of insurance of Louisiana.

Consultant License Candidate—a natural person who is seeking to be licensed as an insurance consultant pursuant to the provisions of R.S. 22:1808.1-1808.13 who is required by statute to complete an approved preclicensing program prior to taking an examination.

Department—the Louisiana Department of Insurance.

Producer License Candidate—a natural person who is seeking to be licensed as an insurance producer pursuant to the provisions of R.S. 22:1541-1566 who is required by statute to complete an approved preclicensing program prior to taking an examination.

Provider—the entity presenting a preclicensing program.

Supervised Instruction—instruction that is conducted in a structured setting under direct supervision of an instructor at a facility compliant with the provisions of this Rule during scheduled program presentations.

Verifiable Self-Study—an internet, CD-ROM, DVD, or other computer based presentation that has an interactive electronic component.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2168 (July 2011), amended LR 47:

§511. Preclicensing Requirements

A. All producer license candidates seeking licensure for one of the lines of life or accident and health or sickness shall complete a preclicensing program of instruction with a minimum of 20 hours of supervised instruction or verifiable self-study in the line for which licensure is being sought. If the candidate is seeking licensure for both of the lines of life and accident and health or sickness, the candidate shall complete 40 hours of supervised instruction or verifiable self-study in the subjects of life and accident and health or sickness.

B. All producer license candidates and consultant license candidates seeking licensure for one of the lines of property or casualty shall complete a preclicensing program of instruction with a minimum of 20 hours of supervised instruction or verifiable self-study in the line for which licensure is being sought. If the candidate is seeking licensure for both of the lines of property and casualty, the candidate shall complete 40 hours of supervised instruction or verifiable self-study in the subjects of property and casualty.

C. All producer license candidates seeking licensure for the line of personal lines shall complete a preclicensing program of instruction with a minimum of 20 hours of supervised instruction or verifiable self-study in the subject of personal lines.

D. All producer license candidates seeking licensure for the line of bail bond shall complete a preclicensing program of instruction with a minimum of eight hours of supervised instruction in the subject of bail bonds. The candidate may not utilize verifiable self-study to satisfy this requirement.

E. All producer license candidates seeking licensure for the line of title shall complete a preclicensing program of instruction with a minimum of 20 hours of supervised instruction or verifiable self-study in the subject of title.

F. All consultant license candidates seeking licensure for one of the lines of life or health and accident shall complete a preclicensing program of instruction with a minimum of 20 hours of supervised instruction or verifiable self-study in the line for which licensure is being sought. If the candidate is seeking licensure for both of the lines of life and health and accident, the candidate shall complete 40 hours of supervised instruction or verifiable self-study in the subjects of life and health and accident.

G. Upon completion of the preclicensing program, the candidate shall be tested by the provider of the preclicensing program. The candidate shall not be deemed to have successfully completed the preclicensing program unless they have correctly answered a minimum of 70 percent of test questions.

H. When concurrent preclicensing programs for the subjects of life, accident and health or sickness, property and casualty are conducted, the repetition of ethical practices and other topics which are redundant shall be waived. However, this does not reduce the minimum required hours of instructional training set forth by the statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2168 (July 2011), amended LR 47:

§513. Program Certification Requirements

A. An application for certification of a preclicensing program shall be submitted to the commissioner not less than 30 days prior to the expected use of the preclicensing program. Each application shall be on the form and in the format required by the commissioner and shall include:

1. the full legal name and federal employer identification number (FEIN) of the provider of the preclicensing program;

2. an outline of the preclicensing program including a list of resource material to be used, a copy of the textbook to be used, a description of the training aids to be used, a detailed description of the preclicensing program, a schedule of the preclicensing program which clearly indicates the time spent on each subject, and the cost of the preclicensing program to each participant;

3. a description of the method used to require the candidate to demonstrate mastery of the current section or material before the candidate is allowed to proceed to the next section or material or to complete the preclicensing program;

4. a statement describing how the preclicensing program generates a sufficient number of inquiries to illustrate that the candidate has mastered the information;

5. if the preclicensing program is not a self-study program, a list of locations where the instructional program will be offered and a schedule of times and dates when the program will be offered. Any change in the schedule of times, dates or locations of preclicensing program presentation shall be filed with the commissioner no less than three-days prior to the scheduled beginning date of the preclicensing program presentation;

6. if the preclicensing program is not a self-study program, the physical address, including room or suite number and a description of the facilities where the program will be presented. All facilities shall meet the requirements of §521 of this Rule;

7. if the preclicensing program is a self-study program, a description of the measures used by the provider to verify identity of the participants;

8. if the preclicensing program is a self-study program, a description of the technical support available to participants including the business hours of the support and the proposed length of time for response by the provider to any inquiries;

9. if the preclicensing program is a self-study program, a description of the method used to prevent access to a course exam before review of the course material;

10. if the preclicensing program is a self-study program, a user ID and log-in credentials to permit the commissioner to view the preclicensing program in the same environment and under the same conditions that will be permitted for the participants.

B. A provider may request that any preclicensing program materials deemed proprietary or that contain trade secrets be maintained as confidential by the commissioner. All such requests must be made in strict compliance with the provisions of R.S. 44:3.2.

C. The provider shall not allow credit for hours for any preclicensing program work that is not conducted under the direct supervision of the preclicensing program instructor at the approved facility during scheduled preclicensing program presentation or completed by self-study.

D. Any material changes to information submitted to the commissioner in association with an application for certification of a preclicensing program that has been approved by the commissioner must be submitted to the commissioner no less than 30 days prior to the scheduled beginning date of the preclicensing program presentation. A material change shall include either of the following:

1. changes to the instructors of the preclicensing program;

2. changes to the text books, resource material or training materials to be used in the preclicensing program.

E. Preclicensing programs shall include instruction in applicable insurance principles, state laws and regulations, and ethical practices for each of the lines or authority for which approval is sought. In addition, each preclicensing program shall provide training in all subject areas included in the content outline published in the licensing information handbook.

F. The commissioner shall not certify a preclicensing program unless the preclicensing program meets the following standards:

1. The preclicensing program must include sufficient content to prepare the candidate for the licensing examination.

2. The preclicensing program must be developed by persons who are qualified in the subject matter and instructional design.

3. The preclicensing program must be current and up to date.

G. If a provider utilizes published program materials, including text books, outlines or other similar materials, each attendee must be provided with a complete original text of the material as part of the fee for the program. This text shall be retained by the attendee and shall not be returned or resold to the provider. No substitute texts, outlines, summaries or copyright infringement is permitted.

H. A preclicensing program may be certified for one of the following examination types:

1. life only;

2. accident and health or sickness and health and accident only;

3. life and accident and health or sickness and health and accident;

4. property only;

5. casualty only;

6. property and casualty;

7. personal lines;

8. bail bonds;

9. title.

I. A provider shall not offer any preclicensing program prior to approval by the commissioner.

J. Certification of a preclicensing program shall expire three years from the date of certification. A provider may request renewal of the certification by submitting all information required by this section to the commissioner no less than 30 days prior to the expiration of the certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2168 (July 2011), amended LR 47:

§515. Measurement of Credit Hours

A. ...

B. Professional education programs shall be credited for preclicensing purposes in full hours only.

1. The number of credit hours for preclicensing programs other than self-study shall be equivalent to the actual number of hours in classroom instruction or participation. Each hourly period must include at least 50 minutes of continuous instruction or participation. For this purpose, a one-day preclicensing program will be granted eight hours credit if the total lapsed time is approximately eight hours and the total time of instruction is at least 400 minutes.

2. The number of credit hours for self-study programs shall be determined by the commissioner upon consideration of the following:

- a. the complexity of the material covered in the program;
- b. the word count of the total program;
- c. statistical data on the length of time spent by participants in the program;
- d. the run time of any videos, animation, or interactive exercises which are mandatory for completion of the program.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2168 (July 2011), amended LR 47:

§517. Provider Requirements

A. Prelicensing providers shall be one of the following:

- 1. an insurance trade association;
- 2. an insurance company admitted to do business in Louisiana;
- 3. an accredited public or private college or university;
- 4. an organization certified by the commissioner.

B. An organization seeking to be certified by the commissioner shall submit an application to the commissioner on the forms he requires. The application shall include:

- 1. the full legal name and federal employer identification number (FEIN) of the organization making application;
- 2. the names and addresses of every officer, director, partner or member of the provider applicant;
- 3. the names and addresses of every person owning, directly or indirectly, 10 percent or more of the provider applicant;
- 4. the name, address and a description of the professional qualifications of the supervisory instructor of the provider applicant;
- 5. the principal place of business of the provider applicant;
- 6. certification from the provider applicant that all instructors presenting the program shall meet the requirements as set forth in this Rule;
- 7. a general description of the types of education programs presented by the provider applicant;
- 8. a description of the qualifications and experience of the persons responsible for the creation of the prelicensing programs;
- 9. the fee required by R.S. 22:821;
- 10. such other information as the commissioner may require to confirm compliance with this Rule.

C. Every provider shall maintain a signed statement from each instructor describing the basis for the instructor's qualification and affirmation that the instructor shall comply with the requirements of this Rule.

D. Every provider certified by the commissioner shall notify the commissioner of any material change in the information submitted with the application within 30 days of the effective date of the change. Every such notice shall include information comparable to that required with the initial application. A material change shall include, but not be limited to the following:

- 1. a change of the name of the provider;
- 2. a change in the address of the provider;
- 3. a change of officer, director, partner or member of the provider;
- 4. the merger of a provider;
- 5. a change in ownership of 10 percent or more of the provider;
- 6. a change in the supervisory instructor of the provider.

E. Every certification shall expire three years from the date of issuance and may be renewed by filing a renewal application as required by the commissioner not less than 90 days prior to expiration of the certification.

F. Upon expiration of the provider's certification, the commissioner's approvals of prelicensing programs presented by that provider shall be rescinded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2168 (July 2011), amended LR 47:

§519. Instructor Qualifications

A. Every provider of a prelicensing program shall designate an individual as a supervisory instructor. The supervisory instructor shall be responsible for the conduct of any other instructors or guest instructors and shall be responsible for assuring the quality of the instructional program. Every supervisory instructor shall have a minimum of five years of insurance experience and/or graduate level or professional education satisfactory to the commissioner.

B. Nonsupervisory instructors shall meet at least one of the following criteria:

- 1. have a minimum of three years experience as an insurance instructor with experience in the subject area being taught;
- 2. have been licensed for at least five years as a licensee in this state or another;
- 3. hold a national designation directly related to the subject matter being taught;
- 4. be in a profession pertinent to the subject matter being taught.

C. Special consideration may be granted by the commissioner where it is determined that the specific background of the instructor warrants such consideration.

D. Every instructor and supervisory instructor shall notify the provider and the commissioner of:

- 1. any administrative action taken against the supervisory instructor or instructor for insurance related practices by any regulatory or governmental agency;
- 2. any conviction or entry of a nolo contendere plea to any felony, participation in a pretrial diversion program pursuant to a felony charge or conviction of any misdemeanor involving moral turpitude or public corruption on the part of the supervisory instructor or instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2168 (July 2011), amended LR 47:

§521. Training Facilities Requirements

A. At a minimum all training facilities shall:

1. provide an atmosphere conducive to educational presentation, including good housekeeping, controlled environment as to heating and cooling, proper lighting, and proper furnishing;

2. be easily accessible and secure for the safety of the attendees;

3. be dedicated for the exclusive use of the preclicensing program presentation while in session;

4. provide ready access to rest rooms and other facilities of human needs to the attendees; and

5. provide a proper layout to ensure that training aids, overhead viewing equipment and other such aids are easily visible by all attendees of the course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2168 (July 2011), amended LR 47:§523. Authority of the Commissioner to Conduct On-Site Review of Preclicensing Programs

A. The commissioner or his designee shall have the authority to visit a training facility and review the provider's program at any time. Said visits may include the review of curriculum records, review of attendance records and observation of instructional sessions in progress.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2168 (July 2011), amended LR 47:

§525. Program Completion

A. All candidates shall complete the required instructional preclicensing program prior to taking the insurance licensing examination administered by the department or contracted testing vendor. The candidate shall successfully complete the instructional preclicensing program no more than 12 months prior to taking the examination.

B. Every provider shall maintain a list of all individuals who have successfully completed a preclicensing program presented by that provider for a period of not less than five years from the date of course completion. The list shall contain the identification number assigned to the preclicensing program by the commissioner and the name and such distinct information as necessary to clearly identify all individuals who successfully completed the preclicensing program, including the date of course completion. Every provider shall submit a copy of the list to the commissioner within 15 calendar days of preclicensing program completion. The commissioner may direct that the provider transmit course completion information to the vendor contracted to administer insurance examinations.

C. Every provider shall also maintain electronic records of preclicensing program completion in a format compatible with the commissioner's specifications to facilitate the electronic reporting and transfer of attendance information from the provider to the commissioner.

D. Every provider shall present a certificate of successful completion to each individual who successfully completes

the preclicensing program. This certificate shall be on a form acceptable to the commissioner and shall include the name of the individual and the identification number assigned to the preclicensing program by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2168 (July 2011), amended LR 47:

§527. Fees

A. All applications submitted to the commissioner seeking certification of a preclicensing program shall be accompanied by the fee set forth in RS 22:821(29).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2168 (July 2011), amended LR 47:

§529. Complaints

A. The commissioner shall review all complaints lodged against a provider, supervisory instructor or instructor of a preclicensing program. Every provider shall respond to an inquiry from the commissioner regarding a complaint within 30 days of receipt of such inquiry. Any disciplinary action required shall be taken by the commissioner in accordance with the Louisiana Insurance Code, specifically R.S. 22:2191-2208.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2168 (July 2011), amended LR 47:

§531. Violations

A. The commissioner may deny, suspend, or rescind the certification of a preclicensing program should he find the preclicensing program, the instructors or the provider of the preclicensing program have violated any provision of this Rule or any applicable provisions of the Louisiana Insurance Code or should he find that continued operation of the preclicensing program is not in the best interest of the citizens of this state or the insurance buying public.

B. Any denial, suspension, or rescission of the certification of a preclicensing program shall comply with the provisions of R.S. 49:961.

C. An aggrieved party affected by the commissioner's decision, act, or order may demand a hearing in accordance with R.S. 22:2191 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2168 (July 2011), amended LR 47:

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 parents 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.

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.

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.

1. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for

2. Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for

3. Preparation of the Report or Record. The proposed amended rule should have no measurable impact upon small businesses.

4. A Statement of the Probable Effect on Impacted Small Businesses. The proposed amended rule should have no measurable impact upon small businesses.

5. 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.

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 role 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.

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 who wish to make comments may do so by writing to Jennifer Land, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, or by faxing comments to (225) 342-1632. Comments will be accepted through the close of business, 4:30 p.m., March 12, 2021.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Rule 9—Prelicensing Education

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

The proposed rule change will not result in implementation costs or savings to state or local governmental units. The proposed rule amends Rule 9 that was promulgated in 2011 for Prelicensing Education requirements. The proposed rule is being amended to implement various revisions to comply with current practice of the Louisiana Insurance Code thereby codifying existing law.

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

The proposed rule will have no impact on state or local governmental revenues.

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

The proposed rule amending Rule 9 will have no impact on economic costs or benefits to directly affected persons or non-governmental groups. The proposed rule codifies existing law. The proposed rule applies to all individuals seeking to be licensed as an insurance producer or insurance consultant who

are required by statute to complete a preclicensing program prior to taking an insurance examination. Also, the proposed rule applies to the providers of the preclicensing program and the instructors for said programs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact upon competition and employment in the state.

Denise Gardner
Chief of Staff
2102#011

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Rule 10—Continuing Education (LAC 37:XI.Chapter 7)

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., hereby gives notice of its intent to amend Rule 10 - Continuing Education. The proposed rule amends Rule 10, originally promulgated in 2011, to conform to current statutes pertaining to continuing education guidelines. The proposed rule prescribes (1) the minimum standards of continuing education in approved subjects that a licensee must periodically complete; (2) procedures and standards for the approval of such education; and (3) a procedure for establishing to the department that continuing education requirements have been met. The proposed rule applies to all insurance producers, adjusters or insurance consultants licensed by the department and providers of continuing education programs.

Title 37 INSURANCE Part XI. Rules

Chapter 7. Rule Number 10—Continuing Education

§701. Authority

A. This Rule is promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, 22:1708, and R.S. 22:1808.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2173 (July 2011), amended LR 47:

§703. Purpose

A. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2173 (July 2011), amended LR 47:

§705. Applicability and Scope

A. This Rule applies to all natural persons who are licensed by the department as producers for the lines of life, accident and health or sickness, property, casualty, bail

bonds, personal lines or title and all adjusters and insurance consultants licensed by the department. This Rule shall also apply to the providers of continuing education programs and instructors for such programs.

B. - B.1. ...

2. an individual renewing a resident insurance producer, adjuster or insurance consultant license for the first time after initial issuance. Thereafter the licensee shall be subject to all applicable continuing education requirements;

3. an individual licensed as an insurance producer or insurance consultant who, on the date of renewal submission, is 65 years or older and who has at least 15 years of experience and who either:

a. ...

b. is actively engaged in the insurance business as a producer and who represents or operates through a licensed Louisiana insurer or insurance agency.

C. Any person seeking an exemption to the continuing education requirements pursuant to the provisions of Paragraph B.3 above shall attest to his eligibility for the exemption on a form provided by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2173 (July 2011), amended LR 47:

§707. Effective Date

A. This Rule shall become effective upon final publication in the Louisiana Register.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2173 (July 2011), amended LR 47:

§709. Definitions

A. As used in this Rule, unless the context otherwise requires, the following definitions shall be applicable.

Adjuster—an individual who is licensed by the department as a claims adjuster pursuant to the provisions of R.S. 22:1661-1678 or as a public adjuster pursuant to the provisions R.S. 22:1663-1678.

Commissioner—the commissioner of insurance of Louisiana.

Department—the Louisiana Department of Insurance.

Insurance Consultant—an individual licensed as an insurance consultant pursuant to the provisions of R.S. 22:1808.1-1808.13.

Insurance Producer—an individual who is licensed by the department as an insurance producer pursuant to the provisions of R.S. 22:1541-1566.

Licensee—an individual licensed as an insurance producer or insurance consultant for the lines of life, accident and health or sickness, property, casualty, bail bonds, personal lines, title, or as a claims adjuster or a public adjuster by the department.

Provider—an entity presenting a continuing education program.

Renewal Period—the two years immediately preceding expiration of a producer or adjuster license. For the purposes

of a newly issued license “renewal period” shall mean the time between the issuance of the license and the next scheduled expiration of the license.

Self-Study—an internet, CD-ROM, DVD, or other computer based presentation or a correspondence course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2173 (July 2011), amended LR 47:

§711. Continuing Education Requirements

A. ...

1. Insurance producers licensed for one or more of the lines of life, accident and health or sickness, property, casualty or personal lines—24 hours.

2. Insurance producers licensed for the line of bail bonds—12 hours.

3. Insurance producers licensed for the line of title—12 hours.

4. ...

5. Insurance consultants licensed for one or more lines of life, accident and health or sickness, property or casualty—24 hours.

B. The 24 hours of continuing education required for insurance producers licensed for one or more of the lines of life, accident and health or sickness, property, casualty or personal lines shall include a minimum of three hours dedicated to the subject of ethics.

C. The 24 hours of continuing education required for insurance producers licensed for one or more of the lines of property, casualty or personal lines shall include a minimum of three hours dedicated to the subject of flood insurance.

D. The 12 hours of continuing education required for insurance producers licensed for the line of title shall include a minimum of two hours related to state and federal consumer finance protection laws.

E. The 12 hours of continuing education required for insurance producers for the line of bail shall include a minimum of six hours dedicated to the subject of bail enforcement as defined in the Code of Criminal Procedure Article 311.

F. The 24 hours of continuing education required for adjusters shall include a minimum of three hours dedicated to the subject of ethics.

G. An individual shall not sell, solicit or negotiate long-term care insurance unless the individual is licensed as an insurance producer for one or more of the lines of life or accident and health or sickness and has completed a one-time training course of no less than eight hours and an ongoing training of no less than four hours every two years.

H. Failure to fulfill the continuing education requirements prior to the filing date for license renewal shall cause the license to lapse.

I. A license which has lapsed may not be reinstated until the licensee has complied with all continuing education requirements which would have applied had the license continued uninterrupted.

J. Each program applied toward satisfaction of the continuing education requirement for a license shall be completed within the renewal period for which the credit is claimed except that an insurance producer licensed for one

or more of the lines of life, accident and health or sickness, property, casualty, or personal lines may apply up to 10 hours of approved instruction or self-study accumulated but not used for renewal during one renewal period to the continuing education requirements for the next renewal period. Continuing education credits dedicated to the subject of flood or ethics may be applied toward the next renewal period as general continuing education credit but may not be used to satisfy the minimum requirement for those subjects.

K. No licensee may be granted credit for a program more than once during a 24-month period.

L. Subject to the provisions of Subsection K above, one hour of continuing education credit shall be awarded to a licensee for each hour completed by that licensee as an instructor or discussion leader for any program approved for continuing education credit by the commissioner.

M. Licensees who successfully complete all prerequisites of a qualified graduate level national designation program and receive the designation shall earn 24 continuing education credit hours.

N. Licensees who hold any combination of insurance producer, adjuster or insurance consultant licenses may receive credit applied to all license types for which the course is approved by the commissioner.

O.

1. Members of state or national professional associations may be granted up to four continuing education credits each renewal period for actively participating in a state or national insurance association in one of the following methods:

a. attend a formal meeting of a state or national association where a formal business program is presented and attendance is verified in a manner consistent with the provisions of this Rule;

b. serve on the board of directors or a formal committee of a state or national chapter of the association, and actively participate in the activities of the board or committee;

c. participate in industry, regulatory, or legislative meetings held by or on behalf of a state or national chapter of the association; or

d. participate in other formal insurance business activities of a state or national chapter of the association.

2. In order to qualify for continuing education credit under this provision, members must attend at least four hours of qualified activities. Continuing education credit shall be given as one 4 hour increment each year from the association in a manner consistent with the provisions of this Rule. The association shall be responsible for verifying attendance or participation of members for all events where continuing education credit is given under the terms of this provision. Attendance at meetings which are otherwise approved for continuing education credit do not qualify under the terms of this provision. The association shall submit a formal request to the commissioner for approval of continuing education credits issued under the terms of this provision and shall issue a certificate to any licensee to whom such credit is given. This certificate shall meet the requirements of §727.C of this Rule.

3. Continuing education credit for membership in a bail bond association may only be applied towards renewal or reinstatement of an insurance producer license for the line

of bail bonds. Continuing education credit for membership in a life, accident and health or sickness, property, or casualty type association may only be applied towards renewal or reinstatement of a similar insurance producer license unless the insurance producer is licensed for one or more of the lines of life or accident and health or sickness and licensed for one or more of the lines of property, casualty, or personal lines.

4. Regardless of the number of state or national insurance associations in which a licensee actively participates, under no circumstances shall an insurance producer or adjuster receive more than four credit hours per renewal period for such participation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2173 (July 2011), amended LR 47:

§713. Waiver of Continuing Education Requirements

A. A licensee who is unable to comply with continuing education requirements due to military service or some other extenuating circumstance, such as a long-term medical disability, may request a waiver of those requirements. Such request shall be submitted in writing to the commissioner and shall include such documentation to verify the request as the commissioner may reasonably require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2173 (July 2011), amended LR 47:

§715. Program Certification Requirements

A. - A.2. ...

3. a statement of the method used to determine whether there has been a positive achievement of education on the part of the insurance producer or adjuster taking the program. Such method may be a written examination, a written report by the licensee, certification by the organization providing the program of the attendance or completion of the program by licensee, or any other method approved by the commissioner as appropriate for the subject;

4. ...

5. if the program is not a self-study program, the physical address, including room or suite number and a description of the facilities where the program will be presented. All facilities shall meet the requirements of §723 of this Rule;

6. if the program is a self-study program, a description of the measures used by the provider to verify identity of the participants;

7. if the program is a self-study program, a description of the technical support available to participants including the business hours of the support and the proposed length of time for response by the provider to any inquiries;

8. if the program is a self-study program, a description of the method used to prevent access to a course exam before review of the course material;

9. if the program is a self-study program, a user ID and log-in credentials to permit the commissioner to view the program in the same environment under the same conditions that will be permitted for the participants.

B. - G4. ...

H. ...

I. A program may be certified for one or more of the following license types and credit shall be granted only to a licensee holding the type or types of license for which the program is approved:

1. insurance producer and consultant—life;
2. insurance producer and consultant—accident and health or sickness;
3. insurance producer and consultant—property;
4. insurance producer and consultant—casualty;
5. insurance producer—personal lines;
6. insurance producer—bail bond;
7. insurance producer—title;
8. adjuster.

J. A provider shall not advertise or represent to any licensee that a continuing education program has been approved for credit prior to the issuance of such approval by the commissioner. No assertion of pending approval may be made unless the program has been submitted to the commissioner.

K. Certification of a continuing education program shall expire three years from the date of certification. A provider may request renewal of the certification by submitting all information required by this section to the commissioner no less than 30 days prior to the expiration of the certification.

L. No licensee shall receive credit for a program if the program is completed after expiration of the certification. The provider shall be responsible to notify any licensee who has purchased a program of the expiration of the program if it is not completed prior to expiration of the certification.

M. A request for renewal of an internet-based self-study program shall include statistical information related to the length of time spent by all licensees who participated in the course during the previous three years. This information may be used by the commissioner in determining the appropriate number of credit hours to be awarded to the program upon renewal.

N. A licensee may request credit for a seminar, conference or similar program that is not self-study and has not otherwise been submitted for approval to the commissioner by the provider. Such request shall be in writing and shall contain sufficient information for the commissioner to determine compliance of the program with the requirements of this Rule. In determining the eligibility of the program for credit, the commissioner may consider all of the following:

1. Whether the seminar, conference or similar program occurred outside the boundaries of Louisiana.
2. Whether the Department of Insurance of another state has granted approval of the program for continuing education credit for insurance producers, adjusters, or insurance consultants licensed in that state.
3. Whether the information presented by the licensee is sufficient to determine the content of the program.

4. Whether the licensee can provide sufficient evidence of participation in the program. Registration and payment of any fees is not prima facie evidence of participation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2173 (July 2011), amended LR 47:

§717. Measurement of Credit Hours

A. ...

B. Professional education programs shall be credited for continuing education purposes in full hours only.

1. The number of credit hours for programs other than self-study shall be equivalent to the actual number of hours in the classroom instruction or participation. Each hourly period must include at least 50 minutes of continuous instruction or participation. For this purpose, a one-day program will be granted eight hours credit if the total lapsed time is approximately eight hours and the total time of instruction is at least 400 minutes.

2. The number of credit hours for self-study programs shall be determined by the commissioner upon considering the following:

- a. the complexity of the material covered in the program;
- b. the word count of the total program;
- c. statistical data on the length of time spent by participants in the program;
- d. the run time of any videos, animation or interactive exercises which are mandatory for completion of the program.

C. – D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2173 (July 2011), amended LR 47:

§719. Provider Requirements

A. Continuing education providers shall be one of the following:

1. an insurance trade association;
2. an insurance company admitted to do business in Louisiana;
3. an accredited public or private college or university;
4. an organization certified by the commissioner.

B. An organization seeking to be certified by the commissioner shall submit an application to the commissioner on the forms he requires. The application shall include:

1. the full, legal name and Federal Employer Identification number (FEIN) of the organization making application;
2. the names and addresses of every officer, director, partner or member of the provider applicant;
3. the names and addresses of every person owning, directly or indirectly, 10 percent or more of the provider applicant;

4. the name, address and a description of the professional qualifications of the supervisory instructor of the provider applicant;

5. the principal place of business of the provider applicant;

6. certification from the provider applicant that all instructors presenting the program shall meet the requirements as set forth in this Rule;

7. a general description of the types of continuing education programs presented by the provider applicant;

8. a description of the qualifications and experience of the persons responsible for the creation of continuing education programs;

9. the fee required by R.S. 22:821;

10. such other information as the commissioner may require to confirm compliance with this Rule.

C. Every provider shall maintain a signed statement from each instructor describing the basis for the instructor's qualifications and affirmation that the instructor shall comply with the requirements of this Rule.

D. Every provider certified by the commissioner shall notify the commissioner of any material change in the information submitted with the application within 30 days of the effective date of the change. Every such notice shall include information comparable to that required with the initial application. A material change shall include, but not be limited to:

1. a change of the name of the provider;
2. a change in the address of the provider;
3. a change of officer, director, partner or member of the provider;
4. the merger of the provider;
5. a change in ownership of 10 percent or more of the provider;
6. a change in supervisory instructor of the provider.

E. Every certification by the commissioner shall expire three years from the date of issuance and may be renewed by filing a renewal application as required by the commissioner not less than 90 days prior to expiration.

F. Upon expiration of the certification by the commissioner of a provider, the commissioner's approvals of continuing education programs presented by that provider shall be rescinded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2173 (July 2011), amended LR 47:

§721. Instructor Qualifications

A. Every provider of a continuing education program shall designate an individual as a supervisory instructor. The supervisory instructor shall be responsible for the conduct of any other instructors or guest instructors and shall be responsible for assuring the quality of the instructional program. Every supervisory instructor shall have a minimum of five years of insurance experience and/or graduate level or professional education satisfactory to the commissioner.

B. Nonsupervisory instructors shall meet at least one of the following criteria:

1. have a minimum of three years experience as an insurance instructor with experience in the subject being taught;
2. have been licensed for at least five years as a licensee of this state or another state;
3. hold a national designation directly related to the subject matter being taught;
4. be in a profession pertinent to the subject matter being taught.

C. Special consideration may be granted by the commissioner where it is determined that the specific background of the instructor warrants consideration.

D. Every instructor and supervisory instructor shall notify the provider and the commissioner of any of the following:

1. any administrative action taken against the supervisory instructor or instructor for insurance related practices by any regulatory or governmental agency;
2. any conviction or entry of a nolo contendere plea to any felony;
3. participation in a pretrial diversion program pursuant to a felony charge;
4. conviction of any misdemeanor involving moral turpitude or public corruption on the part of the supervisory instructor or instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2173 (July 2011), amended LR 47:

§723. Training Facilities Requirements

A. At a minimum, all training facilities shall:

1. provide an atmosphere conducive to educational presentation, including good housekeeping, controlled environment as to heating and cooling, proper lighting and proper furnishings;
2. be easily accessible and secure for the safety of the attendees;
3. be dedicated for the exclusive use of the instructional program while in session;
4. provide ready access to rest rooms and other facilities of human needs to the attendees;
5. provide a proper layout to ensure that training aids, overhead viewing equipment and other such aids are easily visible by all attendees of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2173 (July 2011), amended LR 47:

§725. Authority of the Commissioner to Conduct On-Site Review of Continuing Education Programs

A. The commissioner or his designee shall have the authority to visit a training facility and review the provider's program at any time. Said visits may include the review of curriculum records, review of attendance records, and observation of instructional sessions in progress.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678,

R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2173 (July 2011), amended LR 47:

§727. Program Completion

A. Every provider shall maintain a list of all individuals who have successfully completed a continuing education program presented by that provider for a period of not less than five years from the date of course completion. The list shall contain the identification number assigned to the program by the commissioner and the name, and such distinct information as necessary to clearly identify all individuals who successfully completed the program and the date of completion of the course. Every provider shall submit a copy of the list to the commissioner within 15 calendar days of program completion.

B. Every provider shall also maintain electronic records of program completion in a format compatible with the commissioner's specifications to facilitate the electronic reporting and transfer of attendance information from the provider to the commissioner.

C. Every provider shall present a certificate of successful completion to each licensee who successfully completes the continuing education program. This certificate shall be on a form acceptable to the commissioner and shall include the name of the licensee and the identification number assigned to the program by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2173 (July 2011), amended LR 47:

§729. Fees

A. All applications submitted to the commissioner seeking certification of a continuing education program or provider shall be accompanied by the fee set forth in R.S. 22:821(29).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2173 (July 2011), amended LR 47:

§731. Complaints

A. The commissioner shall review all complaints lodged against a provider, supervisory instructor or instructors of a program. Every provider, supervisory instructor or instructor shall respond to an inquiry from the commissioner regarding a complaint within 30 days of receipt of such inquiry. Any disciplinary action required shall be taken by the commissioner in accordance with the Louisiana Insurance Code, specifically R.S. 22: 2191-2208.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2173 (July 2011), amended LR 47:

§733. Violations

A. The commissioner may deny, suspend, or rescind the certification of a continuing education program or provider should he find the program, the supervisory instructor, instructor or the provider of the program has violated any provision of this Rule or any applicable provisions of the Louisiana Insurance Code or should he find that continued operation of the continuing education program is not in the best interest of the citizens of this state or the insurance buying public.

B. Any denial, suspension, or rescission of the certification of a continuing education program shall comply with the provisions of R.S. 49:961.

C. An aggrieved party affected by the commissioner's decision, act, or order may demand a hearing in accordance with R.S. 22: 2191 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2173 (July 2011), amended LR 47:

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 parents 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.

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.

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.

1. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for

2. Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for

3. Preparation of the Report or Record. The proposed amended rule should have no measurable impact upon small businesses.

4. A Statement of the Probable Effect on Impacted Small Businesses. The proposed amended rule should have no measurable impact upon small businesses.

5. 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.

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.

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 who wish to make comments may do so by writing to Jennifer Land, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, or by faxing comments to (225) 342-1632.

Comments will be accepted through the close of business, 4:30 p.m., March 12, 2021.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Continuing Education**

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

The proposed rule will not result in implementation costs or savings to state or local governmental units. The proposed rule amends Rule 10 that was promulgated in 2011 for continuing education guidelines of licensed producers, adjusters and continuing education providers. The proposed rule is being amended to implement various revisions to comply with current practice of the Louisiana Insurance Code, thereby codifying existing law.

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

The proposed rule will have no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS. (Summary)

The proposed rule will have no impact on economic costs or benefits to directly affected persons or non-governmental groups. The proposed rule codifies existing law. The proposed rule applies to all insurance producers and adjusters licensed by the department and providers of continuing education programs.

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

The proposed rule will have no impact upon competition and employment in the state.

Denise Gardner
Chief of Staff
2102#012

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Establishment of Recreational Reef Sites and
Restriction of Oyster Harvest (LAC 76:VII.537)**

Notice is hereby given in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:805, that the Wildlife and Fisheries Commission proposes to amend LAC 76:VII.537 to designate and set aside four new artificial reef sites as recreational reefs in the coastal waters of Plaquemines and St. Bernard Parishes, restricting all harvest of oysters. Oyster resources on public water bottoms in these areas are at historic lows and development of additional reef resources, and restricting the take of oysters, will provide long-term benefits to the ecosystem and oyster community. Oysters that settle or are seeded on the recreational reefs can possibly mature, grow the reef, and increase spawning to naturally re-seed adjacent oyster areas that could be available for oyster harvest. These reefs will enhance habitat for fish and other marine organisms, including oysters.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of

intent and final rule, including but not limited to, the filing of the Fiscal and Economic Impact statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oysters

**§537. Establishment of Recreational Reef Sites and
Restriction of Oyster Harvest**

A. The Wildlife and Fisheries Commission hereby establishes the following recreational reef sites as that area within the following coordinates (North America Datum 1983):

1. - 33. ...

34. Lake Machias Reef-Plaquemines Parish

a. 29 degrees 42 minutes 33.415 seconds N

89 degrees 29 minutes 01.696 seconds W

b. 29 degrees 42 minutes 33.198 seconds N

89 degrees 28 minutes 53.531 seconds W

c. 29 degrees 42 minutes 27.307 seconds N

89 degrees 28 minutes 53.737 seconds W

d. 29 degrees 42 minutes 27.514 seconds N

89 degrees 29 minutes 01.902 seconds W

35. Mozambique Point Reef-Plaquemines Parish

a. 29 degrees 37 minutes 13.742 seconds N

89 degrees 29 minutes 24.861 seconds W

b. 29 degrees 37 minutes 13.558 seconds N

89 degrees 29 minutes 17.914 seconds W

c. 29 degrees 37 minutes 06.54 seconds N

89 degrees 29 minutes 18.158 seconds W

d. 29 degrees 37 minutes 06.713 seconds N

89 degrees 29 minutes 25.119 seconds W

36. Petit Pass Reef-Saint Bernard Parish

a. 30 degrees 07 minutes 01.066 seconds N

89 degrees 29 minutes 35.34 seconds W

b. 30 degrees 07 minutes 04.314 seconds N

89 degrees 29 minutes 25.295 seconds W

c. 30 degrees 07 minutes 00.11 seconds N

89 degrees 29 minutes 23.50 seconds W

d. 30 degrees 06 minutes 56.873 seconds N

89 degrees 29 minutes 33.544 seconds W

37. Karako Bay Reef-Saint Bernard Parish

a. 30 degrees 01 minutes 29.507 seconds N

89 degrees 19 minutes 09.207 seconds W

b. 30 degrees 01 minutes 29.278 seconds N

89 degrees 19 minutes 01.029 seconds W

c. 30 degrees 01 minutes 23.388 seconds N

89 degrees 19 minutes 01.235 seconds W

d. 30 degrees 01 minutes 23.618 seconds N

89 degrees 19 minutes 09.438 seconds W

B. Any and all harvest of oysters from these recreational reefs is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:805.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 41:1309 (July 2015), amended LR 43:91 (January 2017), LR 46:363 (March 2020), LR 47:

Family Impact Statement

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and

Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S.49:973.

Small Business Analysis

This proposed Rule has no known impact on small businesses as described in R.S. 49:965.2 through R.S. 49:965.8.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments relative to the proposed Rule to Denise Kinsey, Marine Fisheries Biologist, Box 98000, Baton Rouge, LA 70898, or via email to dkinsey@wlf.la.gov prior to April 1, 2021.

Jerri G. Smitko
Chair

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Establishment of Recreational Reef Sites and Restriction of Oyster Harvest

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

There are no direct, material anticipated implementation costs or savings to the Department of Wildlife & Fisheries (LDWF) or to state or local government units as a result of the proposed rule change.

The proposed rule establishes four public fishing reefs in the coastal waters of Plaquemines and Saint Bernard Parish in areas that are currently part of public oyster seed grounds. The harvest of oysters from these sites would be prohibited as a consequence of the designation of these reefs as recreational reefs.

Investigative and enforcement costs are not anticipated to increase the budget for those activities stemming from the four new proposed public fishing reefs.

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

The potential increase in revenue to LDWF is not anticipated to be material. Some increase in revenue may result from fines and fees levied against those persons engaged in the illegal harvesting of oysters on the proposed reefs.

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

The proposed rule may benefit saltwater anglers by providing increased opportunities for recreational fishing.

The proposed rule may affect commercial fishers who currently use the portions of public land to be incorporated into these protected areas. It will reduce the area available for public oyster harvests in the region (currently estimated at approximately 990,000 acres) by approximately 40 acres. Because the water bottoms to be incorporated within the public fishing reefs currently lack substantial amounts of substrate material suitable for oyster production, the effect on commercial oyster harvesting is expected to be minimal.

LDWF biological assessments of the areas in which the proposed reefs are to be established indicate that they may provide suitable habitat for the growth of oysters once the reef

material is in place. The LDWF intends for the proposed reefs to serve as oyster broodstock areas that may enhance oyster production in adjacent areas.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the rule change.

Brian McClinton
Undersecretary
2102#024

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Workforce Commission

Office of Workers' Compensation Administration

Medical Treatment Guidelines (LAC 40:I.5117 and 5157)

The Louisiana Workforce Commission does hereby give notice of its intent to amend certain portions of the Medical Guidelines contained in the Louisiana Administrative Code, Title 40, Labor and Employment, Part I, Workers' Compensation Administration, Subpart 2, Medical Guidelines, Chapter 51, §§5117 and 5157 regarding medical reimbursement. The purpose of this amendment is to align Workers' Compensation billing codes to the billing codes that were established by the Centers for Medicare and Medicaid Services (CMS) and the American Medical Association (AMA). These codes coincide with chronic pain and low back guidelines promulgated in 2020. The CRNA modifiers are to promulgate payment rules that were issued in 2009. This Rule is promulgated by the authority vested in the director of the Office of Workers' Compensation found in R.S. 23:1291 and R.S. 23:1310.1(C).

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Subpart 2. Medical Guidelines

Chapter 51. Medical Reimbursement Schedule

Editor's Note: The following Sections of this Chapter are applicable and shall be used for the Chapters in this Part governing reimbursement. These specific Chapters are: Chapter 25, Hospital Reimbursement; Chapter 29, Pharmacy; Chapter 31, Vision Care Services; Chapter 33, Hearing Aid Equipment and Services; Chapter 35, Nursing/Attendant Care and Home Health Services; Chapter 37, Home and Vehicle Modification; Chapter 39, Medical Transportation; Chapter 41, Durable Medical Equipment and Supplies; Chapter 43, Prosthetic and Orthopedic Equipment; Chapter 45, Respiratory Services; Chapter 47, Miscellaneous Claimant Expenses; Chapter 49, Vocational Rehabilitation Consultant; Chapter 51, Medical Reimbursement Schedule; and Chapter 53, Dental Care Services.

§5117. Anesthesia

A. - B.3.d.v. ...

e. Payment for covered anesthesia services provided by a CRNA will be limited to the lesser of the actual charge or 80 percent of the medical reimbursement guideline total anesthesia value. Use Modifier -QZ.

f. Where a single anesthesia procedure involves both a physician medical direction service and the service of the medically directed CRNA, the payment amount for the service of each is 50 percent of the allowance otherwise recognized had the service been furnished by the anesthesiologist alone.

- i. Use Modifier–QX if medical direction by physician.
- ii. Use Modifier –QY if medical direction for one CRNA by anesthesiologist.
- iii. Reimbursement shall not be made to either the anesthesiologist or the CRNA until the insurer has received and reviewed the bill and the anesthesia report from both providers.
- iv. Reimbursement shall never exceed 100 percent of the maximum amount an anesthesiologist would have been allowed under the Medical Fee Schedule Allowance had the anesthesiologist or physician alone performed the services.
- v. Medical supervision, as opposed to medical direction, occurs when the anesthesiologist is involved in furnishing more than four procedures concurrently or is

performing other services while directing the concurrent procedures. No additional reimbursement shall be made for general supervisory services rendered by the anesthesiologist or other physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:54 (January 1993), repromulgated LR 19:212 (February 1993), amended LR 20:1299 (November 1994), amended by the Workforce Commission, Office of Workers' Compensation Administration, LR 47:

§5157. Maximum Reimbursement Allowances

A. Table 1

B. Table 2

CPT Code	Mod	Description	Global Days	Maximum Allowance	Non-Facility Maximum	Facility Maximum

20560		Needle Insertion w/o Injection 1 or 2 Muscles			\$36.95	\$24.04

		Needle Insertion w/o Injection 3 or more Muscles			\$55.06	\$36.40

C. Table 3

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:54 (January 1993), repromulgated LR 19:212 (February 1993), amended LR 20:1299 (November 1994), LR 27:314 (March 2001), amended by the Workforce Commission, Office of Workers' Compensation, LR 39:1854 (July 2013), LR 40:379 (February 2014), amended by the Workforce Commission, Office of Workers' Compensation Administration, LR 42:1696 (October 2016), LR 46:1401 (October 2020), amended by the Workforce Commission, Office of Workers' Compensation Administration, LR 47:

Family Impact Statement

This amendment to Title 40 should have no impact on families.

Poverty Impact Statement

This amendment to Title 40 should have no impact on poverty or family income.

Provider Impact Statement

1. This Rule should have no impact on the staffing level of the Office of Workers' Compensation as adequate staff already exists to handle the procedural changes.

2. This Rule should create no additional cost to providers or payers.

3. This Rule should have no impact on ability of the provider to provide the same level of service that it currently provides.

Small Business Analysis

This amendment to Title 40 should have no direct impact on small or local businesses.

Public Comments

All interested persons are invited to submit written comments or hearing request on the proposed Rule. Such comments or request should be sent to SHERAL KELLAR, OWC-Administration, 1001 North 23rd Street, Baton Rouge, LA 70802. Such comments should be received by 5:00 pm on March 10, 2021.

Ava Dejoie
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Medical Treatment Guidelines

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

The proposed rule will have no fiscal impact on state or local governmental units, other than the publication fees associated with the proposed rule change.

The proposed rule amends the medical reimbursement as contained in Title 40, Labor and Employment, Part I, Workers' Compensation Administration, Subpart 2, Medical Guidelines, Chapter 51. The purpose of this amendment is to align Worker's Compensation billing codes to the billing codes that were established by the Centers for Medicare and Medicaid

Services (CMS) and the American Medical Association (AMA). These codes coincide with chronic pain and low back guidelines promulgated in 2020. The CRNA modifiers are to promulgate payment rules that were issued in 2009.

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

Implementation of 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, SMALL BUSINESSES, 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)

The proposed rule change has no known effect on competition and employment.

Sheral Kellar
Assistant Secretary
2102#028

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Office of the Governor Coastal Protection and Restoration Authority

Notice of Availability of the *Deepwater Horizon* Oil Spill Louisiana Trustee Implementation Group Draft Phase II Restoration Plan: #3.2: Mid-Barataria Sediment Diversion

Action: Notice of availability; request for public comments.

Summary: In accordance with the Oil Pollution Act of 1990 (OPA); the National Environmental Policy Act of 1969 (NEPA); the Final Programmatic Damage Assessment Restoration Plan and Final Programmatic Environmental Impact Statement (Final PDARP/PEIS) and the Consent Decree, the federal and state natural resource trustee agencies for the Louisiana Trustee Implementation Group (LA TIG) will release the Draft Phase II Restoration Plan #3.2 (Draft Phase II RP #3.2) on March 5, 2021. The Draft Phase II RP #3.2 describes and proposes restoration project alternatives considered by the LA TIG to restore natural resources and ecological services injured or lost as a result of the *Deepwater Horizon* oil spill. The LA TIG evaluated these alternatives under criteria set forth in the OPA natural resource damage assessment regulations. In accordance with NEPA, the environmental consequences of the restoration alternatives are evaluated in the associated US Army Corps of Engineers, New Orleans District (USACE CEMVN) Draft Environmental Impact Statement for the Proposed Mid-Barataria Sediment Diversion Project, Plaquemines and Jefferson Parishes (MBSD EIS) to which the LA TIG Federal Trustees are cooperating agencies. The purpose of this notice is to inform the public of the availability of the Draft Phase II RP #3.2 on March 5, 2021 and to seek public comment beginning March 5, 2021.

On March 20, 2018, the LA TIG completed its Strategic Restoration Plan and Environmental Assessment #3: Restoration of Wetlands, Coastal, and Nearshore Habitats in the Barataria Basin, Louisiana (SRP/EA #3). In addition to identifying a restoration strategy for the Barataria Basin and confirming its 2018 decision to move forward with the Spanish Pass Increment of the Barataria Basin Ridge and Marsh Creation project, the SRP/EA #3 also advanced a large-scale Barataria sediment diversion for further evaluation and planning in a future Phase II restoration plan. Since approval of SRP/EA #3, the LA TIG has been evaluating a variety of potential alternatives for this large-scale sediment diversion to meet its purpose: deliver freshwater sediment, and nutrients to the Barataria Basin through a large-scale sediment diversion from the Mississippi River; reconnect and re-establish sustainable deltaic processes between the Mississippi River and the Barataria Basin; and create, restore, and sustain wetlands and other deltaic habitats and associated ecosystem services.

Tiering from SRP/EA #3, the LA TIG is proposing implementation of the Mid-Barataria Sediment Diversion

project (“Proposed MBSD Project”). The Draft Phase II RP #3.2 focuses on an area (“the Project Area”) on the west bank of the Mississippi River at River Mile (RM) 60.7, just north of the Town of Ironton; the anticipated outfall area for sediment, freshwater, and nutrients conveyed from the river is located within the Mid-Barataria Basin. The area of the Proposed MBSD Project and its alternatives includes the hydrologic boundaries of the Barataria Basin and the western portion of the lower Mississippi River Delta Basin, also known as the birdfoot delta. The Mississippi River itself, beginning near RM 60.7 and extending to the mouth of the river, is also included in the Proposed MBSD Project area.

In Draft Phase II RP #3.2, the LA TIG proposes a preferred design alternative for the MBSD Project to be funded under the DWH Louisiana Restoration Area Wetlands, Coastal and Nearshore Habitats restoration type allocation. The preferred alternative (Alternative 1) consists of a controlled sediment and freshwater intake diversion structure in Plaquemines Parish on the right descending bank of the Mississippi River at RM 60.7. The preferred alternative would have a maximum diversion flow of 75,000 cfs, which would occur when the Mississippi River gauge at Belle Chase reaches 1,000,000 cfs or higher. The diversion would operate at up to 5,000 cfs (base flow) when the river is below 450,000 cfs at Belle Chase; at river flows above 450,000 cfs, the diversion would be opened fully. At the downstream end of the diversion channel, an engineered area, “outfall transition feature” would be constructed to guide and disperse the channel flow into the Barataria Basin. The preferred alternative is projected to increase land area, including emergent wetlands and mudflats, in the Barataria Basin across the 50-year analysis period relative to natural recovery, with a maximum increase of 17,300 ac in 2050, at the approximate mid-point of the 50-year analysis period. The estimated total cost for this alternative is approximately \$2 billion which reflects current cost-estimates developed from the most current designs and information available to the LA TIG at the time of drafting this restoration plan. Estimated costs reflect all costs associated with implementing the Proposed MBSD Project, potentially including, but not limited to, revising/finalizing E&D, permitting, mitigation, land acquisition, construction, MAM, Trustee oversight, associated stewardship actions, and contingencies. A portion of the engineering and permitting costs has been paid by the National Fish and Wildlife Federation’s Gulf Environmental Benefit Fund. A detailed analysis of other alternatives is contained in Draft Phase II R.P #3.2.

The LA TIG is committed to continuing efforts to restore the resources that would be adversely affected by the diversion, many of which were also injured by the DWH oil spill. Draft Phase II RP #3.2 includes proposed strategies to help avoid, minimize, and mitigate collateral injuries to these resources. These include proactive strategies to address the communities, individuals, and stakeholders that rely on

the resources that could be harmed by the proposed diversion.

Draft Phase II Restoration Plan #3.2 does not include integrated NEPA analysis. Under OPA NRDA regulations, Trustees typically choose to combine a restoration plan and the required NEPA analysis into a single document [33 Code of Federal Regulations (CFR) 990.23(a), (c)(1)]. Prior to evaluation of the Proposed MBSD Project by the LA TIG as a proposed restoration project under OPA, the USACE initiated scoping for the MBSD Project EIS, which was initiated through a permit application for the project by CPRA. In this case, to increase efficiency, reduce redundancy, and be consistent with federal policy and Title 40 CFR § 1506.3, the four federal Trustees in the LA TIG decided to participate as cooperating agencies in the development of a single MBSD DEIS. As the lead agency, the USACE has primary responsibility for preparing the MBSD DEIS [40 CFR § 1501.5(a)]. The LA TIG is relying on the MBSD DEIS to evaluate potential environmental effects of the restoration alternatives proposed in this Draft Phase II RP #3.2. Adoption of the MBSD Final EIS by the LA TIG will be completed upon signature of a Record of Decision (ROD). The MBSD DEIS is anticipated to be released for public review and comment on March 5, 2021. Public meetings and webinars on both the Draft Phase II RP #3.2 and the MBSD DEIS are being run concurrently.

Next Steps: Beginning on March 2, 2021, the public is encouraged to review and comment on the Draft Phase II RP #3.2 and associated MBSD DEIS. As described above, public meetings and webinars are scheduled to facilitate the public review and comment process for both documents.

After the public comment period ends for the Draft Phase II RP #3.2, the LA TIG will consider and address the comments received before issuing a Final Phase II RP #3.2. A summary of comments received and the LA TIG's responses and any revisions to the document, as appropriate, will be included in the final document.

The public is also encouraged to review and comment on the MBSD DEIS after its anticipated release on March 5, 2021, through a coordinated process managed by the USACE. A link for the MBSD DEIS and directions for comment to the USACE will be available at: <http://www.mvn.usace.army.mil/Missions/Regulatory/Permit/s/Mid-Barataria-Sediment-Diversion-EIS/>.

After issuing the Final Phase II RP #3.2 and completion of the Final MBSD EIS, the LA TIG will prepare a ROD that formally adopts the MBSD Final EIS and selects an alternative for implementation.

Dates: The LA TIG will consider public comments on the Draft Phase II RP #3.2 received from March 5, 2021 through May 4, 2021.

Virtual Public Meetings: Due to continuing Covid-19 limitations on gatherings of groups, the LA TIG will hold several virtual public meetings during this public comment period, which will run from March 5, 2021, through May 4, 2021, to facilitate public review and comment on the Draft Phase II RP #3.2. Specific meeting dates and related information as well as the public registration for these virtual public meetings will be posted at <http://www.gulfspillrestoration.noaa.gov/restoration-areas/louisiana>. After

registering, participants will receive a confirmation email with instructions for joining the webinar.

Comments will also be taken by submittal online or through U.S. mail (see *Submitting Comments* below).

Addresses:

Obtaining Documents: Beginning on March 5, 2021, the Draft Phase II RP #3.2 will be available for download at: <http://www.gulfspillrestoration.noaa.gov/restoration-areas/louisiana>.

Alternatively, after March 2, 2021, you may request a CD of the Draft Phase II RP #3.2 (see *For Further Information Contact* below). Also, after March 5, 2021, you may view the document at any of the public facilities listed in Section 6.0 of the Draft Phase II RP #3.2.

Submitting Comments: Beginning on March 4, 2021, you may submit comments on the Draft Phase II RP #3.2 by one of the following methods:

Via the Web: <http://www.gulfspillrestoration.noaa.gov/restoration-areas/louisiana>;

Via U.S. Mail: U.S. Army Corps of Engineers, New Orleans District, Attn: CEMVN-OD-SE, MVN-2012-2806-EOO, 7400 Leake Avenue, New Orleans, LA 70118. Please note that mailed comments must be postmarked on or before the comment deadline of 60 days following publication of this notice to be considered

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

For Further Information Contact: National Oceanic and Atmospheric Administration—Mel Landry, NOAA Restoration Center, mel.landry@noaa.gov, gulfspillrestoration@noaa.gov, (310) 427-8711.

Translation Opportunities: Vietnamese and Spanish translation will be available at all meetings. All pre-recorded presentations are in English, but are available on USACE CEMVN's project webpage in English, Vietnamese, and Spanish. Anyone requiring translation in other languages should contact Ricky Boyett at ricky.d.boyett@usace.army.mil or 504-862-1524.

Administrative Record: The documents comprising the Administrative Record for the Draft Phase II RP #3.2 can be viewed will be available electronically at <http://www.doi.gov/deepwaterhorizon/adminrecord>.

Authority: The authority for this action is the Oil Pollution Act of 1990 (33 U.S.C. §§ 2701 *et seq.*), its implementing NRDA regulations found at 15 C.F.R. Part 990, the Louisiana Oil Spill Prevention and Response Act (La. R.S. 30:2451 *et seq.*), the implementing Natural Resource Damage Assessment Regulations found at La. Admin. Code 43:101 *et seq.*, and the NEPA (42 U.S.C. §§ 4321 *et seq.*).

Lawrence B. Haase
Executive Director

2102#047

POTPOURRI

**Office of the Governor
Division of Administration
Office of State Procurement**

Public Hearing—Substantive Changes to
Proposed Rule; Procurement (LAC 34:V.2503)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., as authorized pursuant to R.S. 39:1561 and 39:1581, the Office of the Governor, Division of Administration, Office of State Procurement published a Notice of Intent in order to update provisions for purchasing and professional service. As a result of feedback received, it is proposed to amend §2503 of the proposed Rule to add the profession of municipal advisor to the list of professional services. The purpose of these rules is to clarify procedures activities within public procurement activities. No fiscal nor economic impact is expected to result from the amendment proposed in this notice.

Title 34

**GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY CONTROL**

Part V. Procurement

**Chapter 25. Procurement of Professional, Personal,
Consulting, Social Services, and Energy
Efficiency Contracts**

Subchapter A. General Provisions

§2503. Definitions and Classes of Contractual Services

A. - A.1. ...

2. *Professional Service*—for contracts with a total amount of compensation of \$50,000 or more, the definition of "professional service" shall be limited to lawyers, doctors, dentists, psychologists, certified advanced practice nurses, veterinarians, architects, engineers, land surveyors, landscape architects, accountants, actuaries, claims adjusters, pharmacists, visiting professors, municipal advisors, and any other profession that may be added by regulations adopted by the Office of State Procurement of the Division of Administration.

3. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with RS 39:1556(42).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 7:181 (April 1981), amended LR 8:591 (November 1982), LR 10:455 (June 1984), LR 11:1067 (November 1985), LR 13:652 (November 1987), LR 17:264 (March 1991), LR 20:542 (May 1994), repromulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 41:1669 (September 2015), LR 40:2556 (December 2014), amended LR 40:2544 (December 2014), repromulgated by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:1669 (September 2015), amended LR 44:761 (April 2018), LR 47:

Public Hearing

A public hearing on the proposed Rules will be held on March 26, 2021, beginning at 2:00 PM, in the Room Thomas Jefferson C (1-136C) of the Claiborne Building, which is located at 1201 North Third Street, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at the

hearing. Individuals with disabilities who require special services or accommodations should contact Jonathan Walker at least seven working days in advance of the hearing. For assistance, please call 225-342-1038 or email jonathan.walker@la.gov.

Paula Tregre
Director

2102#026

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
C. L. Morris	Pendleton-Many	S	Lucius	001	101181
J. E. Farrell	Monroe	M	State of LA	012	18169
J. E. Farrell	Monroe	M	State of LA	008	18170
J. E. Farrell	Monroe	M	State of LA	013	18241
Midstates Petroleum Company LLC	Bear Head Creek, South	L	U Wx rb suc; Musser-Davis 28 H	001	245065
Tradestar Energy, Inc.	Big Creek	M	Vinyard	002	175344
Tradestar Energy, Inc.	Big Creek	M	Vinyard	001	175343
Tradestar Energy, Inc.	Big Creek	M	F Roy Williams A	011	155203
Tradestar Energy, Inc.	Baskinton	M	J E Holt D swd	026	105699
Tradestar Energy, Inc.	Big Creek	M	Vinyard D	001	184249
Tradestar Energy, Inc.	Big Creek	M	John W Ross	001	175195
Tradestar Energy, Inc.	Big Creek	M	Vineyard B swd	001	970847

Operator	Field	District	Well Name	Well Number	Serial Number
Tradestar Energy, Inc.	Big Creek	M	Vinyard C	002	247993
Tradestar Energy, Inc.	Big Creek	M	John W Ross	002	175441
Tradestar Energy, Inc.	Big Creek	M	Carter	001	175197

Richard P. Ieyoub
Commissioner

2102#017

POTPOURRI

**Workforce Commission
Office of Workers' Compensation Administration**

Weekly Compensation Benefits Limits

Pursuant to R.S. 23:1202, and based on the statewide average weekly wage as determined by the Louisiana Workforce Commission, the following limits shall apply to weekly compensation benefits for claimants injured during the period September 1, 2020 through August 31, 2021.

Average Weekly Wage	Maximum Compensation	Minimum Compensation	Mileage Reimbursement
\$940.00	\$705.00	\$188.00	* .56 cents per mile
*Effective January 1, 2021 the mileage reimbursement is \$0.56 per mile pursuant to R.S. 23:1203(D).			

This information updates R.S. 23:1202 of the Louisiana Workers Compensation Act.

	Average Weekly Wage	Maximum Comp	Minimum Comp
Sept 1, 2000-Aug 31, 2001	517.93	388.00	104.00
Sept 1, 2001-Aug 31, 2002	530.43	398.00	106.00
Sept 1, 2002-Aug 31, 2003	554.31	416.00	111.00
Sept 1, 2003-Aug 31, 2004	572.53	429.00	114.00
Sept 1, 2004-Aug 31, 2005	584.40	438.00	117.00
Sept 1, 2005-Aug 31, 2006	605.46	454.00	121.00
Sept 1, 2006-Aug 31, 2007	637.19	478.00	127.00
Sept. 1, 2007-Aug 31, 2008	696.00	522.00	139.00
Sept. 1, 2008-Aug. 31, 2009	728.10	546.00	146.00
Sept. 1, 2009-Aug. 31, 2010	768.83	577.00	154.00
Sept. 1, 2010-Aug. 31, 2011	772.18	579.00	154.00
Sept. 1, 2011-Aug. 31, 2012	789.00	592.00	158.00
Sept. 1, 2012-Aug. 31, 2013	807.07	605.00	161.00
Sept. 1, 2013-Aug. 31, 2014	825.54	619.00	165.00
Sept. 1, 2014-Aug. 31, 2015	839.76	630.00	168.00
Sept. 1, 2015-Aug. 31, 2016	865.31	649.00	173.00
Sept. 1, 2016-Aug. 31, 2017	876.00	657.00	175.00
Sept. 1, 2017-Aug. 31, 2018	870.00	653.00	174.00
Sept. 1, 2018-Aug. 31, 2019	886.38	665.00	177.00
Sept. 1, 2019-Aug. 31, 2020	916.85	688.00	183.00
Sept. 1, 2020-Aug. 31, 2021	940.00	705.00	188.00

Actual wages are to be paid if the wages are less than the minimum.

Approved mileage rate as of January 1, 2021 is \$0.56 per mile.

Sheral Kellar
Assistant Secretary

2102#022

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