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Emergency Rules

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Provisional Teacher Enrollment
(LAC 28:CXXXI.528 and XLV.745)

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 proposes to amend LAC 28:CXXXI in *Bulletin 746—Louisiana Standards for State Certification of School Personnel* and LAC 28:XLV in *Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs*. The aforementioned revisions relate to the availability of a provisional enrollment option for teacher candidates who do not meet minimum grade point average requirement for entry into alternate preparation programs. Entry would be contingent upon a satisfactory personal interview and mastery of competencies as outlined. This Declaration of Emergency, effective October 12, 2022, is for a period of 180 days from adoption, or until finally adopted as Rule.

Title 28 EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 5. Teaching Credentials, Licenses, and Certifications

§528. Pre-Practitioner License

A. The pre-practitioner license is a temporary, non-renewable certificate issued in accordance with provisional admittance into an alternate certification program pursuant to LAC 28:XLV.

1. For certification purposes, non-university providers and colleges or universities will submit signed statements to the LDOE indicating that the student was provisionally admitted into the practitioner teacher, certification-only, or master's degree program alternative certification path and meets the following requirements:

a. minimum of a non-education baccalaureate degree from a college or university accredited in accordance with 34 CFR 602;

b. 2.50 or higher undergraduate grade point average (GPA) on a 4.00 scale to enter a non-university provider program; or a 2.20 or higher undergraduate GPA on a 4.00 scale to enter a college or university program; or be granted conditional admittance into an alternate teacher preparation program following a satisfactory personal interview by the program admission officer; and

c. passing scores on content area exam(s), or if no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 30 semester hours of coursework specific to the content area for admission to the program. See §303 of this part for exam requirements;

d. special education mild/moderate certification candidates must qualify for admission to alternate programs by passing a Praxis specialty area exam, and secondary education candidates (grades 6-12) must pass a Praxis core subject area exam, or if there is no content Praxis exam adopted by the State in the specific secondary core subject area, candidates must demonstrate content mastery by presenting 30 semester credit hours in the core subject area.

2. The approved teacher preparation program provider shall submit the request for the pre-practitioner license directly to the LDOE.

3. Teacher candidates receiving mentoring while on the pre-practitioner license by a certified mentor in accordance with §§515, 553, and 1369 of this Part and completing all other certification requirements for issuance of the initial standard level teaching certificate may advance from the pre-practitioner license to the standard level teaching certificate.

4. Teacher candidates not receiving mentoring while on the pre-practitioner license by a certified mentor in accordance with §§515, 553, and 1369 of this Part must serve on the practitioner license and be mentored by a certified mentor for a year and meet all other certification requirements prior to advancing to the standard level teaching certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; 17:7(6), and 17:22(6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 49:

Part XLV. Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs

Chapter 7. Louisiana State Standards for Educator Preparation Programs

Subchapter C. Teacher Preparation Programs

§745. Minimum Requirements for Alternate Teacher Preparation Programs

A. - F.3. ...

G. Beginning 6/1/2022, candidates may be provisionally enrolled into an alternate teacher preparation program provided teacher candidates meet the following requirements:

1. possess a non-education baccalaureate degree from a university accredited in accordance with 34 CFR 602;

2. meet minimum GPA requirements:

a. 2.50 or higher undergraduate grade point average (GPA) on a 4.00 scale to enter a non-university program;

b. 2.20 or higher undergraduate GPA on a 4.00 scale to enter a college or university program;

c. an applicant who does not meet the requirements of Subparagraph a or b of this Paragraph may be certified if he meets the following requirements in an alternate teacher preparation program:

i. satisfactory completion a personal interview by the program admissions officer;

ii. if the program awards credit hours, the applicant shall achieve a minimum grade point average (GPA) of 3.00 in alternate teacher preparation program courses by the end of the first 12 credit hours and successfully complete the program;

iii. if the program does not award credit hours, the applicant shall demonstrate mastery of competencies as required by the program administrator and by the school system in which the applicant completes required clinical practice;

iv. satisfactory completion all program requirements as set forth by BESE, including any requirements for clinical practice, at graduation;

3. pass the required content examinations or meet alternate requirements pursuant to Bulletin 746. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 30 semester hours of coursework specific to the content area;

4. preparation provider informs teacher candidate of the risk of provisional enrollment; and

5. provisional admittance rules end at the conclusion of the 2023 legislative session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:1331 (July 2017), amended LR 43:2492 (December 2017), LR 45:1751 (December 2019), LR 46:324 (March 2020), LR 48:1274 (May 2022), LR 49:

Shan N. Davis
Executive Director

2211#001

DECLARATION OF EMERGENCY

Office of the Governor Division of Administration Racing Commission

Associations' Duties and Obligations (LAC 35:III.Chapter 57)

In accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953.1, the Racing Commission has amended LAC 35:III.Chapter 57. This action has been deemed necessary by the Racing Commission to prevent imminent peril to the public health, safety, and welfare by establishing the administrative rules for minimum standards of facilities and infrastructure investments for racetracks in fulfillment of the Legislature's mandate to the Racing Commission "to encourage forceful and honest statewide control of horse racing for the public health, safety, and welfare by safeguarding the people of this state against corrupt, incompetent, dishonest and unprincipled horse racing practices" and "[t]o institute and maintain a program to encourage and permit development of the business of horse racing with pari-mutual wagering thereon on a higher plane." R.S. 4:141(A) and (A)(1).

All in fulfillment of the Legislature's mandate for the Racing Commission to "institute and maintain a regulatory program for the business of racing horses, which program assures the protection of public health, safety and welfare, vesting with the commission forceful statewide control of

horse racing with full powers to prescribe rules and regulations and conditions under which all horse racing is conducted with wagering upon the result thereof with the state." R.S. 4:141(A)(3).

This emergency adoption establishes the initial administrative Rule for minimum standards of facilities and infrastructure investments for racetracks in accordance with the provisions established in Act 530 of the 2022 Regular Session of the Louisiana Legislature. This Emergency Rule shall become effective November 1, 2022 and shall remain in effect for a period of 180 days from adoption, or until finally adopted as Rule.

Title 35

HORSE RACING

Part III. Personnel, Registration and Licensing

Chapter 57. Associations' Duties and Obligations

§5705. Security of Stable Area and Backside

A. The stable area of the premises of every association shall be enclosed with a fence, the type and construction of the fence to be subject to the approval of the commission. The association shall maintain a 24-hour guard at any opening of the fence during the horse race meeting.

B. An association must maintain adequate staffing of security officers on backside to:

1. patrol the backside;
2. check every vehicle coming into the backside for commission-granted licenses; and
3. check every horse trailer for the names of horses entering and exiting the backside.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:434 (December 1976), amended LR 3:30 (January 1977), LR 4:277 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission LR 49:

§5706. Barns on Backside of Racetrack

A. An association shall ensure that all barns are kept in good repair and are kept clean by the licensed occupants.

1. Barn buildings, fences, bathrooms, and outdoor and indoor lighting shall be kept in good working order.

2. Each barn, including the receiving barn, must have a hot and cold water supply available and have ventilation proper for the housing of horses.

B. Any new barns, additions, or expansions built by a licensed association after the amendment of this Rule shall ensure that the individual box stall shall have a minimum dimensions of 12 feet by 12 feet and if constructed of concrete walls, they must be woodlined on the interior up a minimum of 4 feet from the ground or otherwise be insulated for the protection of the stabled horse.

C. An association shall provide an adequate area for the placement of manure removed from the stalls. All manure storage and removal shall be conducted in compliance with the rules and regulations set forth by the Department of Environmental Quality. Nothing in the Rule is to supersede any requirements set forth by the Department of Environmental Quality.

D. An association must provide the minimum number of total stalls, as specified by the commission by majority vote, on its backside in good, working condition to house horses for their assigned racing dates.

E. The commission shall send a representative to each racetrack annually to assure that upkeep of all barns, both exterior and interior, is maintained. This shall include, but not be limited to, upkeep of:

1. stalls;
2. restroom facilities;
3. tack rooms;
4. feed rooms;
5. living quarters;
6. horse paths;
7. walking wheels; and
8. exterior barn paint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 44:913 (May 2018), amended LR 49:

§5740. Backside Internet Access

A. An association shall provide access to wireless internet on the backside free of charge to the horsemen and commission staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:

§5742. Grandstand, Clubhouse, and Apron Areas

A. An association shall ensure that the grandstand is kept clean, in good repair, and properly ventilated for use by the public.

B. An association shall grant access for the general public to the grandstand and apron areas of its racetrack on live race days, with all doors and gates unlocked, no later than one hour before post time of the first race of the day.

C. An association shall provide live pari-mutuel tellers at its racetrack betting windows and an open concession stand that sells programs and forms no later than one hour before post time of the first race of the day.

1. All pari-mutuel wagering areas must have tellers, seating, and tables in an air-conditioned environment for guests to handicap and place wagers on the races.

D. An association shall provide security personnel who are visible to the public no later than one hour before post time of the first race of the day.

E. An association shall ensure that all elevators and escalators are kept clean and in good working condition during any hours of operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:

§5745. Providing Concession and Restaurant Services

A. The operation shall be conducted so that all persons who patronize the respective tracks shall be satisfactorily served. Food, beverages (both alcoholic and nonalcoholic), tobacco and other generally related items may be available for sale to the patrons of the various tracks on each day that racing is conducted under the license, permit or privilege granted by the commission. Concessionaires vending any liquid refreshments shall not permit the surrender of glass containers to customers except in appropriate areas as designated by the association.

B. An association shall ensure that food and beverages are always available to guests at the racetrack during open hours of operation.

C. An association shall make a sit down dining experience available on weekend live race days and during stakes races.

D. An association shall provide tables and seats for guests to sit at and eat outside along the apron of the racetrack.

E. An association shall ensure that the racetrack kitchen and all cooking equipment are kept clean, in good repair, and fully operational during its race meets.

F. An association shall provide at least one quick service snack bar and a full service bar to be open during each live race day at least one hour before the first race and at least one hour after the last race.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:147 and R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission LR 2:92 (March 1976), amended by the Department of Commerce, Racing Commission, LR 2:435 (December 1976), amended LR 3:31 (January 1977), LR 4:278 (August 1978), LR 11:6 (January 1985), amended by the Office of the Governor, Division of Administration, Racing Commission LR 49:

§5756. Minimum Employment Requirements

A. An association shall maintain employees as follows.

1. Within 30 days after receiving the association's annual plan of operation per LAC 35:VII.5777, the commission shall determine in writing how many full-time and seasonal positions that the association will need to employ to operate the following during race meets:

- a. food service;
- b. marketing;
- c. pari-mutuel windows;
- d. kiosk repairs;
- e. racing officials; and
- f. racetrack maintenance.

2. Pari-mutuel tellers must be available at the ratio of one teller to every 50 guests on track with a minimum of three tellers in each betting area on the first floor and a minimum of one teller in each betting area on the clubhouse floors and private areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:147, and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:

§5758. Animals and Livestock

A. An association must report all animals and livestock, other than equines, allowed on the backside immediately to the commission and require paperwork for all service animals before allowing them access to the backside.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:

§5760. Paddock

A. An association shall ensure that the paddock, paddock stalls, and parade ring are kept clean, in good repair, and free of dangerous surfaces on which horses and people can walk.

B. An association must provide an employee to immediately remove horse manure from the paddock area during live racing.

- C. All paddock stalls must have a working fan.
- D. An association shall maintain healthy, well-groomed landscaping in the paddock area throughout live race meets.
- E. An association shall ensure that trash cans are available in the paddock area and that all litter on paddock area grounds is removed daily.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:

§5762. Grass and Drainage Maintenance

- A. An association shall keep all grass areas maintained with adequate grass cutting and weed eating.
- B. An association shall maintain all drainage throughout the backside to insure against flooding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:

§5764. Surface of Race Course

- A. The surface of a racetrack, including the cushion, subsurface and base, must be designed, constructed, and maintained to provide for the safety of the jockeys and horses.
- B. An association shall provide an adequate drainage system for the racetrack and turf course.
- C. An association shall maintain the track surface in a safe training and racing condition.
- D. An association that conducts races on a turf track shall provide a system capable of adequately watering the entire turf course evenly.
- E. An association must get a soil sample tested for its dirt course twice a year.
 - 1. The test must be conducted by a certified expert.
 - 2. Each association must send a copy of the expert report to the commission in a timely manner to make any necessary adjustments.
- F. An association must get its turf course inspected and evaluated twice a year.

- 1. The inspection and evaluation must be conducted by a certified expert.
- 2. Each association must send a copy of the expert report to the commission in a timely manner to make any necessary adjustments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 44:915 (May 2018), amended LR 49:

§5771. Minimum Infrastructure Investment Requirements

- A. An association shall deposit 10 percent of its gross profits into a fund for infrastructure maintenance and improvements per R.S. 4:164.
 - 1. These deposits shall occur at the same time as when the association's state taxes are paid each month.
 - 2. The association shall continue depositing 10 percent of its gross profits until such time when the commission determines that the association has complied with all infrastructure maintenance and improvements as required by the commission in this Chapter.
 - a. When the commission, by majority vote, determines full compliance with its required infrastructure

maintenance and improvements by the association, the association shall maintain a minimum fund balance of \$3,000,000.

- b. When the commission determines full compliance with its required infrastructure maintenance and improvements by the association, the commission can authorize any of the following by two-thirds vote:
 - i. exemption from maintaining fund balance,
 - ii. exemption from making deposits, or
 - iii. allow fund balance to be withdrawn
- c. The commission, by majority vote, may reconsider prior determination of compliance and revoke any exemption or allowance granted to an association per this Subsection at any time.
- d. There shall be an ongoing review, at least annually, by the commission to determine any additional required facility maintenance and improvements needed and to be required by the commission after obtaining input from associations and stakeholders.

3. The funds specified in this Subsection are subject to audit at any time by the commission and the legislative auditor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:

§5772. Minimum Marketing Investment Requirements

A. An association shall specify the total amount of funds that it will use for marketing and promotions for horse racing with its submitted annual plan of operation report per LAC 35:VII.5773.

1. The commission shall make a determination, by majority vote, whether the amount of funds specified by the association for marketing and promotions is acceptable or if the association must submit a new marketing plan with appropriate funding to comply with the commission's determination of compliance per LAC 35:VII.5771.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:

§5773. Association Annual Plan of Operation Report

A. An association shall provide an annual report to the commission, due by January 30 after each fiscal year ends starting with fiscal year 2022 due on January 30, 2023, regarding the association's plan of operation for the upcoming fiscal year to include details about:

- 1. customer service;
- 2. full-time and seasonal employment;
- 3. marketing and promotions for horse racing;
- 4. capital improvements;
- 5. facility maintenance;
- 6. facility improvements; and
- 7. a summary of the prior fiscal year's plan of operation implementation and status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:

§5775. Association Quarterly Reports

A. The quarterly reports required each year under this Section shall be due within 20 days of the end of each quarter as follows.

1. Reports from January to March are due no later than April 20.

2. Reports from April to June are due no later than July 20.

3. Reports from July to September are due no later than October 20.

4. Reports from October to December are due no later than January 20.

B. Each association shall provide quarterly reports to the commission of the names and addresses of each individual, corporation, firm, partnership, association, or other legal entity that furnishes professional services, as defined in R.S. 4:158.2, to the association.

1. The reports must also specify whether or not the listed entities are any of the following:

- a. a registered Louisiana business;
- b. a female-owned business; and
- c. a minority-owned business.

C. Each association shall provide quarterly reports to the commission of the demographic information of its workforce, to include:

1. race;
2. gender; and
3. Louisiana residency.

D. Each association shall provide quarterly reports to the commission on its marketing plan, which shall include, but not be limited to, dollars spent on promotions, marketing and advertising broken down by racetrack and casino spending on the following:

1. television advertisements;
2. radio advertisements;
3. magazine advertisements;
4. billboard advertisements;
5. giveaways;
6. rewards; and
7. any other dollars spent on promotions, marketing; and advertising.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:158.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:

§5777. Broadcasting Live Races

A. An association shall ensure that televisions are broadcasting live races from its racetrack and are all in working operation adequately throughout the following areas operated by the association:

1. casino;
2. bars;
3. restaurants;
4. off-track betting areas;
5. track betting and viewing areas; and
6. in the backside track kitchen during live racing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:

§5779. Association Website Requirements

A. An association shall stream its live racing in real time with capabilities of replays for races in its current meet on its website and/or application for a smart television.

B. An association shall provide on its website a phone number that will be answered by a live person to allow reservations to be requested and confirmed for guests and horsemen as follows:

1. from 8 a.m. to 6 p.m. on non-race days; and
2. from 8 a.m. through the last race being made official on race days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:

§5781. Tote Boards

A. All associations must have a tote board in the infield and a tote board above the stalls in the paddock providing current odds and results during live racing.

1. All tote boards must have digital video capabilities.
2. All tote boards located in the infield must have landscaping approved by the commission at the same time as the association's race meet applications for licenses, dates, and wagering are considered for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:

§5783. Winner's Circle

A. An association shall ensure that the winner's circle is kept clean, maintained, and upgraded as needed for safety and appearance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:

§5785. Parking Areas

A. All parking areas on association property, regardless of their location, must have drainage that removes all puddles caused by rain within one hour of rainfall ending.

B. An association shall maintain healthy landscaping for every day of the year at all entry roads and parking areas.

C. Once an hour, security personnel shall check all handicap parking spaces on association property for any cars parked without displayed handicap eligibility and shall ensure that no vehicles are blocking wheelchair access to handicap vehicles.

D. All parking must be appropriately and visibly marked for parking spaces.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:

§5787. Maintenance Equipment

A. Each racetrack shall have a functioning rock picker attachment for tractors for removal of rocks and stones on racing surfaces.

B. Each racetrack that has at least one escalator on its premises shall have a functioning duplex escalator cleaning machine or similar equipment specifically made to clean escalators.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:

§5789. Off-Track Wagering Facilities

A. An association shall ensure that food and beverages are always available to guests at its off-track wagering facilities during open hours of operation.

B. All pari-mutuel wagering areas must have tellers, seating, and tables in an air-conditioned environment for guests to handicap and place wagers on the races.

C. All off-track wagering facilities must be open and taking wagers during the hours that any racetrack in the United States is conducting live racing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:

§5791. Horse Move In and Move Out

A. An association shall be prepared and allow horses to move in to allotted stalls and train on its racetrack grounds no later than 30 days prior to the start of a race meet.

B. An association shall allow horses to stay housed in the allotted stalls and train on the racetrack grounds for at least 15 days after the end of a race meet, unless otherwise negotiated and in agreement with the Louisiana Horsemen’s Benevolent and Protective Association

C. The commission may grant an exception to the arrival and departure dates set in this Section due to force majeure or other prohibitive circumstances on a case-by-case basis as requested by an association.

D. The Louisiana Horsemen’s Benevolent and Protective Association may request an earlier arrival date or later departure date for horses with allotted stalls at a specified racetrack in writing to the association and the commission for consideration.

1. If the Louisiana Horsemen’s Benevolent and Protective Association and the association reach an agreement on earlier arrival or later departure dates for horses, the association may charge a stall rate of \$8 per stall per day for the agreed-upon additional days, subject to annual review by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:

§5793. Reporting Altercations

A. An association shall provide a written report of any physical altercation that occurs on its grounds to the commission within five days of incident.

1. The individuals involved in the reported physical altercation may be subject to immediate suspension by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:

Charles A. Gardiner III.
Executive Director

2211#009

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Racing Commission**

Associations' Duties and Obligations
(LAC 35:III.Chapter 57)

Editor’s Note: This Emergency Rule rescinds and replaces the Emergency Rule of the same name and citation within this volume of the *Louisiana Register*.

In accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953.1, the Racing Commission has amended LAC 35:III.Chapter 57. This action has been deemed necessary by the Racing Commission to prevent imminent peril to the public health, safety, and welfare by establishing the administrative rules for minimum standards of facilities and infrastructure investments for racetracks in fulfillment of the Legislature’s mandate to the Racing Commission “to encourage forceful and honest statewide control of horse racing for the public health, safety, and welfare by safeguarding the people of this state against corrupt, incompetent, dishonest and unprincipled horse racing practices” and “[t]o institute and maintain a program to encourage and permit development of the business of horse racing with pari-mutual wagering thereon on a higher plane.” R.S. 4:141(A) and (A)(1).

All in fulfillment of the Legislature’s mandate for the Racing Commission to “institute and maintain a regulatory program for the business of racing horses, which program assures the protection of public health, safety and welfare, vesting with the commission forceful statewide control of horse racing with full powers to prescribe rules and regulations and conditions under which all horse racing is conducted with wagering upon the result thereof with the state.” R.S. 4:141(A)(3).

This emergency adoption establishes the initial administrative Rule for minimum standards of facilities and infrastructure investments for racetracks in accordance with the provisions established in Act 530 of the 2022 Regular Session of the Louisiana Legislature. This Emergency Rule rescinds and replaces the previous emergency adoption of LAC 35:XVII.Chapter 57. This Emergency Rule shall become effective November 7, 2022 and shall remain in effect for a period of 180 days from adoption, or until finally adopted as Rule.

Title 35

HORSE RACING

**Part III. Personnel, Registration and Licensing
Chapter 57. Associations' Duties and Obligations
§5705. Security of Racetrack Premises**

A. The stable area of the premises of every association shall be enclosed with a fence, the type and construction of the fence to be subject to the approval of the commission. The association shall maintain a 24-hour guard at any opening of the fence during the horse race meeting.

B. An association must maintain adequate staffing of security officers on backside to:

1. patrol the backside;
2. check every vehicle coming into the backside for commission-granted licenses; and
3. check every horse trailer for the names of horses entering and exiting the backside.

C. An association must provide security guards to be present in the jockeys' room during live racing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:434 (December 1976), amended LR 3:30 (January 1977), LR 4:277 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission LR 48:

§5706. Barns on Backside of Racetrack

A. An association shall ensure that ~~the~~ all barns are kept in good repair and are kept clean by the licensed occupants.

1. Barn buildings, fences, bathrooms, and outdoor and indoor lighting shall be kept in good working order.
2. Each barn, including the receiving barn, must have a hot and cold water supply available and have ventilation proper for the housing of horses.

B. Any new barns, additions, or expansions built by a licensed association after the amendment of this Rule shall ensure that the individual box stall shall have a minimum dimensions of 12 feet by 12 feet and if constructed of concrete walls, they must be woodlined on the interior up a minimum of 4 feet from the ground or otherwise be insulated for the protection of the stabled horse.

C. An association shall provide an adequate area for the placement of manure removed from the stalls. All manure storage and removal shall be conducted in compliance with the rules and regulations set forth by the Department of Environmental Quality. Nothing in the Rule is to supersede any requirements set forth by the Department of Environmental Quality.

D. An association must provide the minimum number of total stalls, as specified by the Commission by majority vote, on its backside in good, working condition to house horses for their assigned racing dates.

E. The commission shall send a representative to each racetrack annually to assure that upkeep of all barns, both exterior and interior, is maintained. This shall include, but not be limited to, upkeep of:

1. stalls;
2. restroom facilities;
3. tack rooms;
4. feed rooms;
5. living quarters;
6. horse paths;
7. walking wheels; and
8. exterior barn paint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 44:913 (May 2018), amended LR 48:

§5740. Backside Internet Access

A. An association shall provide access to wireless internet on the backside free of charge to the horsemen and commission staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:
§5742. Grandstand, Clubhouse, and Apron Areas

A. An association shall ensure that the grandstand is kept clean, in good repair, and properly ventilated for use by the public.

B. An association shall grant access for the general public to the grandstand and apron areas of its racetrack on live race days, with all doors and gates unlocked, no later than one hour before post time of the first race of the day.

C. An association shall provide live pari-mutuel tellers at its racetrack betting windows and an open concession stand that sells programs and forms no later than one hour before post time of the first race of the day.

1. All pari-mutuel wagering areas must have tellers, seating, and tables in an air-conditioned environment for guests to handicap and place wagers on the races.

D. An association shall provide security personnel who are visible to the public no later than one hour before post time of the first race of the day.

E. An association shall ensure that all elevators and escalators are kept clean and in good working condition during any hours of operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:
§5745. Providing Concession and Restaurant Services

A. The operation shall be conducted so that all persons who patronize the respective tracks shall be satisfactorily served. Food, beverages (both alcoholic and nonalcoholic), tobacco and other generally related items may be available for sale to the patrons of the various tracks on each day that racing is conducted under the license, permit or privilege granted by the commission. Concessionaires vending any liquid refreshments shall not permit the surrender of glass containers to customers except in appropriate areas as designated by the association.

B. An association shall ensure that food and beverages are always available to guests at the racetrack during open hours of operation.

C. An association shall make a sit down dining experience available on weekend live race days and during stakes races.

D. An association shall provide tables and seats for guests to sit at and eat outside along the apron of the racetrack.

E. An association shall ensure that the racetrack kitchen and all cooking equipment are kept clean, in good repair, and fully operational during its race meets.

F. An association shall provide at least one quick service snack bar and a full service bar to be open during each live race day at least one hour before the first race and at least one hour after the last race.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:147 and R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission LR 2:92 (March 1976), amended by the Department of Commerce, Racing Commission, LR 2:435 (December 1976), amended LR 3:31 (January 1977), LR 4:278 (August 1978), LR 11:6 (January 1985), amended by the Office of the Governor, Division of Administration, Racing Commission LR 48:

§5756. Minimum Employment Requirements

A. An association shall maintain employees as follows.

1. Within 30 days after receiving the association's annual plan of operation per LAC 35:VII.5777, the commission shall determine in writing how many full-time and seasonal positions that the association will need to employ to operate the following during race meets:

- a. food service;
- b. marketing;
- c. pari-mutuel windows;
- d. kiosk repairs;
- e. racing officials; and
- f. racetrack maintenance.

2. Pari-mutuel tellers must be available at the ratio of 1 teller to every 50 guests on track with a minimum of 3 tellers in each betting area on the first floor and a minimum of 1 teller in each betting area on the clubhouse floors and private areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:147, and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5758. Animals and Livestock

A. Trainers must have all animals and livestock, other than equines, approved by the racing secretary before being allowed on the backside, and the association must report those animals and livestock to the commission and require paperwork for all service animals before allowing them access to the backside.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5760. Paddock

A. An association shall ensure that the paddock, paddock stalls, and parade ring are kept clean, in good repair, and free of dangerous surfaces on which horses and people can walk.

B. An association must provide an employee to remove horse manure from the paddock area during live racing in a timely manner.

C. All paddock stalls must have a working fan.

D. An association shall maintain healthy, well-groomed landscaping in the paddock area throughout live race meets.

E. An association shall ensure that trash cans are available in the paddock area and that trash cans are emptied and all litter on paddock area grounds is removed daily when horses are stalled on the backside.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5762. Grass and Drainage Maintenance

A. An association shall keep all grass areas maintained with adequate grass cutting and weed eating.

B. An association shall maintain all drainage throughout the backside.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5764. Surface of Race Course

A. The surface of a racetrack, including the cushion, subsurface and base, must be designed, constructed, and maintained to provide for the safety of the jockeys and horses.

B. An association shall provide an adequate drainage system for the racetrack and turf course.

C. An association shall maintain the track surface in a safe training and racing condition.

D. An association that conducts races on a turf track shall provide a system capable of adequately watering the entire turf course evenly.

E. An association must get a soil sample tested for its dirt course twice a year.

1. The test must be conducted by a certified expert.

2. Each association must send a copy of the expert report to the commission in a timely manner to make any necessary adjustments.

F. An association must get its turf course inspected and evaluated twice a year.

1. The inspection and evaluation must be conducted by a certified expert.

2. Each association must send a copy of the expert report to the commission in a timely manner to make any necessary adjustments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 44:915 (May 2018), amended LR 48:

§5771. Minimum Infrastructure Investment Requirements

A. An association shall deposit 10 percent of its gross profits into a fund for infrastructure maintenance and improvements per R.S. 4:164.

1. These deposits shall occur at the same time as when the association's state taxes are paid each month.

2. The association shall continue depositing 10 percent of its gross profits until such time when the commission determines that the association has complied with all infrastructure maintenance and improvements as required by the commission in this Chapter.

a. When the commission, by majority vote, determines full compliance with its required infrastructure maintenance and improvements by the association, the association shall maintain a minimum fund balance of \$3,000,000.

b. When the commission determines full compliance with its required infrastructure maintenance and improvements by the association, the commission can authorize any of the following by two-thirds vote:

- i. exemption from maintaining fund balance,
- ii. exemption from making deposits, or
- iii. allow fund balance to be withdrawn

c. The commission, by majority vote, may reconsider prior determination of compliance and revoke any exemption or allowance granted to an association per this Subsection at any time.

d. There shall be an ongoing review, at least annually, by the commission to determine any additional

required facility maintenance and improvements needed and to be required by the commission after obtaining input from associations and stakeholders.

3. The funds specified in this Subsection are subject to audit at any time by the commission and the legislative auditor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5772. Minimum Marketing Investment Requirements

A. An association shall specify the total amount of funds that it will use for marketing and promotions for horse racing with its submitted annual plan of operation report per LAC 35:VII.5773.

1. The commission shall make a determination, by majority vote, whether the amount of funds specified by the association for marketing and promotions is acceptable or if the association must submit a new marketing plan with appropriate funding to comply with the commission's determination of compliance per LAC 35:VII.5771.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5773. Association Annual Plan of Operation Report

A. An association shall provide an annual report to the commission, due by January 30 after each fiscal year ends starting with fiscal year 2022 due on January 30, 2023, regarding the association's plan of operation for the upcoming fiscal year to include details about:

1. customer service;
2. full-time and seasonal employment;
3. marketing and promotions for horse racing;
4. capital improvements;
5. facility maintenance;
6. facility improvements; and
7. a summary of the prior fiscal year's plan of operation implementation and status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5775. Association Quarterly Reports

A. The quarterly reports required each year under this Section shall be due within 20 days of the end of each quarter as follows.

1. Reports from January to March are due no later than April 20.
2. Reports from April to June are due no later than July 20.
3. Reports from July to September are due no later than October 20.
4. Reports from October to December are due no later than January 20.

B. Each association shall provide quarterly reports to the commission of the names and addresses of each individual, corporation, firm, partnership, association, or other legal entity that furnishes professional services, as defined in R.S. 4:158.2, to the association.

1. The reports must also specify whether or not the listed entities are any of the following:

- a. a registered Louisiana business;
- b. a female-owned business; and
- c. a minority-owned business.

C. Each association shall provide quarterly reports to the commission of the demographic information of its workforce, to include:

1. race;
2. gender; and
3. Louisiana residency.

D. Each association shall provide quarterly reports to the commission on its marketing plan, which shall include, but not be limited to, dollars spent on promotions, marketing and advertising broken down by racetrack and casino spending on the following:

1. television advertisements;
2. radio advertisements;
3. magazine advertisements;
4. billboard advertisements;
5. giveaways;
6. rewards; and
7. any other dollars spent on promotions, marketing; and advertising.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:158.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5777. Broadcasting Live Races

A. An association shall ensure that televisions are broadcasting live races from its racetrack and are all in working operation adequately throughout the following areas operated by the association:

1. casino;
2. bars,
3. restaurants;
4. off-track betting areas;
5. track betting and viewing areas; and
6. in the backside track kitchen during live racing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5779. Association Website Requirements

A. An association shall stream its live racing in real time with capabilities of replays for races in its current meet on its website and/or application for a smart television or provide a link on its website that allows viewing of live races and replays at no charge from a third-party provider.

B. An association shall provide technology that allows reservations to be made by guests and horsemen or shall provide on its website a phone number that will be answered by a live person to allow reservations to be requested and confirmed for guests and horsemen as follows:

1. from 8:00 AM to 6:00 PM on non-race days; and
2. from 8:00 AM through the last race being made official on race days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5781. Tote Boards

A. All associations must have a tote board in the infield and a tote board above the stalls in the paddock providing current odds and results during live racing.

1. All new tote boards installed after adoption of this Rule must have digital video capabilities.

2. All tote boards located in the infield must have landscaping approved by the commission at the same time as the association's race meet applications for licenses, dates, and wagering are considered for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5783. Winner's Circle

A. An association shall ensure that the winner's circle is kept clean, maintained, and upgraded as needed for safety and appearance.

B. An association must provide an employee to remove horse manure from the winner's circle in a timely manner during live racing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5785. Parking Areas

A. All parking areas on association property, regardless of their location, must have drainage that removes all puddles caused by rain.

B. An association shall maintain healthy landscaping for every day of the year at all entry roads and parking areas.

C. On a regular basis, security personnel shall check all handicap parking spaces on association property for any cars parked without displayed handicap eligibility and shall ensure that no vehicles are blocking wheelchair access to handicap vehicles.

D. All parking must be appropriately and visibly marked for parking spaces.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5787. Maintenance Equipment

A. Each racetrack shall have a functioning rock picker attachment for tractors for removal of rocks and stones on racing surfaces.

B. Each racetrack that has at least one escalator on its premises shall have a functioning duplex escalator cleaning machine or similar equipment specifically made to clean escalators.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5789. Off-Track Wagering Facilities

A. An association shall ensure that food and beverages are always available to guests at its off-track wagering facilities during open hours of operation.

B. All pari-mutuel wagering areas must have tellers or self-betting terminals to place bets, seating, and tables in an

air-conditioned environment for guests to handicap and place wagers on the races.

1. There must be a teller in close proximity that can cash tickets and take bets.

C. All off-track wagering facilities must be open and taking wagers during the hours that any racetrack in the United States is conducting live racing, except by agreement with the commission or its designee.

D. This Section lists the minimum requirements for off-track wagering facilities, and an association reserves the right to exceed these minimum requirements as allowable under the laws of the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5791. Horse Move In and Move Out

A. An association shall be prepared and allow horses to move in to allotted stalls and train on its racetrack grounds no later than 30 days prior to the start of a race meet, unless ordered by the commission to be a longer period.

B. An association shall allow horses to stay housed in the allotted stalls and train on the racetrack grounds for at least 15 days after the end of a race meet, unless otherwise negotiated and in agreement with the Louisiana Horsemen's Benevolent and Protective Association

C. The commission may grant an exception to the arrival and departure dates set in this Section due to force majeure or other prohibitive circumstances on a case-by-case basis as requested by an association.

D. The Louisiana Horsemen's Benevolent and Protective Association may request an earlier arrival date or later departure date for horses with allotted stalls at a specified racetrack in writing to the association and the commission for consideration.

1. If the Louisiana Horsemen's Benevolent and Protective Association and the association reach an agreement on earlier arrival or later departure dates for horses, the association may charge a stall rate of \$8 per stall per day for the agreed-upon additional days, subject to annual review by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5793. Reporting Altercations

A. An association shall provide a written report of any physical altercation of which it has been made aware that occurs on its grounds to the commission within 5 days of incident.

1. The individuals involved in the reported physical altercation may be subject to immediate suspension by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

Charles A. Gardiner III
Executive Director

2211#030

DECLARATION OF EMERGENCY

Office of the Governor Division of Administration Racing Commission

Minimum Standards for Facilities
(LAC 35:XV.12342 and 12345)

In accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953.1, the Racing Commission has amended LAC 35:III.Chapter 123. This action has been deemed necessary by the Racing Commission to prevent imminent peril to the public health, safety, and welfare by establishing the administrative rules for minimum standards of facilities and infrastructure investments for racetracks in fulfillment of the Legislature's mandate to the Racing Commission "to encourage forceful and honest statewide control of horse racing for the public health, safety, and welfare by safeguarding the people of this state against corrupt, incompetent, dishonest and unprincipled horse racing practices" and "[t]o institute and maintain a program to encourage and permit development of the business of horse racing with pari-mutual wagering thereon on a higher plane." R.S. 4:141(A) and (A)(1).

All in fulfillment of the Legislature's mandate for the Racing Commission to "institute and maintain a regulatory program for the business of racing horses, which program assures the protection of public health, safety and welfare, vesting with the commission forceful statewide control of horse racing with full powers to prescribe rules and regulations and conditions under which all horse racing is conducted with wagering upon the result thereof with the state." R.S. 4:141(A)(3).

This emergency adoption establishes the initial administrative Rule for minimum standards of facilities and infrastructure investments for racetracks in accordance with the provisions established in Act 530 of the 2022 Regular Session of the Louisiana Legislature. This Emergency Rule shall become effective November 1, 2022 and shall remain in effect for a period of 180 days from adoption, or until finally adopted as Rule.

Title 35

HORSE RACING

Part XV. Off-Track Wagering

Chapter 123. General Rules

§12342. Amenities for Guests

A. All off-track wagering facilities must follow the requirements set forth in LAC 35:III.5789.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:

§12345. Concession Services

A. The concession and catering operations shall be conducted so that all persons attending off-track wagering facilities shall be satisfactorily served. Food, beverages (both alcoholic and nonalcoholic), tobacco and other generally related items may be available for sale to the patrons of the various facilities during open hours of operation. Concessionaires serving liquid refreshments shall not permit the surrender of glass containers to patrons except in designated areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-227.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 14:290 (May 1988), amended by the Office of the Governor, Division of Administration, Racing Commission LR 49:

Charles A. Gardiner III.
Executive Director

2211#010

DECLARATION OF EMERGENCY

Office of the Governor Office of Financial Institutions

Virtual Currency Business Activity
(LAC 10:XV.Chapter 19)

To prevent imminent peril to the public health, safety, or welfare, the Office of Financial Institutions ("OFI") proposes to amend and reenact LAC 10:XV.1901-1937 ("Rule"), as LAC 10:XV.1901-1925, relative to licensure, registration, and regulation of persons engaging, or planning to engage, in virtual currency business activity in the state of Louisiana pursuant to the Virtual Currency Businesses Act ("VCBA"), R.S. 6:1381, et seq., as enacted by Act 341 of the 2020 Regular Session of the Louisiana Legislature. OFI seeks to amend and reenact LAC 10:XV.1901, 1905, 1913, 1915, 1917, 1923, and 1927; enacts LAC 10:XV.1911; and repeals LAC 10:XV.1903, 1907, 1909, 1919, 1921 and 1925. This proposed amendment and reenactment of the Rule is promulgated in accordance with provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and is intended to provide clear and concise guidance for implementation and enforcement of provisions of the VCBA, as required under R.S. 6:1394. This Emergency Rule is effective upon adoption and will remain in effect for the maximum period prescribed within the Administrative Procedure Act.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

Part XV. Other Regulated Entities

Chapter 19. Virtual Currency

§1901. Definitions

A. In addition to the definitions provided in Section 1382 of the Virtual Currency Businesses Act, ("VCBA"), R.S. 6:1381 et seq., as enacted by Act 341 of the 2020 Regular Session of the Louisiana Legislature, the following definitions are applicable to this Chapter.

Acting in Concert—persons knowingly acting together with a common goal of jointly acquiring control of a licensee whether or not pursuant to an express agreement.

Commissioner—the commissioner of the office of financial institutions.

Control—includes, but is not limited to the following:

- a. any and all circumstances inherent within the scope of section 1382(2) of the VCBA;
- b. power to directly or indirectly vote at least 25 percent of outstanding voting shares or voting interests of any:
 - i. applicant, licensee or registrant; or

ii. applicant's, licensee's or registrant's responsible individual or responsible individuals, including persons acting in concert;

c. power to directly or indirectly elect, appoint or remove any applicant's, licensee's or registrant's responsible individual or a majority of responsible individuals including persons acting in concert;

d. power to directly or indirectly participate in a licensee's or registrant's day-to-day decisions or operations, including persons acting in concert; and

e. any other set of facts or circumstances that may constitute control.

Nationwide Multistate Licensing System and Registry (NMLS)—the multistate system developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators and owned and operated by the State Regulatory Registry, LLC, or any successor or affiliated entity, for the licensing and registration of persons in financial services industries.

Net Worth—the difference between total business assets and total business liabilities, after deducting estimated income taxes on the differences between the estimated current values of business assets and the current amounts of business liabilities and their tax bases.

Tangible Net Worth—includes all business assets minus liabilities minus intangible assets (goodwill and other intangible assets, such as favorable leasehold rights, trademarks, trade names, internet domain names, and non-compete agreements.)

Unfair or Deceptive Act or Practice—failure to provide any disclosure or disclosures described in this Chapter is an unfair or deceptive act or practice by a licensee, registrant, or person that is neither a licensee nor registrant but is engaging in virtual currency business activity or activities, pursuant to R.S. 6:1393(3)(b).

Unsafe or Unsound Act or Practice—inability of any applicant, licensee or registrant to meet its withdrawal requests; violation of the applicant's, licensee's or registrant's articles of incorporation; or violation of any law or any regulation governing the applicant, licensee or registrant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1386, R.S. 6:1387, R.S. 6:1388, R.S. 6:1391, R.S. 6:1392, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2561 (October 2022), amended LR 49:

§1903. Implementation

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1383, R.S. 6:1385, R.S. 6:1386, R.S. 6:1387, R.S. 6:1388, R.S. 6:1391, R.S. 6:1392, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2562 (October 2022), repealed LR 49:

§1905. Application for License or Notice of Registration

A. The department shall begin accepting initial applications for licensure and notices of registration through the NMLS on January 1, 2023.

B. Completed applications for licensure and notices of registration submitted on or before April 1, 2023 will be approved, conditionally approved or denied on or before June 30, 2023.

C. This Rule shall become effective on July 1, 2023.

D. Applications for licensure and notices of registration pursuant to this Section shall not be complete until the department:

1. receives all information required by applicable provisions of the VCBA; and

2. completes its investigation pursuant to R.S. 6:1385D.

E. By force of law, no applicant shall have a right of appeal, as provided by R.S. 6:1387, before the 30th day after the effective date of this rule.

F. After July 1, 2023, initial and renewal applications shall be submitted in accordance with the VCBA and this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1383, R.S. 6:1385, R.S. 6:1386, R.S. 6:1387, R.S. 6:1388, R.S. 6:1389, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2562 (October 2022), amended LR 49:

§1907. Approval of Control Person

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1386, R.S. 6:1387, R.S. 6:1388, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2562 (October 2022), repealed LR 49:

§1913. Renewal of License or Notice of Registration

A. Any application for renewal of a license or notice of registration issued pursuant to provisions of the VCBA shall be submitted through the NMLS and satisfy all renewal requirements of the VCBA, including but not limited to those required by R.S. 6:1388.

B. Beginning July 1, 2023, the period for submitting applications for renewal of all licenses and notices of registration to engage in virtual currency business activities shall begin on the first day of November of each calendar year.

C. A renewal application submitted on or before the thirty-first day of December shall be considered timely and the license or notice of registration seeks to renew shall remain in force and effect, as provided by the VCBA.

D. An application for renewal of any license or notice of registration shall be accompanied by both:

- a. the renewal fee; and
- b. the late fee.

2. If a licensee or registrant does not submit an application for renewal on or before the last day of February, the license or notice of registration shall lapse on the first day of March and the licensee or registrant shall cease engaging in virtual currency business in Louisiana, with persons and individuals in Louisiana or on behalf of persons or individuals in Louisiana, as provided by R.S. 6:1384.

3. Any person whose license or notice of registration has lapsed may apply for a new license or notice of registration, in accordance with the VCBA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1386, R.S. 6:1387, R.S. 6:1388, R.S. 6:1389, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2564 (October 2022), amended LR 49:

§1917. Examination

A. The commissioner may:

1. conduct on-site examination or investigation of the books, records, and accounts used in the business of every a licensee or registrant;
2. consider results of an inspection conducted by a comparable official in any in which the books, records, and accounts used in a licensee's or registrant's virtual currency business are located;
3. enter into agreements or relationships with other government officials or state and federal regulatory agencies;
4. consider licensing or examination reports prepared by other governmental agencies or officials, within or outside Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1386, R.S. 6:1387, R.S. 6:1388, R.S. 6:1389, R.S. 6:1391, R.S. 6:1392, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2564 (October 2022), amended LR 49:

§1919. Network Examination

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1386, R.S. 6:1387, R.S. 6:1388, R.S. 6:1389, R.S. 6:1391, R.S. 6:1392, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2564 (October 2022), repealed LR 49:

§1921. Renewal/Quarterly Reports

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1387, R.S. 6:1388, R.S. 6:1389, R.S. 6:1391; and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2565 (October 2022), repealed LR 49:

§1923. Records

A. Licensees engaging in virtual currency business activity in Louisiana shall maintain and preserve such books, records, and accounts of its virtual currency business activities, pursuant to R.S. 6:1391, for a period of five years, or longer, if required by the commissioner to resolve any examination, investigation, or complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1387, R.S. 6:1388, R.S. 6:1389, R.S. 6:1391, R.S. 6:1393, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2561 (October 2022), amended LR 49:

§1925. Policies and Procedures

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1387, R.S. 6:1388, R.S. 6:1389, R.S. 6:1391, R.S. 6:1393, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2565 (October 2022), repealed LR 49:

§1927. Consent Agreements

A. The commissioner may enter into a consent agreement at any time with a person to resolve a matter arising under the VCBA, or a rule adopted, or an agreement entered into, under the VCBA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1386, R.S. 6:1387, R.S. 6:1388, R.S. 6:1389, R.S. 6:1391, R.S. 6:1392, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2561 (October 2022), amended LR 49:

§1929. Civil Penalties

A. The commissioner, in his discretion, may assess a civil penalty against a person that violates the VCBA or any rule promulgated pursuant to the VCBA, or any order issued by the commissioner pursuant thereto, not to exceed \$1,000 for each violation, plus the department's costs and expenses for the investigation and prosecution of the matter, including reasonable attorney's fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1387, R.S. 6:1388, R.S. 6:1392, R.S. 6:1393, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2561 (October 2022), amended LR 49:

§1931. Miscellaneous Provisions

A. Failure to comply with this rule, or any other rule, or with any order issued by the department within a reasonable period of time may be considered in determining whether to waive any regulatory fee or to allow the filing of additional information relating to the application process. Noncompliance with any provisions of the VCBA, including but not limited to any provision or provisions pertaining to ownership, control, security, net worth, registration, or failure to pay any fee may likewise be considered in determining whether to deny issuance or renewal of a license or notice of registration, or the commissioner's institution of any investigative, administrative, or regulatory action within the scope of his authority.

B. All persons must be properly registered with the Louisiana Secretary of State, if required, prior to engaging in virtual currency business activity in the state of Louisiana.

C. Licensees engaging in virtual currency business activity in Louisiana are to provide proper disclosures to persons wishing to transfer or exchange virtual currency through the licensee or registrant. Disclosures are to be made separately from any other information provided by the licensee to such persons in a clear and conspicuous manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1387, R.S. 6:1388, R.S. 6:1389, R.S. 6:1392, R.S. 6:1393, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2561 (October 2022), amended LR 49:

§1933. Fees

A. Pursuant to the authority granted under R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1387, R.S. 6:1388, R.S. 6:1389, and R.S. 6:1391, the following fee structure is hereby established to cover necessary costs associated with the administration of the VCBA, R.S. 6:1381, et seq., as enacted by Act 341 of the 2020 Regular Session of the Louisiana Legislature.

Description	Fee
1.Initial Application Fee (\$2,500) and Investigation/Review Fee (\$2,500)	\$5,000

Description	Fee
2. License Renewal Fee (\$2,000) and Investigation/Review Fee (\$2,000)	\$4,000/\$1,500 late fee
3. Examination Fee	\$50 per/hour for each examiner, plus the actual cost of subsistence, lodging, and transportation for out-of-state exams, not to exceed the amounts provided for in Division of Administration travel regulations in force at the time of such exam
4. Registration Fee	\$750 for initial application
5. Registration Renewal Fee	\$500 for any subsequent annual renewals /\$250 late fee

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1385, R.S. 6:1388, R.S. 6:1389, R.S. 6:1392, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2565 (October 2022), repromulgated LR 49:

§1935. Exceptions

A. Any request for an exception and/or waiver must be submitted in writing and requires the written approval of the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1386, R.S. 6:1387, R.S. 6:1388, R.S. 6:1389, R.S. 6:1392, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2566 (October 2022), repromulgated LR 49:

§1937. Severability

A. If any provision or item of this regulation, or the application thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of the regulation which can be given effect without the invalid provisions, items, or applications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1386, R.S. 6:1387, R.S. 6:1388, R.S. 6:1389, R.S. 6:1392, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2566 (October 2022), repromulgated LR 49:

Stanley M. Dameron
Commissioner

2211#003

DECLARATION OF EMERGENCY

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

**Closure of a Portion of Public Oyster Seed Grounds
East of the Mississippi River**

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:962, which allows the Wildlife and Fisheries Commission to use emergency procedures to set oyster seasons and under the authority of R.S. 56:433 and R.S.56:435.1.1, and under the authority of a Declaration of Emergency passed by the Wildlife and Fisheries Commission on September 1, 2022, which authorized the secretary of the Department of Wildlife and Fisheries to take emergency action if oyster resources and/or reefs are being adversely impacted, notice is hereby given

that the secretary does hereby declare that the harvest of oysters from the following portions of the public oyster seed grounds east of the Mississippi River, as described in LAC 76:VII.511, shall close at one-half hour after sunset on Sunday, November 13, 2022:

The areas within the following coordinates:

A. 3-Mile Pass (2013) – St. Bernard Parish

- 30 degrees 03 minutes 56.09 seconds N
- 89 degrees 22 minutes 32.52 seconds W
- 30 degrees 03 minutes 56.70 seconds N
- 89 degrees 22 minutes 15.40 seconds W
- 30 degrees 03 minutes 18.00 seconds N
- 89 degrees 22 minutes 06.30 seconds W
- 30 degrees 03 minutes 30.49 seconds N
- 89 degrees 22 minutes 38.17 seconds W

B. Shell Point (2009) – St. Bernard Parish

- 30 degrees 1 minutes 15.89 seconds N
- 89 degrees 21 minutes 19.51 seconds W
- 30 degrees 1 minutes 11.42 seconds N
- 89 degrees 21 minutes 12.30 seconds W
- 30 degrees 1 minutes 29.77 seconds N
- 89 degrees 20 minutes 52.48 seconds W
- 30 degrees 1 minutes 34.63 seconds N
- 89 degrees 20 minutes 58.81 seconds W

The oyster population in the public oyster seed grounds has been in decline for several years and the recommended commercial harvest threshold in this portion of the public oyster seed grounds east of the Mississippi River has been met. The closure is also necessary to protect undersized oysters, allowing growth for future harvest opportunities. Continued commercial harvest might threaten the long-term sustainability of remaining oyster resources in these areas. Protection of these remaining oyster resources from injury is in the best interest of these public oyster seed grounds.

Notice of any opening, delaying, or closing of a season will be provided by public notice at least 72 hours prior to such action, unless such closure is ordered by the Louisiana Department of Health for public health concerns.

Jack Montoucet
Secretary

2211#052

DECLARATION OF EMERGENCY

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

Statewide Online Special Certificate Agent for
Motorboat Registration and Titling
(LAC 76:I.328)

In accordance with the emergency provisions of R.S. 49:962 and under the authority of R.S. 34:851.37 and R.S. 56:6(21), the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopt LAC 76:I.328 providing for regulations governing electronic vessel and motor registration and titling.

The commission, through its secretary, has authority to designate and consign to special licensing or certificate agents, the issuance of recreational licenses, permits, motorboat registration certificates, and the collection of fees therefor. R.S. 34:851.37 specifically authorizes the

Department of Wildlife and Fisheries to establish a system of special certificate agents to receive and process applications related to registration and titling of vessels and outboard motors, collect associated fees and taxes, and issue registration certificates and decals. The law also provides for special certificate agents to contract with the department for the administration of an electronic system to permit the recording of vessel and outboard motor registration information.

The department had previously contracted with a vendor for the development of vessel and motor registration/titling system. That agreement became the subject of a formal contract controversy. The state and the vendor mutually agreed to settle the contract controversy and release one another for the claims therefrom. The result of this settlement agreement was that the vendor would develop and provide the department access to a vessel and outboard motor registration/titling system in exchange for being allowed to serve as the exclusive online special certificate agent. This Emergency Rule establishes rules governing electronic special certificate agents and authorizes the department to enter into contracts with vendors to perform online motorboat registration and titling functions and authorizes the special certificate agent to collect and retain convenience fees on a transactional basis.

Failure to adopt a rule providing a mechanism for the state to uphold its obligations under the aforementioned settlement agreement may result in a breach of the agreement and potentially subject the state to exposure of liability arising to imminent peril to the public welfare.

This Emergency Rule is effective November 20, 2022 and shall remain in effect for the maximum period allowed by law (180 days), unless rescinded or modified by the secretary, or until promulgation of a final Rule regulations governing electronic vessel and motor registration and titling, whichever occurs first.

Title 76

WILDLIFE AND FISHERIES

Part I. Wildlife and Fisheries Commission and Agencies Thereunder

Chapter 3. Special Powers and Duties

Subchapter H. Electronic Licenses Issuance

§328. Electronic Vessel and Motor Registration and Titling

A. The secretary shall have authority to enter into contracts to acquire electronic methods to register and title vessels and outboard motors within the state purchasing regulations.

B. Such functions may be included as a component of the recreational hunting and fishing license point of sale system and performed by the same vendor, or may be contracted as an electronic certificate system specific for vessels and outboard motors separate from the recreational licensing platform.

C. The electronic collection of vessel or outboard motor certificate applications and fees collected pursuant thereto shall be in addition to the ability to apply for such certificates in person at the Baton Rouge headquarters, or via U.S. mail. In addition to any electronic special certificate agent contract, the secretary may contract with other special certificate agent brick-and-mortar facilities throughout the state, as he deems necessary to perform registration and titling for vessels and outboard motors.

D. The secretary may authorize, by contract, a transactional convenience fee for each online certificate transaction conducted by the electronic special certificate agent to be retained by the electronic special certificate agent. Such fee shall not exceed \$12 per certificate. The convenience fee shall be in addition to any registration or title certificate fees collected and shall be retained by the electronic special certificate agent.

E. Prior to collection of any applications for registration or title and any associated fees, the electronic special certificate agent shall execute and furnish to the department a good and sufficient surety bond with a surety company qualified to do business as a surety in Louisiana. The sum of the bond shall be determined by the secretary, but shall be not less than \$10,000, but shall not exceed \$100,000. The bond shall be in the name of the Department of Wildlife and Fisheries as obligee and remain in full force and effect for the entire term of the contract. If the electronic special certificate agent timely files all applications delivered to such certificate agent for filing and remits all fees and taxes collected, then the obligation of the surety shall be void. Should the electronic special certificate agent fail to timely file certificate applications, remit fees or taxes collected, or otherwise fail to meet the conditions of the contract, the department may file a claim against the bond for all costs associated with the claim, including any actual investigatory costs or attorney fees incurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:851.37 and R.S. 56:6(21).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 49:

Joe McPherson
Chairman

2211#021

Rules

RULE

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Horticulture and Quarantine Programs Lethal Bronzing and Lethal Yellowing Disease Quarantine (LAC 7:XV.173 and 175)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority set forth in R.S. 3:1652, the Department of Agriculture and Forestry ("Department") has adopted the rules set forth below establishing lethal bronzing and lethal yellowing quarantine parishes within the state. Lethal bronzing disease is a bacterial infection that causes palm plants to decline quickly. Once a plant is infected with lethal bronzing disease, there is no cure. Lethal yellowing is a bacterial disease that attacks palm plants. This disease is also fatal to palms. The only way to eradicate these diseases is by prevention. The rules establish lethal bronzing quarantine areas in East Baton Rouge Parish, Iberia Parish, Jefferson Parish, Orleans Parish and West Baton Rouge Parish and lethal yellowing quarantine areas in East Baton Rouge Parish and Jefferson Parish. Therefore, any regulated articles may not be moved from quarantined areas to non-quarantined areas unless treated with an approved insecticide. Limiting the spread of lethal bronzing and lethal yellowing will protect Louisiana's nursery industry, which has a gross farm value of \$115.2 million. This Rule is hereby adopted on the day of promulgation.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 1. Crop Pests and Diseases

Subchapter I. Lethal Bronzing and Lethal Yellowing Quarantine

§173. Lethal Bronzing Quarantine

A. The department issues the following quarantine because the state entomologist has determined that the disease, lethal bronzing, *Candidatus phytoplasma palmae*, has been found in this state and may be prevented, controlled, or eradicated by quarantine.

B. Quarantine areas in this state include:

1. the entire parishes of East Baton Rouge, Iberia, Jefferson, Orleans and West Baton Rouge.

2. A declaration of quarantine for lethal bronzing covering any other specific parishes or areas of Louisiana shall be published in the official journal of the state and in the *Louisiana Register*.

C. No regulated articles as defined in this Section shall be moved out of any area of this state that is listed in this Section as a quarantined area for lethal bronzing, except as provided in this Section.

D. The following articles are deemed to be regulated articles of lethal bronzing for purposes of this Subsection:

1. the disease, lethal bronzing, *Candidatus phytoplasma palmae*; phytoplasma strain 16SrIV-D;
2. all plant parts of:
 - a. Canary Island date palm, *Phoenix canariensis*;
 - b. edible date palm, *Phoenix dactylifera*;
 - c. silver date palm, *Phoenix sylvestris*; Wild date palm, *Phoenix reclinata*;
 - d. cabbage palm, *Sabal palmetto*; and
 - e. queen palm, *Syagrus romanzoffiana*.
3. Tools used in the pruning and handling of regulated articles.

E. Regulated articles may be moved from quarantined areas to non-quarantined areas within or outside of Louisiana only if moved under the following conditions:

1. palms must be inspected within 48 hours prior to shipment with no symptoms of lethal bronzing apparent;
2. host palms shall be treated with an insecticide labeled for leafhoppers six weeks prior to shipment and also receive a final treatment within 48 hours prior to movement.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 48:2727 (November 2022).

§175. Lethal Yellowing Quarantine

A. The department issues the following quarantine because the state entomologist has determined that the disease, lethal yellowing, *Candidatus phytoplasma palmae*, has been found in this state and may be prevented, controlled, or eradicated by quarantine.

B.1. Quarantine areas in this state include the entire parishes of East Baton Rouge and Jefferson;

2. A declaration of quarantine for lethal yellowing covering any other specific parishes or areas of Louisiana shall be published in the official journal of the state and in the *Louisiana Register*.

C. No regulated articles as defined in this Section shall be moved out of any area of this state that is listed in this Section as a quarantined area for lethal yellowing, except as provided in this Section.

D. The following articles are deemed to be regulated articles of lethal yellowing for purposes of this Subsection:

1. the disease, lethal yellowing, *Candidatus phytoplasma palmae*; phytoplasma strain 16SrIV-A;

2. all plant parts of *Cocos nucifera* L. (Coconut palm) all varieties, including Malayan dwarf, *Veitchia* spp., *Pritchardia* spp., *Arikuryroba schizophylla* (Mart.) Bailey (Arikury palm), *Corypha elata* Roxb. (Buri palm, Gebang palm), *Phoenix reclinata* Jacq. (Senegal date palm), *Phoenix canariensis* Hort. ex Chab. (Canary Island date palm), *Phoenix dactylifera* (L.) date palm, *Phoenix sylvestris* (L.) Roxb. (Sylvester date palm), *Chrysalidocarpus cabadae* H.E. Moore (Cabada palm), *Dictyosperma album* (Bory) H. Wendl. and Drude (hurricane or princess palm), *Aiphanes lindeniana* (H. Wendl.), *Allagoptera arenaria* (Gomes) Kuntze, *Arenga engleri* Becc., *Ravenea hildebrandti* Wendl.

ex Bouche, *Goussia attenuata* (O.F. Cook) Beccari (Puerto Rican *Goussia*), *Howeia belmoreana* (C. Moore and F. Muell.) Becc. (sentry palm), *Latania* spp. (all species), *Livistonia chinensis* (N.J. Jacquin) R. Br. ex Mart. (Chinese fan palm), *Trachycarpus fortunei* (Hook) Wendl. (Chinese windmill palm), *Hyophorbe (Mascarena) verschaffeltii* H. Wendl. (Spindle palm), *Caryota mitis* Lour (cluster fishtail palm), *Borassus flabellifer* L. (Palmyra palm), *Nannorrhops ritchiana* (W. Griffith) J.E.T. Aitchison (Mazari palm), and *Neodrypsis decaryi* Jumelle (triangle palm).

3. Tools used in the pruning and handling of regulated articles.

E. Regulated articles may be moved from quarantined areas to non-quarantined areas within or outside of Louisiana only if moved under the following conditions:

1. palms must be inspected within 48 hours prior to shipment with no symptoms of lethal yellowing apparent;

2. host palms shall be treated with an insecticide labeled for leafhoppers six weeks prior to shipment and also receive a final treatment within 48 hours prior to movement.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 48:2727 (November 2022).

Mike Strain, DVM
Commissioner

2211#016

RULE

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Structural Pest Control
(LAC 7:XXV.101, 107, 109, and 141)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority set forth in R.S. 3:3366, the Department of Agriculture and Forestry (“Department”) has amended LAC 7:XXV.101, 107, 109, and 141. The definition of General Pest Control is being updated to reflect current industry standards. Examination procedures are being updated to allow more flexible examination dates and locations. The word “written” is being removed from the regulations in reference to exams to allow for computer-based examinations. This change is made pursuant to Act 8 of the 2022 Louisiana Regular Legislative Session which amended R.S. 3:3368 to remove the word “written” from the law and to allow examinations at any approved location. Act 8 was effective on May 13, 2022. The requirement for faxing in pre-treatment notifications is being removed to allow for pre-treatment notifications to be submitted via online form which makes notifications easier for the pest control operators. The Louisiana Structural Pest Control Commission unanimously approved the promulgation of these rules at their meeting held on June 22, 2022. This Rule is hereby adopted on the day of promulgation.

Title 7

AGRICULTURE AND ANIMALS

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§101. Definitions

A. - B. ...

License—a document issued by the commission which authorizes the practice and/or supervision of one or more phases of structural pest control work as follows:

a. *General Pest Control*—the application of remedial or preventive measures to control, prevent or eradicate household pests by use of pesticides used as sprays, dusts, aerosols, thermal fogs, barriers, traps and baits;

b. - e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3362 and R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:323 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission LR 15:954 (November 1989), 17:251 (March 1991), LR 23:855 (July 1997), LR 30:1143 (June 2004), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 31:26 (January 2005), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 32:796 (May 2006), repromulgated LR 32:1015 (June 2006), amended LR 33:39 (January 2007), LR 35:204 (February 2009), LR 35:1468 (August 2009), LR 37:272 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:300 (February 2013), LR 41:333 (February 2015), LR 42:213 (February 2016), LR 44:1235 (July 2018), LR 46:1541 (November 2020), LR 47:1100 (August 2021), LR 48:2728 (November 2022).

§107. License to Engage in Structural Pest Control Work Required

A. - F.2. ...

3. have successfully completed an examination for licensure no more than two years prior to the date of issuance of the license.

G. - R. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3368.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:326 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:955 (November 1989), LR 19:1009 (August 1993), LR 23:855 (July 1997), LR 23:1493 (November 1997), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 31:2761 (November 2005), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 32:796 (May 2006), repromulgated LR 32:1016 (June 2006), amended LR 37:276 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 42:213 (February 2016), LR 44:1235 (July 2018), LR 48:2728 (November 2022).

§109. Application for Examination; Contents of Application

A. - F. ...

G. Once the application has been approved by the Commission, examinations for a structural pest control license will be given upon request of the applicant at a department approved location, during business hours. Requests for exams shall be made at least seven days in advance and will be scheduled based on availability.

H. The examination may be supplemented by oral examination and/or visual identification of specific pests and insects.

I. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3368.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:326 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:955 (November 1989), LR 35:206 (February 2009), LR 37:278 (January 2011), LR 48:2728 (November 2022).

§141. Minimum Specifications for Termite Control Work

A. - E.3. ...

4. All pre-treatment of slabs or pier type construction shall be submitted by online form or called in to the department's district office in which the pretreat occurs, a minimum of one hour prior to beginning the application of termiticides. The information provided shall include treatment company name; treatment structure street address, city, zip code, parish; if available; and/or directions to the property being pre-treated; date and time of beginning the application of termiticides to the property; estimated square or linear footage of each structure to be treated; and number of reported structures. All pest control operators shall keep a log of all pretreats including the information noted. The following is a list of parishes in each of the department's eight district offices. Pretreatments in a parish shall be submitted by online form or called into the corresponding district office:

E.4.a. - M.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:958 (November 1989), LR 20:644 (June 1994), LR 21:931 (September 1995), LR 23:1285 (October 1997), LR 25:235 (February 1999), LR 25:1620 (September 1999), LR 26:2437 (November 2000), LR 27:1180 (August 2001), LR 29:1063 (July 2003), LR 30:1145 (June 2004), repromulgated LR 30:1614 (August 2004), amended LR 35:207 (February 2009), LR 35:1469 (August 2009), repromulgated LR 35:1872 (September 2009), amended, LR 37:286 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:301 (February 2013), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:1413 (June 2013), LR 41:333 (February 2015), LR 42:214 (February 2016), LR 46:1542 (November 2020), LR 47:1100 (August 2021), LR 48:994 (April 2022), LR 48:994 (April 2022), LR 48:2729 (November 2022).

Mike Strain, DVM
Commissioner

2211#017

RULE

**Department of Civil Service
Board of Ethics**

Disclosure Forms (LAC 52:I.1309)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Civil Service, Board of Ethics, has amended rules for the Board of Ethics to codify the rules with current statutory provisions. This Rule is hereby adopted on the day of promulgation.

Title 52

ETHICS

Part 1. Board of Ethics

Chapter 13. Records and Reports

§1309. Disclosure Forms Filed Pursuant to R.S.

42:1119(B)(2) of the Code

A. Disclosure forms filed pursuant to R.S. 42:1119(B)(2)(a) of the code shall:

1. be on a form approved by the board or a form which is substantially the same as the form approved by the board;

2. be filed by September 15th of each school year;

3. be signed by the school board member or superintendent and contain:

a. the name, address, and position of the school board member or superintendent;

b. the name, relationship, and position of the immediate family member and the date of the family member's employment;

c. the parish in which the school board member or superintendent serves and the date of the commencement of such service; and

d. which of the following exceptions applies to the immediate family member:

i. classroom teacher certified to teach;

ii. employed by school board for more than one year prior to the school board member, or charter school board member or the superintendent becoming a member of the school board or the superintendent; or

iii. served in public employment on April 1, 1980, the effective date of the code;

iv. certified school bus operator;

v. brother/sister-in-law employed before August 15, 1999.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1300 (October 1997), amended LR 26:629 (April 2000), LR 42:1655 (October 2016), amended LR 48:2729 (November 2022).

Kathleen M. Allen
Ethics Administrator

2211#038

RULE

Board of Elementary and Secondary Education

Bulletin 140—Louisiana Early Childhood Care and Education Network (LAC 28:CLXVII.903)

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:CLXVII *Bulletin 140—Louisiana Early Childhood Care and Education Network*. The revisions establish the timeline for review of the Early Childhood Education Fund by the Early Childhood Care and Education Advisory Council. Current policy requires review prior to the start of the 2022-2023 school year based on learnings from the first two years. Since no funding was appropriated prior to the 2022-2023 school year, the updated timeframe for review is being extended to the 2024-2025 academic year. Initial allocations are expected to be distributed from the fund beginning with the 2022-2023 school year. This Rule is hereby adopted on the day of promulgation.

**Title 28
EDUCATION**

Part CLXVII. Bulletin 140—Louisiana Early Childhood Care and Education Network

Chapter 9. Louisiana Early Childhood Education Fund

§903. Eligibility Requirements

A. - E. ...

F. Prior to the start of the 2024-2025 school year, the Early Childhood Care and Education Advisory Council shall review this Chapter and, as necessary, recommend revisions to BESE based on learnings from the first two years of the fund.

- C. Certification Areas
 - 1. Grades 6-12 Certification

Grades 6-12 Certification Areas					
Certification Area	Name of PRAXIS Test	Score			PLT 7-12

General Science	General Science: Content Knowledge (0435 or 5435) Effective 9/1/2012-8/31/2023	156	---	---	157
	General Science: Content Knowledge (5436) Effective 9/1/2022	141			
Geometry	Geometry (5163) Effective 6/15/2022	148	---	---	
German	German: World Language (5183)	157	PLT7-12 (Score 157) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)		

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.30 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:555 (April 2020), LR 48:2730 (November 2022).

Shan N. Davis
Executive Director

2211#048

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel (LAC 28:CXXXI.303 and 1360)

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:CXXXI.303 and 1360 *Bulletin 746—Louisiana Standards for State Certification of School Personnel*. The aforementioned revisions relate to the availability of an add-on endorsement to teach geometry, which will be available to teachers with an existing Louisiana teaching certification. This Rule is hereby adopted on the day of promulgation.

**Title 28
EDUCATION**

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

**Chapter 3. Initial Teacher Certification
Subchapter B. Testing Required for Certification**

§303. Certification Exams and Scores

A. - B. ...

C. Certification Areas
 1. Grades 6-12 Certification

Grades 6-12 Certification Areas					
Certification Area	Name of PRAXIS Test	Score			PLT 7-12

General Science	General Science: Content Knowledge (0435 or 5435) Effective 9/1/2012-8/31/2023	156	---	---	157
	General Science: Content Knowledge (5436) Effective 9/1/2022	141			
Geometry	Geometry (5163) Effective 6/15/2022	148	---	---	
German	German: World Language (5183)	157	PLT7-12 (Score 157) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)		

C.2. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1797 (October 2006), amended LR 37:558 (February 2011), LR 38:1951 (August 2012), LR 46:01375 (October 2020), amended LR 48:416 (March 2022), repromulgated LR 48:1018 (April 2022), LR 48:2099 (August 2022), LR 48:2554 (October 2022), LR 48:2730 (November 2022).

Chapter 13. Endorsements to Existing Certificates
Subchapter C. All Other Teaching Endorsement Areas
§1360. Geometry

A. Eligibility requirements:

1. valid standard, professional level Louisiana teaching certificate or higher; and
2. pass the Geometry content exam.

AUTHORITY NOTE Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE Promulgated by the Board of Elementary and Secondary Education, LR 48:2102 (August 2022), LR 48:2731 (November 2022).

Shan N. Davis
 Executive Director

2211#049

RULE

Board of Regents
Office of Student Financial Assistance

Scholarship/Grant Programs—COVID-19 Exceptions
 (LAC 28:IV.2103)

The Louisiana Board of Regents has amended its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and

R.S. 17:3048.6) (SG22203R). This Rule is hereby adopted on the day of promulgation.

Title 28
EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs
Chapter 21. Miscellaneous Provisions and Exceptions
§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - E.14.b.iv. ...

c. Length of Exception. Available for the fall semester/quarter of 2020 through the summer semester/quarter of 2022.

F. - H.6. ...

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 47:862 (July 2021), LR 47:867 (July 2021), LR 47:871 (July 2021), LR 48:2731 (November 2022).

Robyn Rhea Lively
 Senior Attorney

2211#006

RULE

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

Scholarship/Grant Programs
Dual Enrollment Psychology
(LAC 28:IV.703)

The Board of Regents has amended its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6)(SG22205R). This Rule is hereby adopted on the day of promulgation.

**Title 28
EDUCATION**

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

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

§703. Establishing Eligibility

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

* * *

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

(i). Advanced Placement Courses

TOPS Core Course	Advanced Placement
Spanish	AP Spanish Language and Culture
US Government or Civics	AP U.S. Government and Politics: Comparative AP U.S. Government and Politics: United States
US History	AP U.S. History
Western Civilization, European History or AP European History; World Geography, AP Human Geography, or IB Geography; World History, AP World History, or World History IB; History of Religion; IB Economics Economics, AP Macroeconomics AP Microeconomics	AP Psychology
World Geography	AP Human Geography
World History	AP World History

(ii). International Baccalaureate® Courses

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

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

(iii). Gifted and Talented Courses

TOPS Core Course	Gifted and Talented
Art	Art History Talented Visual Arts I Talented Visual Arts II Talented Visual Arts III Talented Visual Arts IV
Biology II	Biology II
Calculus	Calculus I Calculus II
Chemistry I	Chemistry I
Chemistry II	Chemistry II
Chinese	Chinese III Chinese IV
Economics	Economics
English III	English III
English IV	English IV
Environmental Science	Environmental Science
European History	European History
French	French III French IV
German	German III German IV
Italian	Italian III Italian IV
Japanese	Japanese III Japanese IV
Latin	Latin III Latin IV
Music (Performance)	Talented Music I, II, III, IV Small Voice Ensemble II Choir: Intermediate Choir: Advanced Orchestra: Intermediate Orchestra: Advanced
Physics I	Physics
Pre-Calculus	Pre-Calculus
Spanish	Spanish III Spanish IV
Theatre (Performance)	Introduction to Film Studies Talented Theater I, II, III, IV
US Government or Civics	Government
US History	U.S. History
World Geography	World/Human Geography

(iv). Dual Enrollment Courses

TOPS Core Course	Dual Enrollment	
	Common Course Name	Common Course Code
Advanced Math–Pre Calculus	Trigonometry	CMAT 1223
Advanced Math-Functions and Statistics	Introductory Statistics	CMAT 1303
Algebra III	College Algebra	CMAT 1213
Arabic	Elementary Arabic I Elementary Arabic II	CARB 1013/1014 CARB 1023/1024
Art	Art History I or II Art Structure/2-D Design Beginning Drawing	CART 2103/2113 CART 1113 CART 2203
Biology I	General Biology I General Biology I (Science Majors)	CBIO 1013 CBIO 1033

TOPS Core Course	Dual Enrollment	
	Common Course Name	Common Course Code
Biology II	General Biology I General Biology I (Science Majors) General Biology II General Biology II (Science Majors) Human Anatomy & Physiology I Human Anatomy & Physiology I (Lec/Lab) Human Anatomy & Physiology II Human Anatomy & Physiology II (Lec/Lab)	CBIO 1013 CBIO 1033 CBIO 1023 CBIO 1043 CBIO 2213 CBIO 2214 CBIO 2223 CBIO 2224
Calculus	Applied Calculus Calculus I Calculus II Differential Calculus I Integral Calculus I	CMAT 2103 CMAT 2113-5 CMAT 2123-5 CMAT 2113 CMAT 2116
Chemistry I	General Chemistry Survey I Chemistry I Chemistry I (Science Majors)	CCEM 1013 CCEM 1103 CCEM 1123
Chemistry II	General, Organic and Biochemistry General Chemistry Survey I Chemistry I Chemistry I (Science Majors) Chemistry II Chemistry II (Science Majors)	CCEM 1003 CCEM 1013 CCEM 1103 CCEM 1123 CCEM 1113 CCEM 1133
Earth Science	Physical Geology Historical Geology	CGEO 1103 CGEO 1113
Economics	Economic Principles Macroeconomics Microeconomics	CECN 2113 CECN 2213 CECN 2223
English III	English Composition I English Composition II American Literature I American Literature II Major American Writers	CENL 1013 CENL 1023 CENL 2153 CENL 2163 CENL 2173
English IV	English Composition I English Composition II British Literature I British Literature II Major British Writers World Literature I World Literature II Major World Writers Introduction to Fiction Introduction to Literature Introduction to Poetry and/or Drama	CENL 1013 CENL 1023 CENL 2103 CENL 2113 CENL 2123 CENL 2203 CENL 2213 CENL 2223 CENL 2303 CENL 2323 CENL 2313
Environmental Science	Environmental Science	CEVS 1103
Fine Arts Survey	Exploring the Arts Introduction to Visual Arts Dance Appreciation Music Appreciation	CART 1013 CART 1023 CDNC 1013 CMUS 1013
French	Elementary French I Elementary French II Intermediate French I Intermediate French II	CFRN 1013/1014 CFRN 1023/1024 CFRN 2013/2014 CFRN 2023
German	Elementary German I Elementary German II Intermediate German I Intermediate German II	CGRM 1013/1014 CGRM 1023/1024 CGRM 2013 CGRM 2023
History Of Religion	World Religions	CPHL 2213
Latin	Elementary Latin I Elementary Latin II Intermediate Latin I Intermediate Latin II	CLTN 1013/1014 CLTN 1023/1024 CLTN 2013 CLTN 2023
Physical Science	Physical Science I	CPHY 1023

TOPS Core Course	Dual Enrollment	
	Common Course Name	Common Course Code
Physics I	Physics I (Algebra/Trigonometry Based) Physics I (Lecture and Lab) Physics I (Calculus Based)	CPHY 2113 CPHY 2114 CPHY 2133
Pre-Calculus	Algebra and Trigonometry	CMAT 1233
Probability and Statistics	Introductory Statistics	CMAT 1303
Spanish	Elementary Spanish I Elementary Spanish II Intermediate Spanish I Intermediate Spanish II	CSPN 1013/1014 CSPN 1023/1024 CSPN 2013/2014 CSPN 2023
Theatre (Performance)	Acting I or II Introduction to Theatre	CTHE 2103/2113 CTHE 1013
US Government or Civics	Introduction to American Government Introduction to State and Local Government Introduction to Comparative Government	CPOL 2013 CPOL 2113 CPOL 2213
US History	American History I or II	CHIS 2013/2023
Western Civilization	Western Civilization I or II	CHIS 1013/1023
Western Civilization, European History or AP European History; World Geography, AP Human Geography, or IB Geography; World History, AP World History, or World History IB; History of Religion; IB Economics Economics, AP Macroeconomics AP Microeconomics	Introduction to Psychology	CPSY2013
World Geography	World Regional Geography	CGRG 2113
World History	World Civilization I or II	CHIS 1113/1123

(v). Honors Courses

TOPS Core Course	Honors
Arabic	Arabic: Cambridge AICE-AS
Biology II	Biology II: Honors
IB Biology II	Biology II: Cambridge AICE-AS
Calculus I	Calculus: Honors Math 2 (Part 1): Cambridge AICE-A Level
Calculus II	Math 2 (Part 2): Cambridge AICE – A Level
Chemistry I	Chemistry I: Honors
Chemistry II	Chemistry II: Honors
IB Chemistry II	Chemistry II: Cambridge AICE-AS
Chinese	Chinese: Cambridge AICE-AS
Economics	Economics: Cambridge AICE - AS

A.5.a.iii.(a) - L.2.c.ii. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 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 47:39 (January 2021), amended LR 47:861 (July 2021), LR 47:864 (July 2021), amended LR 47:868 (July 2021), LR 48:2732 (November 2022).

Robyn Rhea Lively
Senior Attorney

2211#007

RULE

**Office of the Governor
Board of Architectural Examiners**

**Deceased or Retired Member Predecessor Firms
(LAC 46:I.1525)**

The Board of Architectural Examiners, in accordance with the provisions of R.S. 49:950 et seq., and through the authority granted in R.S. 37:144(C), has amended LAC 46:I.1525 pertaining to Deceased or Retired Member Predecessor Firms.

The amendment to Rule §1525 is intended to clarify that an architect may include in the firm name the real name or names of one or more living, deceased, or retired members of the firm, or the name of a predecessor firm in a continuing line of succession, provided the status of the deceased or retired member is clearly shown on the firm letterhead and website. The change is to the final sentence of the existing rule only. Upon the retirement or death of a firm member, the firm letterhead and website, not the firm name, should be

changed to show the status of the deceased or retired member as soon as reasonably possible. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 15. Titles, Firm Names, and Assumed Names
§1525. Deceased or Retired Member Predecessor Firms

A. An architect may include in the firm name the real name or names of one or more living, deceased, or retired members of the firm, or the name of a predecessor firm in a continuing line of succession. The status of any deceased or retired member must be clearly shown on the firm letterhead and website by use of the words “retired” or “deceased” or by showing the years of the member’s birth and death. Upon the retirement or death of a firm member, the firm letterhead and website should be changed as soon as reasonably possible, which change shall occur no later than one year following the retirement or death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:570 (April 2003), amended LR 37:2404 (August 2011), amended LR 48:2735 (November 2022).

Tyson Ducote
Executive Director

2211#065

RULE

Office of the Governor
Real Estate Appraisers Board

Fee Appraisers Compensation (LAC 46:LXVII.31101)

The Real Estate Appraisers Board (“Board”) has amended a Rule in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., including but not limited to R.S. 49:953.1, and as authorized by the Louisiana Real Estate Appraisers Law, R.S. 37:3391 et seq.

On April 1, 2022, the Federal Trade Commission (“FTC”) issued a final decision and order, requiring, in part, that the board revise LAC 46:LXVII.31101, relative to the compensation of fee appraisers, by rescinding Subsections A through C of the Section. Accordingly, the board has determined it necessary to rescind the current Subsections A through C of LAC 46:LXVII.31101 to avoid additional penalties or other sanctions. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVII. Real Estate

Subpart 3. Appraisal Management Companies

Chapter 311. Compensation of Fee Appraisers

§31101. General Provisions; Timely Payment

A. Except in the case of breach of contract or substandard performance of real estate appraisal activity, an appraisal management company shall make payment to an independent contractor appraiser for the completion of an appraisal or appraisal review assignment within 30 days

after the appraiser provides the completed appraisal report to the appraisal management company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3415.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 39:3073 (November 2013), amended LR 42:872 (June 2016), repromulgated LR 43:2161 (November 2017), amended LR 48:2735 (November 2022).

Summer S. Mire
Executive Director

2211#005

RULE

Department of Health
Board of Speech-Language Pathology and Audiology

Speech-Pathology and Audiology
(LAC 46:LXXV.Chapters 1-7)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:3085, the Board of Speech-Language Pathology and Audiology has amended its current regulations to make technical changes and clarifications, edits to definitions, remove the clinical practicum hour requirement for audiologists, add a waiver for audiology applicants, revise the duties of speech-language pathology assistant license and provisional speech-language pathology assistant licenses, as well as, revise the procedural rules for investigation of complaints. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXV. Speech Pathology and Audiology

Chapter 1. General Rules

§103. Definitions

A. ...

Accredited Educational Institution—college or university that holds regional accreditation.

Accredited Educational Program—a graduate program in audiology or speech-language pathology that is accredited by the Council for Academic Accreditation in Audiology and Speech-Language Pathology (CAA) or the Accreditation Commission for Audiology Education (ACAE).

Aides—individuals not licensed by the Louisiana Board of Examiners for Speech-Language Pathology and Audiology (LBESPA) who, after appropriate training, perform tasks that are prescribed, directed, and supervised by speech-language pathologists or audiologists licensed in accordance with R.S. 37:2659(A) or (B). Licensed audiologists and licensed speech-language pathologists are legally, ethically, and morally responsible for the services provided by aides working under their direction.

Assistant Licensee—an individual who meets the qualifications established by R.S. 37:2659(F), and works under the direct supervision of a licensed speech-language pathologist and performs only those duties specified in §119. May engage in the provision of services via telehealth delivery as directed by their supervisor, provided all supervision guidelines are met.

* * *

Criminal History Record Information—information collected by state and federal criminal justice agencies consisting of identifiable descriptions and notations of arrests, detentions, indictments, bills of information or any other formal criminal charges, and any disposition arising therefrom, including sentencing, criminal correctional supervision and release.

* * *

Direct Supervision—the supervisor observing the licensee engaging in a specified clinical activity with a patient/client in order to obtain knowledge and provide guidance regarding the supervisee’s clinical work. The supervisor shall accomplish this task either by being physically present in the room or through the use of a secure live video, live stream or web cam.

* * *

Facilitator—the individual at the client site who assists with the delivery of telehealth services at the direction of the audiologist or speech-language pathologist.

* * *

Full-Time Supervised Professional Employment/Experience—a minimum of 36 weeks engaged in the provision of clinical services. Volunteer services are not acceptable.

Grace Period—the period in which an applicant may be employed while an initial application for licensure is being considered by the board. The grace period cannot exceed 60 days from the date that the application is received by the board.

* * *

Indirect Supervision—the utilization of alternative methods, other than direct supervision, to acquire knowledge of a supervisee’s clinical work, e.g. review of client folders and record keeping, scheduling, and planning.

* * *

Nine Months of Full-Time Supervised Postgraduate Professional Employment/Experience—repealed.

On-Site In-View Observation—repealed.

* * *

Part-Time Employment/Experience—a minimum of 15 hours, but less than 30 clock hours per week.

Part-Time Postgraduate Professional Employment Experience—part-time experience greater than or equal to a minimum of 15 hours per week up to 72 weeks of employment experience.

Provisional Assistant Licensee—an individual who meets the qualifications established in R.S. 37: 2659(G) and works under the direct supervision of a licensed speech-language pathologist and performs only those duties specified in §121. This person has completed a minimum of 100 of 225 supervised clinical practicum hours and is working to complete the remaining hours on-the-job and/or through a regionally accredited educational institution or its cooperating programs. May not engage in the provision of services via telehealth delivery; however, the individual may function as a facilitator given appropriate training.

Supervised On-the-Job Training—direct supervision hours which have been obtained during paid employment, and documented on the form provided by the board.

* * *

Telehealth—also known as telepractice, is a mode of delivering audiology and speech-language pathology services that utilizes information and communication technologies to enable the diagnosis, consultation, treatment, education care management, and self-management of clients at a distance from the audiologist or speech-language pathologist provider. Telehealth allows services to be accessed when providers are in a distant site and patients are in the originating site. Telehealth facilitates self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:705 (October 1988), amended LR 22:346 (May 1996), LR 27:197 (February 2001), LR 28:1781 (August 2002), LR 30:2307 (October 2004), LR 33:2192 (October 2007), LR 37:2392 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1665 (October 2016), LR 45:249 (February 2019), LR 48:2735 (November 2022).

§105. Designations

A. - A.2. ...

3. Repealed.

4. PL-SLP—Provisional Speech-Language Pathologist

5. R-SLP—Restricted Speech-Language Pathologist

B. ...

1. When signing formal and informal professional documents, speech-language pathology assistants and provisional speech-language pathology assistants shall write their full license title, e.g., B.A., SLP assistant or B.A., provisional SLP assistant. speech-language pathology assistants and provisional speech-language pathology assistants shall always identify themselves as such in professional interactions.

C. Titles and academic credential designations shall represent earned degrees obtained through regionally accredited university programs. To appropriately represent the level of education in the area of practice, when listing an educational designation, the licensee shall list the highest degree earned in audiology or speech-language pathology. In addition, graduate degrees earned in other disciplines must specify the area in which the degree was earned [e.g., B.S. (speech-language therapy), M.Ed. (administration)]. When listing credentials, licensees should sequentially list their name, educational designation, license designation, and professional certification, e.g., M.A., L-SLP, CCC-SLP.

D. Telehealth registrants must list their field of practice, audiology or speech-language pathology, and indicate “limited to telepractice only”.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:346 (May 1996), amended LR 27:197 (February 2001), LR 30:2308 (October 2004), LR 33:2192 (October 2007), LR 48:2736 (November 2022).

§107. Qualifications for Licensure

A. Coursework Requirements—Audiology License. The applicant shall submit official transcripts from one or more

regionally accredited colleges or universities (including programs in candidacy) evidencing completion of at least 75 semester credit hours of post-baccalaureate coursework for applicants who completed a doctoral program after January 1, 2005.

B. Coursework Requirements—Audiology License. The following coursework requirements apply to applicants who completed a master's program after January 1, 1994.

1. The applicant shall submit official transcripts from one or more regionally accredited colleges or universities evidencing completion of at least 75 semester hours of coursework which constitutes a well-integrated program.

2.a. - b. ...

C. Coursework Requirements—Audiology License. The following coursework requirements apply to applicants who completed a master's program which was begun prior to January 1, 1994.

1. - 2.c. ...

D. Coursework Requirements—Speech-Language Pathology License and Provisional Speech-Language Pathology License. The applicant shall submit official transcripts from one or more regionally accredited colleges or universities (including programs in candidacy) evidencing completion of 75 semester credit hours, including at least 36 at the graduate level, from an accredited speech-language pathology program for applicants who began a graduate program after January 1, 2004.

E. - F.2.b. ...

c. A maximum of 6 academic semester credit hours associated with clinical practicum may be counted toward the minimum of 30 semester credit hours of professional coursework, but those hours may not be used to satisfy the minimum of 12 semester credit hours in speech/language disorders, 6 hours in language disorders, or 3 hours in audiology, or the 21 graduate credits in the professional area for which the license is sought.

*If seeking licensure in both speech-language pathology and audiology, at least 15 graduate level semester hours in each area are required.

G. - H.1.c. ...

2. Audiology License

a. The program or clinical director from an accredited educational institution must verify that the individual has met the breadth and depth of clinical experiences.

b. - c. ...

3. Speech-Language Pathology Assistant License

a. 225 clinical practicum hours are required, the first 100 of which shall have been obtained through a regionally accredited educational institution or its cooperating programs. Of the 100 hours obtained through a regionally accredited educational institution, 75 shall be obtained through direct patient/client contact. No simulation experiences will be accepted. The remaining 25 hours may be obtained through observation of assessment and therapy. It is recommended that the direct patient/client contact hours be obtained in at least two practicum sites with one site being a public school setting. The first 75 hours of direct patient/client contact shall be obtained in the following categories:

i. - ii. ...

iii. the remaining 35 hours may be obtained in the areas of speech, language or hearing disorders. A maximum

of 5 of these hours may be in the area of audiology. It is recommended that a minimum of 20 hours be obtained in articulation.

b. The remaining 125 hours must be obtained on-the-job and/or through a regionally accredited educational institution or its cooperating programs. Simulation experiences are not accepted.

4. - 4.a.i.(b). ...

(c). the remaining 35 hours may be obtained in the areas of speech, language or hearing disorders. A maximum of 5 of these hours may be in the area of audiology. It is recommended that a minimum of 20 hours be obtained in articulation.

b. The additional 125 hours required to upgrade to the speech-language pathology assistant license shall be obtained within three years of the date of issuance of the provisional assistant license and may be obtained by completing the remaining hours on-the-job and/or through a regionally accredited educational institution or its cooperating programs. Those hours obtained through supervised on-the-job training must consist of direct supervision hours and will only be accepted from the date that the application for license is received by the board.

c. A provisional speech-language pathology assistant must request, in writing, deferment of the three-year period to complete licensure upgrade requirements. Such deferment may only be requested if there is an extenuating circumstance, such as inability to obtain employment in the area of speech-language pathology. The license must be renewed annually. Such deferment may only be held for a period of three years from the time of board approval.

i. If the licensee has never worked as a provisional speech-language pathology assistant, a notarized statement shall be submitted to the board annually.

ii. ...

iii. Licensees on inactive status may retain their license by payment of the annual renewal fee. In order to resume practice as a speech-language pathology assistant, licensees on inactive status shall demonstrate completion of 5 clock hours of continuing education in the area of licensure for each year that inactive status was maintained (maximum of 25 hours).

I. Equivalency Requirements—Speech-Language Pathology, Provisional Speech-Language Pathology, or Audiology License

1. Individuals who do not possess a graduate degree in either audiology or speech-language pathology but wish to obtain a license through the equivalency process shall meet the coursework, practicum and examination requirements for the area in which licensure is sought as defined in the board's rules entitled coursework requirements: audiology license; coursework requirements: speech-language pathology license and provisional speech-language pathology license; clinical practicum hour requirements and examination requirement.

J. Postgraduate Professional Employment/Experience

1. A graduate-level speech-language pathologist must submit verification of 36 weeks of full-time postgraduate professional employment/experience or its full-time equivalent.

2. Repealed.

K. Examination Requirement—Speech-Language Pathology License, Provisional Speech-Language Pathology License, Audiology License

1. The board recognizes only the educational testing service's specialty area examinations for audiology and speech-language pathology as the licensure examination for audiology and/or speech-language pathology. Scores received directly from the applicant are not acceptable for licensing purposes.

2. The passing scores for the audiology and speech-language pathology area examinations are determined by the educational testing service.

3. If an individual has never held a license to practice audiology or speech-language pathology in another state, and if the degree program was completed greater than 10 years from the date of application, the passing score on the specialty area examination for audiology or speech-language pathology must have been obtained within the last 5 years.

L. - L.I.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:706 (October 1988), amended LR 22:346 (May 1996), LR 27:197 (February 2001), repromulgated LR 27:1690 (October 2001), amended LR 28:1781 (August 2002), LR 30:2308 (October 2004), LR 33:2192 (October 2007), LR 37:2393 (August 2011), LR 39:1042 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1666 (October 2016), LR 48:2736 (November 2022).

§109. Licensure Application Procedures

A. - B. ...

C. Official transcripts shall be sent to this board directly from the college or university from which the academic requirements were earned.

D. Documentation of supervised clinical practicum hours shall be submitted on university forms signed by a clinical supervisor or director, and must be submitted along with the application form. The hours submitted must reflect the depth and breadth of clinical experiences across the lifespan.

E. The initial license fee submitted to this board with the application form shall be paid by credit card.

F. - G. ...

H. Documentation of 36 weeks of postgraduate professional employment/experience, a passing score on the educational testing service's specialty area examination, and verification of supervised clinical practicum hours may be waived for individuals who submit verification that they hold the certificate of clinical competence from the American Speech-Language-Hearing Association or proof of certification from the American Board of Audiology (ABA) with proof of passing the national exam. Documentation must be submitted with the application form.

I. - L. ...

M. Applicants who have not obtained licensure within one year of the board's receipt of the application shall be deemed to have abandoned the application, resulting in mandatory reporting to the appropriate federal data bank. An applicant may request a withdrawal of the application subject to review and approval by the board.

N. Individuals holding an unrestricted audiology or speech-language pathology license from another state shall

be allowed to practice in Louisiana for five consecutive days within each renewal period upon proof of current licensure submitted to the board office 10 days prior to the scheduled activity.

O. When there is probable cause to believe that an applicant practiced illegally in Louisiana as an audiologist, speech-language pathologist, and/or speech-language pathology assistant, the board may offer a consent agreement and order which will grant the individual a license, subject to the following specified terms and conditions.

1. Within 90 days of the date of the consent agreement and order, the applicant shall take and pass an open book examination regarding R.S. 37:2650-2666, the board's rules and regulations, and ethical questions.

a. Open book test fee shall be \$30. The retest fee shall be \$10 per section.

b. Applicants have 4 1/2 hours to complete all sections of the test.

c. The open book examination or any section may be re-taken anytime within the 90 days.

d. Notice of the consent agreement and order shall be published and reported.

e. If the applicant fails to successfully complete all requirements set forth in the above paragraphs, the applicant's license shall be suspended without further notice until the board receives and accepts documentation of the applicant's completion of the consent agreement and order requirements.

P. Temporary Registration during a Declared Public Health Emergency

1. In a public health emergency lawfully declared as such by the governor of Louisiana, the requirement for a Louisiana license as an audiologist, speech-language pathologist, or speech-language pathology assistant may be waived by the board at that time to those out-of-state audiologists, speech-language pathologists, or speech-language pathology assistants, whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States, for a period of time not to exceed the duration and scope of R.S. 29:769(E), as more particularly set forth in this Section.

2. The following requirements for temporary registration may be imposed pursuant to the declared state of emergency and shall be in accordance with rules promulgated by the board.

3. An audiologist, speech-language pathologist, or speech-language pathology assistant not licensed in Louisiana, whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States, may gratuitously provide audiology and speech-language pathology services if:

a. the audiologist, speech-language pathologist, or speech-language pathology assistant has photo identification and a license to verify a current and unrestricted license, certification or registration in another jurisdiction of the United States, and properly registers with the board prior to providing audiology or speech-language pathology services in Louisiana as follows:

i. the audiologist, speech-language pathologist, or speech-language pathology assistant is engaged in a legitimate relief effort during the emergency period, and provides satisfactory documentation to the board of the

location site(s) that he/she will be providing gratuitous audiology or speech-language pathology services;

ii. the audiologist, speech-language pathologist, or speech-language pathology assistant shall comply with the Louisiana Speech-Language Pathology and Audiology Practice Act, board rules, and other applicable laws, as well as practice in good faith, and within the reasonable scope of his/her skill, training, and ability; and

iii. the audiologist, speech-language pathologist, or speech-language pathology assistant renders services on a gratuitous basis with no revenue of any kind to be derived whatsoever from the provision of services within the state of Louisiana.

4. This temporary registration period shall not exceed 60 days at the discretion of the board, with the potential extension of up to two additional periods not to exceed 60 days for each extension as determined appropriate and necessary by the board.

5. All interested audiologists, speech-language pathologists, and speech-language pathology assistants shall submit a copy of their respective current and unrestricted licenses, certifications or registrations issued in other jurisdictions of the United States and photographic identification, as well as other requested information, to the Louisiana Board of Examiners for Speech-Language Pathology and Audiology for registration with this agency prior to gratuitously providing audiology or speech-language pathology services in Louisiana.

6. Should a qualified audiologist, speech-language pathologist, or speech-language pathology assistant registered with the board fail to comply with any requirement or condition established by this Section, the board may terminate his/her registration upon notice and hearing.

7. In the event an audiologist, speech-language pathologist, or speech-language pathology assistant fails to register with the board, but practices audiology or speech-language pathology, whether gratuitously or otherwise, then such conduct will be considered the unlawful practice of audiology or speech-language pathology and prosecuted accordingly.

Q. Volunteer Services. Individuals seeking to provide services on a voluntary basis shall hold an unrestricted out-of-state license in the area of practice, shall be deemed to meet all of the qualifications for license set forth by this Chapter, and shall abide by the Code of Ethics.

R. Licensing Military Members and Military Spouses

1. Expedited application for licensure in the area of audiology or speech-language pathology shall be granted to military members and military spouses licensed, certified or registered in another jurisdiction, while the individual is satisfying the requirement for licensure.

a. Applications shall be submitted in accordance with §109.

b. Military members shall submit with the application a copy of current military-issued identification and military orders.

c. Applicants who are the spouse of military personnel shall submit with the application a copy of current military-issued identification, marriage license, and an affidavit attesting that applicant is married to military personnel.

2. Military applicants shall submit:

a. military members—official, primary-source documentation verifying requirements met in accordance with §107 and §115;

b. military spouse—official, primary-source documentation verifying requirements met in accordance with §107 and §115.

3. Military members and military spouses shall be given a 60-day grace period for submission of official documentation from the date their notarized application and license fee are received by the board office, regardless of lapsed license status. The board may consider an extension of this grace period as per House Concurrent Resolution 74 of the 2015 Regular Session of the Louisiana Legislature.

4. The provisions of this Section shall not apply to any applicant receiving a dishonorable discharge or a military spouse whose spouse received a dishonorable discharge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:352 (May 1996), LR 27:199 (February 2001), LR 28:1974 (September 2002), LR 30:2311 (October 2004), LR 33:2193 (October 2007), LR 37:2393 (August 2011), repromulgated LR 37:2623 (September 2011), LR 39:1043 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1666 (October 2016), LR 45:251 (February 2019), LR 48:2738 (November 2022).

§111. Application for Telehealth Registration

A. An application to practice audiology and/or speech-language pathology via telepractice shall be made on forms supplied by the board.

B. Criminal history record information must be submitted with the application form.

C. Proof of unrestricted, unencumbered current licensure granted in the home state based on standards at least equivalent to those in Louisiana shall be submitted.

D. Applicants shall provide official verification of licensure and/or registration status in each state, including any formal disciplinary action resulting in sanction and/or disciplinary proceedings which are pending.

E. The initial telehealth registration fee submitted to this board shall be paid by cashier's check, money order, or credit card.

F. Until an application has been approved by the board, the audiologist and/or speech-language pathologist shall not engage in delivery of telepractice services to Louisiana residents.

G. Applicants who have not obtained registration within one year of having submitted the application shall be deemed to have abandoned the application, resulting in mandatory reporting to the appropriate federal data bank. An applicant may request a withdrawal of the application subject to review and approval by the board.

H. In order for telehealth registration to remain current in Louisiana, the individual must maintain an unrestricted, unencumbered current license in another state, whose standards are at least equivalent to those in Louisiana. Telehealth registrants must report any previous or pending disciplinary actions in any state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 48:2739 (November 2022).

§113. Criminal History Record Information

A. In addition to any other requirements established by regulation, an applicant is required, as a condition for eligibility for licensure/registration, to:

1. submit a full set of fingerprints, in a form and manner prescribed by the board;
2. permit the board to obtain state and national criminal history record information on the applicant;
3. submit the fee for state and national criminal history record information on the applicant.

B. Any and all state or national criminal history record information obtained by the board from the bureau or FBI which is not already a matter of public record shall be deemed non-public and confidential information restricted to the exclusive use of the board, its members, investigators, agents, and attorneys in evaluating the applicant's suitability and eligibility for licensure/registration. No such information or records shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency.

C. An applicant who denies the existence or extent of criminal history record information on an application, which is discovered by information, records, or documentation provided by the state police, FBI, or any other state, national, or foreign jurisdiction shall, in addition to the potential disqualification of licensure for any of the causes specified in §141 of this Chapter, be deemed to have provided false, misleading, or deceptive information, or false sworn information on an application for licensure, and to have engaged in unprofessional conduct, providing additional cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license held or applied for by an applicant in the state of Louisiana culpable of such violation, pursuant to R.S. 37:2662.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 48:2740 (November 2022).

§115. Licensure by Reciprocity

A. The board may waive the examination for applicants who present proof of current licensure in another state with standards equivalent to those of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:354 (May 1996), LR 30:2311 (October 2004), LR 48:2740 (November 2022).

§117. Additional Requirements for International Applicants/Speakers of English as a Second Language

A. Any document required to be submitted to this board with an application for a license shall be in the English language, or accompanied by a certified translation thereof into the English language.

B. As a condition of the board's consideration of the license application of a graduate of a foreign college or university, the applicant shall provide the board with an evaluation of the applicant's transcript from an approved credentials evaluation agency. A list of approved agencies, and their addresses, may be obtained from the board.

C. The essence of the practice of audiology and speech-language pathology is communication; therefore an applicant whose primary language is not English shall:

1. submit a passing score on a nationally recognized English proficiency examination as approved by the board. The passing score must have been obtained within the past two years;
2. an English proficiency assessment may be conducted in-person by the board or its designees as a condition for licensure.

C.3. - D.2.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:354 (May 1996), LR 27:201 (February 2001), LR 30:2311 (October 2004), LR 37:2394 (August 2011), LR 48:2740 (November 2022).

§119. Requirements to Upgrade License

A. The provisional speech-language pathology licensee who has not passed the examination at the time of initial licensure shall submit the following to upgrade his/her license status:

1. an official copy of a passing score on the educational testing service area examination;
2. verification of thirty six weeks of full-time postgraduate professional employment/experience or its part-time equivalent in the field the license is held;
3. proof of supervision through date of upgrade (Form 100);
4. upgrade fee of \$30.

B. The provisional speech-language pathology licensee who has not completed the thirty six weeks of postgraduate professional employment/experience at the time of initial licensure shall submit the following to upgrade his/her license status:

1. verification of 36 weeks of full-time postgraduate professional employment/experience or its part-time equivalent in the field the license is held;
2. proof of supervision through date of upgrade (Form 100);
3. upgrade fee of \$30.

C. The provisional speech-language pathology assistant shall submit the following to upgrade the license status:

1. proof of 225 supervised clinical practicum hours shall be on file in the board's office. Only direct supervision hours and/or university practicum hours may be counted towards the 225 hours;
2. ...

D. The restricted audiology or restricted speech-language pathology licensee who holds a master's degree or its equivalent in audiology or speech-language pathology shall submit the following documents to upgrade their license:

1. ...

2. verification of 36 weeks of post-graduate professional employment/experience or its part-time equivalent in the field in which the license is held;

3. - 4. ...

E. Only those hours that have been obtained on-the-job as paid professional experience may be counted towards an upgrade.

F. Restricted speech-language pathology licensees who hold a bachelor's degree who wish to change their status to a provisional speech-language pathology license shall submit an application for license and meet the requirements of R.S. 37:2659.

G. Speech-language pathology assistant licensees who wish to change their status to a provisional speech-language pathology license shall submit an application for license and meet the requirements of R.S. 37:2759.

H. Postgraduate professional employment/experience which counts toward upgrading the license status will only be accepted from the date that the licensee's application was received by the board.

I. It is the responsibility of the licensee to submit the documents and make a written request for upgrade of their license status. Licensees shall complete all supervision requirements consistent with the license held and immediately thereafter submit appropriate supervision forms to the board office along with a written request for license upgrade and the upgrade fee. The licensee shall remain under supervision until the upgrade has been approved by the board.

J. If a passing score of the educational testing service's specialty area examination in speech-language pathology is not submitted within one year from the date of issuance of the license, a provisional licensee must apply for a speech-language pathology assistant license. This individual may perform only those duties as specified in §121 and must be supervised in accordance with the requirements specified in §131.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:349 (May 1996), amended LR 27:197 (February 2001), LR 28:1971 (September 2002), LR 30:2312 (October 2004), LR 33:2194 (October 2007), LR 37:2394 (August 2011), LR 48:2740 (November 2022).

§121. Duties: Speech-Language Pathology Assistant License and Provisional Speech-Language Pathology Assistant License

A.1. All duties performed by the speech-language pathology assistant licensee or provisional speech-language pathology assistant licensee shall be assigned by a licensed speech-language pathologist and shall be supervised in accordance with the rules and regulations specified by the board. Caseload assignments shall be consistent with the knowledge base and training of the licensee for the performance of the following tasks:

a. conduct speech-language screenings. All screening reports shall be cosigned and interpreted by the supervising speech-language pathologist;

b. - d. ...

e. document patient/client progress toward meeting established objectives as stated in the treatment plan;

f. - g. ...

h. with permission and guidance of the supervising speech-language pathologist, speech-language pathology assistants may participate in parent conferences, individualized educational program meetings (IEP), case conferences, interdisciplinary team conferences, and research projects. Provisional speech-language pathology assistants may participate in these activities only with the supervising speech-language pathologist present.

i. Speech-language pathology assistants may engage in telepractice as directed by their supervisor, provided all supervision guidelines are met. Provisional speech-language pathology assistants may not engage in telepractice.

2. Duties outside the Scope of Practice of a Speech-Language Pathology Assistant and Provisional Speech-Language Pathology Assistant

a. ...

i. ...

ii. conduct evaluations, even under supervision;

iii. interpret test and assessment results;

iv. screen, diagnose, or treat clients for feeding and swallowing disorders;

v. demonstrate swallowing strategies or precautions to clients, family, or staff;

vi. work with a communication or related disorder unless s/he has had sufficient coursework with appropriate supervised practicum in that area obtained through a regionally accredited educational institution or its cooperating programs;

vii. provide patient/client or family counseling;

viii. select and/or discharge patients/clients for services without the approval of the supervising speech-language pathologist;

ix. disclose clinical or confidential information either orally or in writing to anyone not designated by the supervising speech-language pathologist and without the authorization of the patient/client or their designee;

x. make referrals for additional services without the approval of the supervising speech-language pathologist;

xi. participate in Individualized Family Service Plan (IFSP) meetings without the supervising speech-language pathologist.

xii. Provisional speech-language pathology assistants may not participate in parent conferences, Individualized Educational Program (IEP), Individualized Family Service Plan (IFSP) meetings, case conferences, interdisciplinary team conferences, and research projects unless the supervising speech-language pathologist is present.

xiii. Provisional speech-language pathology assistants may not engage in telepractice; however, the individual may function as a facilitator given appropriate training

3. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 30:2312 (October 2004), amended LR 33:2194 (October 2007), LR 37:2394 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 45:255 (February 2019), LR 48:2741 (November 2022).

§123. Fees

A. The board collects the following fees, which are non-refundable:

1. initial Louisiana license application—\$125;
2. dual license application—\$225;
3. renewal of license submitted on or before June 30, of each year—\$65:
 - a. dual licensure renewal—\$90;
4. delinquent renewal fee submitted between July 1 and July 31, of each year—\$130:
 - a. dual licensure renewal—\$180;
5. initial telehealth registration fee—\$50;
6. renewal of telehealth registration submitted on or before June 30, of each year—\$25;
7. renewal of telehealth registration submitted between July 1 and July 31, of each year—\$50;
8. licensure upgrade—\$30;
9. continuing education pre-approval fee for corporations or individuals who are not LBESPA licensees—\$50;
10. mailing lists—
 - a. \$200 for speech-language pathologists;
 - b. \$25 for audiologists;
 - c. \$25 for speech-language pathology assistants.
11. NSF or returned check—\$40;
12. open book test fee—\$30:
 - a. open book retest fee, per section—\$10;
13. publications to include law, rules, etc.—\$5 ea. plus postage and handling;
14. re-issuance of license or registration certificate—\$25;
15. subpoena within East Baton Rouge Parish—\$50:
 - a. subpoena plus state-allowed travel rate per mile outside East Baton Rouge Parish—\$50;
16. verification of license or registration (written)—\$10;
17. an additional fee may be charged for credit card transactions in accordance with state treasury rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:706 (October 1988), amended LR 22:350 (May 1996), LR 27:197 (February 2001), repromulgated LR 27:1691 (October 2001) amended LR 30:2313 (October 2004), LR 33:2195 (October 2007), LR 37:2395 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1666 (October 2016), LR 48:2742 (November 2022).

§125. Renewals

A. All licenses and registrations shall be renewed annually by June 30, to avoid delinquent renewal fees.

B. Initial licenses and registrations issued during the last quarter of the fiscal year, i.e., April, May, and June, will not be required to be renewed during that fiscal year. No continuing education hours will be required of the licensee or registrant for that period.

C. Licensees shall list on their renewal form the licensees (i.e., provisional speech-language pathologists, restricted speech-language pathologists, restricted audiologists, speech-language pathology assistants, or provisional speech-language pathology assistants) and aides that they are supervising.

D. It is the licensee and registrant's continuing obligation to keep the board informed of his/her current mailing address.

E. Licensees shall participate in continuing professional education activities for each license period, July 1-June 30, in accordance with §127.

F. - F.5. ...

G. Licensees who hold a license requiring supervision and who are not working in the field of audiology and/or speech-language pathology shall submit a notarized statement at the time of license renewal attesting to the fact that they did not work in the profession during the license period.

H. The board may refuse to consider any renewal application which is not complete in every detail, including submission of every document required by the application form and instructions. The board may, in its discretion, require additional information as a condition for consideration of the application.

I. Delinquent Renewal

1. Delinquent requests for renewals will be accepted by the board through July 31, provided the delinquent renewal fee is paid in accordance with §123, and the continuing education requirements have been met.

2. A licensee whose license lapsed on August 1, and applies to reinstate prior to the following June 30, is required to submit a completed application, proof of continuing education, initial license fee and delinquent renewal fee in accordance with §123 and §127.

3. A licensee whose license lapsed on August 1, and applies for reinstatement after June 30, of the following year, is required to submit a completed application, proof of continuing education, and is subject to the initial license fee and the requirements of §127.

4. A telehealth registrant whose registration lapsed on August 1, must complete the initial application process for telehealth registration.

J. Conditional Renewal

1. Licensees who previously held a full, valid license which was obtained under the grandfather clause of Act 260 of the 1978 Regular Session of the Louisiana Legislature, whether delinquent or lapsed, for a period not to exceed five years, shall be eligible for licensure renewal or reinstatement upon meeting the continuing education requirement and submitting the appropriate renewal fee in accordance with §123. If the license has lapsed for a period of more than five years, applicants shall reapply in accordance with the requirements enumerated in R.S. 37:2651 et seq., as amended by Act 892 of the 1995 Regular Session of the Louisiana Legislature.

2. Licensees who previously held a restricted license which was obtained under Act 260 of the 1978 Regular Session of the Louisiana legislature, whether delinquent or lapsed, shall be eligible for licensure renewal or reinstatement, upon meeting the continuing education requirement and submitting the appropriate renewal fee as required in accordance with §123 and §127.

3. Licensees who allow their license to lapse (August 1) shall submit documentation of completion of five clock hours of continuing education (maximum of 25 hours) in the area of licensure for each year that the license has lapsed in

addition to meeting the license requirements enumerated in R.S. 37:2650 et seq.

4. Licensees who have allowed their license to lapse for a period of five years or greater, and do not hold a current audiology or speech-language pathology license in another state, must submit evidence of 25 continuing education hours directly related to the clinical practice of the license being sought and must have been obtained within the past 18 months.

5. Licensees who have allowed their license to lapse for a period of 10 years or greater, and do not hold a current audiology or speech-language pathology license in another state, must submit a passing score on the educational testing service's specialty area examination for audiology or speech-language pathology, as applicable to the license being sought, achieved no more than five years prior to the submission of the request for reinstatement.

6. Renewal of a license will not be granted until all requirements including mandated continuing education hours have been completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:351 (May 1996), LR 27:198 (February 2001), LR 28:1972 (September 2002), LR 30:2314 (October 2004), LR 33:2195 (October 2007), LR 37:2395 (August 2011), LR 39:1043 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1667 (October 2016), LR 45:256 (February 2019), LR 48:2742 (November 2022).

§127. Continuing Education Requirements

A. ...

B. Of the 10 hours, five shall be educational activities directly related to the scope of practice of the licensee and must be designed to increase the knowledge and skills in the area of licensure.

C. Of the 10 hours, five may be in areas related to the professions of audiology and speech-language pathology. Such activities shall increase knowledge and skills pertinent to practice. Examples include: billing; coding and reimbursement; record-keeping; ethics; supervision.

D. Audiologists who dispense shall ensure that at least 3 of the total 10 hours are in areas directly related to hearing aid dispensing, such as business/practice management, marketing, aural habilitation/ rehabilitation, diagnostic assessment, characteristics of hearing aids and their application, etc.

E. Dual licensees shall complete 15 hours per year with a minimum of five hours in audiology and five hours in speech-language pathology; the remaining five may be in areas related to the professions of audiology and speech-language pathology. Related activities shall increase knowledge and skills pertinent to practice. Examples include: billing; coding and reimbursement; record-keeping; ethics; supervision.

F. Out-of-state audiologists and speech-language pathologists who hold telehealth registration shall complete the continuing education requirements consistent with the license the individual possesses for the state in which the provider is located. Telehealth registrants residing in states which do not require continuing education for audiologists and/or speech-language pathologists shall complete the

annual continuing education requirements specified in this Section and may be audited.

G. Continuing education events occurring in the month of June will be accepted for the collection period in which they occur or they may be counted in the following collection period which begins on July 1. Hours from one event may not be divided between two collection periods.

H. The graduated scale for the collection of continuing education hours is based on the date an applicant receives his/her initial license or registration.

License/Registration Received	Hours Required
April, May, June	0
January, February, March	3
October, November, December	6
July, August, September	10

I. In the case of extenuating circumstances, when the licensee does not fulfill the continuing education requirements, the licensee shall submit a written request for extension to the board for consideration.

J. Continuing education hours accrued during the applicant's grace period will be accepted.

K. Acceptable continuing education sponsors and activities that are directly related to the practice of audiology and/or speech-language pathology:

1. board-sponsored activities;
2. presentations that are directly in the area of communication disorders sponsored by professional organizations such as American Academy of Audiology (AAA), American Speech-Language-Hearing Association (ASHA), Louisiana Academy of Audiology (LAA), Louisiana Speech-Language-Hearing Association (LSHA), Speech Pathologists and Audiologists in Louisiana Schools (SPALS), Louisiana Society for Hearing Aid Specialists, etc. Business meetings, luncheons, award ceremonies, receptions, and other non-content area events are not recognized as acceptable continuing education activities;
3. activities provided by ASHA-approved continuing education providers or AAA-approved continuing education activities that are directly in the area of communication disorders;
4. meetings of related professional organizations that are directly in the area of communication disorders (e.g., Council for Exceptional Children, International Dyslexia Association);
5. college courses in the area of licensure, with the exception of clinical practicum, taken for credit or official audit (3 semester hours or 6 quarter hours=10 hours of continuing education);
6. distance learning (video conferences, telephone seminars and internet courses sponsored by universities, schools, clinics, state agencies, hospitals, professional organizations, or related professional organizations) that are directly in the area of communication disorders;
7. workshops and in-services that are university, school, clinic, hospital or state agency sponsored (maximum of five hours in a related area) that are directly in the area of communication disorders. Only content area workshop and in-service time shall count as earned continuing education. Documentation of staff development content must be separated from employee meeting activities such as

announcements, review of deadlines, event planning, and other non-content area activities.);

8. publication of an article in a peer-reviewed journal for the year in which it was published;

9. digital media (e.g. CD, DVD, online webinars, etc.) which is ASHA-approved or AAA-approved continuing education media that are directly in the area of communication disorders;

10. the presenting licensee may count 1 1/2 times the value of an activity the first time it is presented to allow for preparation time (example: a 3 hour workshop=4 1/2 hours). The activity will count for the actual hour value for each subsequent presentation of the same activity;

11. teaching at the college level in the area of communication disorders is not acceptable.

L. Pre-Approval Policy

1. Pre-approval is required for continuing education events that do not meet the requirements as listed under §127.K.1.-11, and pre-approval of continuing education events is required in those situations where it is unclear whether the topic is relevant to the profession or will further a professional's expertise in a particular area.

2. ...

3. Individuals not licensed by LBESPA as well as corporations offering continuing education not addressed under §127.K., must submit a \$50 continuing education review fee along with the pre-approval request.

4. Licensees who elect to attend university classes/courses in audiology and/or speech-language pathology without payment of the university fee shall submit a self-study plan for pre-approval from the Louisiana Board of Examiners for Speech-Language Pathology and Audiology to receive continuing education credits.

5. - 5.a. ...

b. reading of journal articles that contain self-examination questions. Articles shall be submitted for pre-approval (maximum of 5 hours).

6. ...

M. Recording of Continuing Education Activities

1. Licensees shall record all continuing education activities as prescribed by the board and submitted at the time of renewal.

2. Licensees shall maintain records of continuing education activities completed for three years.

3. Licensees shall not submit repeated continuing education activities for credit within a three-year period.

4. A percentage of licensees will be audited each year as a means of evaluating compliance with the continuing education requirements. The board may request, through random audit, verification of clock hours submitted, including information regarding content and attendance. If the title of the activity does not clearly state the content, a description and/or time-ordered agenda may be required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:351 (May 1996), amended LR 27:199 (February 2001), LR 28:1973 (September 2002), LR 30:2314 (October 2004), LR 33:2196 (October 2007), LR 37:2395 (August 2011), LR 39:1043 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and

Audiology, LR 42:1667 (October 2016), LR 45:257 (February 2019), LR 48:2743 (November 2022).

§129. Supervision Requirements for Restricted License and Provisional Speech-Language Pathology License

A. Restricted and provisional speech-language pathology licensees are required to undergo direct supervision by a licensed speech-language pathologist, licensed in accordance with R.S. 37:2659(B). Direct and indirect supervision must occur in every work setting in which the licensee is employed. An audiologist, licensed in accordance with R.S. 37:2659(A) may supervise these individuals for the purpose of hearing screening.

B. ...

C. Prior to the initiation of supervision of a restricted or provisional licensee, training in the area of supervision is strongly recommended.

D. An individual may not be supervised by a provisional licensee, restricted licensee, assistant licensee, an individual on inactive status, a telehealth registrant, or an immediate family member.

E. Supervision must involve the direct participation of the supervisor in order for the supervisor to monitor, observe, evaluate, and make suggestions for improvement regarding the supervisee's professional employment.

F. Restricted and provisional speech-language pathology licensees must submit a supervisory agreement signed by the supervisor and supervisee as prescribed by the board. The form must be submitted to the board by the supervisee within 30 days of employment and submitted annually at the time of renewal. If there is a change in supervisor(s) at any time, a new supervisory agreement must be submitted to the board within 30 days of the change in supervision. If there are multiple supervisors for the same supervisee, all supervisors must sign the supervisory agreement.

G. Speech-language pathologists may share the supervision responsibility for Provisional or Restricted licensees, but each supervising speech-language pathologist shall complete and submit the necessary supervision forms.

H. Supervisory records, including supervision logs and other documentation of supervision, shall be maintained by both the supervisor and supervisee for a period of three years. Documentation of supervision may be requested by the board. Submission of inaccurate or falsified supervision documentation may result in disciplinary action.

I. The direct supervision of the licensee, whether employed full-time or part-time, shall include 16 hours annually.

1. At least eight shall be direct observation hours divided between the areas of diagnostics and management. The direct observations must be equal to or greater than a total of eight hours. Indirect supervision hours may include conferences, audio and video recordings, review of written records, staffings and discussions with other persons who have participated in the licensee's training.

2. For 12-month employees, two direct observation hours shall be conducted each quarter.

3. For nine-month employees, four direct observation hours shall occur in each semester. If the nine-month employment is extended for a period of time, additional direct as well as indirect supervision hours must occur.

J. Documentation of supervision shall be submitted annually at the time of license renewal on Form 100 provided by the board.

K. Licensees shall complete all supervision requirements consistent with the license held and immediately thereafter submit appropriate supervision forms to the board office along with an application requesting a license upgrade, along with the upgrade fee. The licensee shall remain under supervision until the upgrade has been approved by the board.

L. The board will accept supervision provided out-of-state by an individual licensed or ASHA-certified in the area of practice. Supervision must be documented on Form 100.

1. Restricted and provisional speech-language pathology licensees who have not worked in Louisiana, may submit their clinical fellowship report as proof of supervision that was carried out during the license period. Otherwise licensees must submit at the time of license renewal, appropriate proof of supervision consistent with Louisiana supervision requirements.

M. Licensees who are not working in the field of speech-language pathology and who hold a license requiring supervision, shall submit a notarized statement at the time of license renewal attesting to the fact that they did not work in the profession during the license period.

N. All costs of supervision shall be borne by the licensee or his/her employer, but in no event will those costs be borne by the board.

O. When supervision requirements have not been met in accordance with §129, licensees shall complete additional months of supervision to replace months of incomplete supervision.

P. After three administrative complaints have been accepted by the board against a licensed supervisor, that supervisor may no longer be allowed to supervise for a period of five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:352 (May 1996), LR 27:199 (February 2001), LR 28:1974 (September 2002) LR 30:2315 (October 2004), LR 33:2196 (October 2007), LR 37:2396 (August 2011), LR 39:1043 (April 2013), LR 48:2744 (November 2022).

§131. Supervision Requirements for Speech-Language Pathology Assistant and Provisional Speech-Language Pathology Assistant Licensees

A. - B. ...

C. An individual may not be supervised by a provisional licensee, restricted licensee, assistant licensee, an individual on inactive status, a telehealth registrant, or an immediate family member.

D. The supervision requirements specified in these regulations are minimum requirements. It is the responsibility of the speech-language pathologist to design and provide a supervision system that protects patient/client care and maintains the highest possible standards of quality.

E. Supervision must involve the direct participation of the supervisor in order for the supervisor to monitor, observe, evaluate, and make suggestions for improvement regarding the supervisee's employment.

F. The supervisor is responsible for ensuring that the assistant does not make decisions regarding evaluation, management and future disposition of clients.

G. The supervisor is responsible for initial consultation with the assistant regarding coursework and practicum experiences prior to caseload assignment. The supervising speech-language pathologist shall assign only those tasks for which the assistant has been trained.

H. Decision-making regarding specification of on-going treatment protocol and necessary modifications, is the responsibility of the supervisor. The level of supervision required is considered the minimum necessary to ensure appropriate patient/client care.

I. The supervising speech-language pathologist shall be readily available for consultation with the assistant licensee. This includes personal contact, telephone, or other means of communication.

J. Speech-language pathology assistants and provisional speech-language pathology assistants must submit a supervisory agreement signed by the supervisor and supervisee as prescribed by the board. The form must be submitted to the board by the supervisee within 30 days of employment. If there is a change in supervisor(s) at any time, a new supervisory agreement must be submitted to the board within 30 days of the change in supervision. If there are multiple supervisors for the same supervisee, all supervisors must sign a supervisory agreement.

K. Speech-language pathologists may share the supervision responsibility for speech-language pathology assistants or provisional speech-language pathology assistants, but each supervising speech-language pathologist shall complete and submit the necessary supervision forms.

L. Supervisory records, including supervision logs and other documentation of supervision, shall be maintained by both the supervisor and supervisee for a period of three years. Documentation of supervision may be requested by the board. Submission of inaccurate or falsified supervision documentation may result in disciplinary action.

M. The board will accept supervision given out-of-state by a licensed or ASHA certified speech-language pathologist in the area of licensure. Licensees must submit at the time of license renewal, appropriate proof of supervision consistent with Louisiana supervision requirements.

N. Assistants who are not working in the field of speech-language pathology shall submit a notarized statement at the time of license renewal attesting to the fact that they did not work in the profession during the license period.

O. Although more than one speech-language pathologist may provide supervision of an assistant licensee and provisional assistant licensee, at no time may a licensed speech-language pathologist supervise or be listed as a supervisor for more than three assistant or provisional assistant licensees. When multiple supervisors are used, the supervisors are encouraged to coordinate and communicate with each other.

P. Provisional speech-language pathology assistants and speech-language pathology assistants must undergo direct supervision as well as indirect supervision in every work setting in which the licensee is employed.

Q. Documentation of supervision shall be submitted annually at the time of license renewal on Form 200 provided by the board.

R. Supervision Requirements for the Speech-Language Pathology Assistant

1. A minimum of one clock hour of direct supervision shall be completed in the primary work setting each week for each licensee. If the assistant is employed in more than one work setting, additional direct supervision must occur in the secondary work setting.

2. A minimum of one clock hour of indirect supervision shall be completed each week for each licensee. These methods should include, but are not limited to:

- a. specifying protocols for speech-language screenings and assessments conducted by the assistant licensee;
- b. specifying protocols for hearing screenings conducted by the assistant licensee;
- c. approving treatment plans or protocols and documenting approval;
- d. monitoring patient/client progress toward meeting established objectives;
- e. monitoring, scheduling, charting and data collection;
- f. directing maintenance of equipment;
- g. directing research projects, in-service training and public relations programs;
- h. conducting telephone conferences.

3. If circumstances prohibit a supervisor from completing the minimum supervision requirements (§131.R.1 and 2) in a given week, the remaining supervision shall be completed the following week in conjunction with the required supervision hours for that week.

4. When the supervising speech-language pathologist is unavailable for supervision for more than one week, arrangements shall be made for another qualified supervisor or the speech-language pathology assistant shall be transferred to other duties.

5. Speech-Language Pathology Assistant Full-Time and Part-Time Supervision Requirements

Hours Worked	Required Direct Supervision	Required Indirect Supervision
21-40 hours	1 hour/week	1 hour/week
20 hours or less	1 hour/every 2 weeks	1 hour/every 2 weeks

6. Assistant licensees shall be supervised only by a speech-language pathologist licensed under the provisions of R.S. 37:2659(B) with the exception of hearing screenings which may be supervised by an audiologist, licensed under the provisions of R.S. 37:2659(A).

S. Supervision Requirements for the Provisional Speech-Language Pathology Assistant

1. A minimum of three clock hours of direct supervision shall be completed in the primary work setting each week for each licensee. If the provisional speech-language pathology assistant is employed in more than one work setting, additional direct supervision must occur in the secondary work setting.

2. A minimum of two clock hours of indirect supervision shall be completed each week for each licensee.

3. These activities should include, but are not limited to:

- a. specifying protocols for speech-language screenings and assessments conducted by the assistant licensee;
- b. specifying protocols for hearing screenings conducted by the assistant licensee;
- c. approving treatment plans or protocols and documenting approval;
- d. monitoring patient/client progress toward meeting established objectives;
- e. monitoring scheduling, charting and data collection;
- f. directing maintenance of equipment;
- g. directing research projects, in-service training and public relations programs;
- h. conducting telephone conferences.

4. If extenuating circumstances prohibit a supervisor from completing the minimum supervision requirements (§131.S.1 and 2) in a given week, the remaining supervision shall be completed the following week in conjunction with the required supervision hours for that week.

5. When the supervising speech-language pathologist is out for more than one week, arrangements shall be made for another qualified supervisor or the provisional speech-language pathology assistant shall be transferred to other duties.

6. When supervision requirements have not been met, in accordance with §131 licensees shall complete additional months of supervision to replace months of incomplete supervision.

7. After three administrative complaints have been accepted by the board against a licensed supervisor, that supervisor may no longer be allowed to supervise for a period of five years.

8. Provisional Speech-Language Pathology Assistant Full-Time and Part-Time Supervision Requirement

Hours Worked	Required Direct Supervision	Required Indirect Supervision
21-40 hours	3 hours/week	2 hours/week
20 hours or less	1.5 hours/every 2 weeks	1 hour/every 2 weeks

9. Provisional assistant licensees shall be supervised by a speech-language pathologist licensed under the provisions of R.S. 37:2659(B) with the exception of hearing screenings which may be supervised by an audiologist, licensed under the provisions of R.S. 37:2659(A).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:353 (May 1996), LR 27:200 (February 2001), repromulgated LR 27:1691 (October 2001), amended LR 30:2316 (October 2004), LR 33:2197 (October 2007), LR 37:2396 (August 2011), LR 48:2745 (November 2022).

§133. Independent Practice

A. Licensed audiologists and speech-language pathologists, by virtue of academic coursework, clinical practicum, and professional experience, are qualified to engage in the autonomous or independent practice of the professions. Individuals who hold a license, i.e., provisional,

restricted, assistant or provisional assistant, mandating supervision during the practice of the professions may not engage in the autonomous or independent practice of audiology or speech-language pathology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 33:2198 (October 2007), LR 48:2746 (November 2022).

§135. Telehealth

A. Telehealth, regardless of where the service is rendered or delivered, constitutes the practice of audiology or speech-language pathology and shall require Louisiana licensure for in-state practitioners and telehealth registration for out-of-state licensed practitioners.

B. A provider of telehealth services shall be competent in both the type of services provided and the methodology and equipment used to provide the services.

C. A provider of telehealth services must use methods for protecting client information that include authentication and encryption technology.

D. The standard of care shall be the same as if the audiology or speech-language pathology services were delivered face-to-face. It is the responsibility of the provider to determine candidacy and to ensure that the client is comfortable with the technology being utilized.

E. The client shall be notified of telehealth services including but not limited to the right to refuse telehealth services, options for service delivery, and instructions on filing and resolving complaints, in all applicable jurisdictions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 39:1044 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1668 (October 2016), LR 48:2747 (November 2022).

§137. Hearing Aid Dispensing

A. Audiologists who dispense hearing aids shall meet the coursework and practicum requirements for dispensing as specified in R.S. 37:2650 et seq.

B. Audiologists who dispense hearing aids shall maintain annual calibration records on audiometric equipment.

C. Audiologists who dispense hearing aids shall, regardless of the method of service delivery, comply with the following:

1. Audiologists shall ensure that a pre-purchase evaluation includes:

- a. a case history;
- b. an otoscopic examination;
- c. a basic audiological test battery conducted within the preceding six-month period in a sound-treated environment unless the patient's physical condition prohibits accomplishment of these procedures. The battery shall include:

- i. basic comprehensive audiometry;
- ii. appropriate tolerance testing;
- d. middle ear measurements shall also be obtained when indicated.

2. Audiologists shall provide the consumer with a minimum 30-day trial period on all new hearing aids purchased.

3. Audiologists shall inform the consumer of the total cost of the hearing aid, including any fees for returning the aid at the end of the trial period.

4. Audiologists shall conduct a post-fitting evaluation that includes functional gain measurements conducted in a sound treated environment and/or real ear measurements unless the patient's physical conditions prohibit accomplishment of these procedures.

5. Audiologists who engage in the fitting or selling of hearing aids shall deliver to each person supplied with a hearing aid, a bill of sale which shall contain the dispenser's signature, address and license number, together with a description of the make, model and serial number of the hearing aid and the amount charged. The bill of sale shall also indicate whether the hearing aid is new, used, or reconditioned.

D. Licensed Audiologists who did not hold a doctoral degree and were not registered to dispense hearing aids prior to August 1, 2016 and who wish to include hearing aid dispensing as a component of their practice, must have proof of appropriate training, education and experience in the area of hearing aid dispensing. These audiologists who wish to include dispensing as part of their practice shall submit a self-study for pre-approval by the board. Upon culmination, the audiologist must submit a report documenting completion. An audiologist who meets the qualifications for licensure but lacks the coursework and practicum requirements necessary for dispensing of hearing aids may fulfill these requirements by:

1. Completing nine months of postgraduate professional employment/experience under the supervision of a licensed dispensing audiologist, and

2. Providing proof of the successful completion of a study course by the National Institute for Hearing Instruments Studies, or its equivalent. Equivalency for National Institute for Hearing Instruments Studies is defined as:

a. an individualized program of study that shall include:

i. hearing aid technology and dispensing courses sponsored by hearing aid manufacturers to include a minimum of 15 clock hours;

ii. workshops in the area of hearing aid technology and dispensing sponsored by professional organizations or individual practitioners to include a minimum of 15 clock hours;

iii. successful completion of university coursework in the area of hearing aid technology and dispensing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:353 (May 1996), amended LR 27:201 (February 2001), LR 28:1975 (September 2002), LR 30:2317 (October 2004), LR 33:2198 (October 2007), LR 37:2398 (August 2011), repromulgated LR 37:2624 (September 2011), amended by the Department of Health, Board of Speech-Language

§139. Qualifications and Duties of Aides

A. Audiologists and Speech-language pathologists are legally, ethically, and morally responsible for the services provided by aides working under their direction.

B. Requirements for the use of aides follow.

1. A licensed audiologist or speech-language pathologist may utilize an aide who meets the following qualifications. The aide shall:

- a. be of good moral character;
- b. be at least 18 years old;
- c. possess appropriate communication skills;
- d. have a high school diploma or G.E.D.

2. The supervising audiologist or speech-language pathologist is responsible for determining that the aide is qualified and prepared for the duties which s/he will be assigned. It is recommended that the aide be afforded continuing education opportunities. Appropriate areas of training may include:

- a. normal processes in speech, language and hearing;
- b. disorders of speech, language and hearing;
- c. record-keeping and data compilation;
- d. utilization of equipment and materials;
- e. professional ethics and their application to the aide's duties;
- f. administration of hearing screening tests.

C. Supervision

1. The licensed audiologist or speech-language pathologist shall provide periodic direct observation for each aide at least once per month during the initial year of the aide's employment. Speech-language pathology aides are required to undergo direct supervision by a licensed speech-language pathologist, licensed in the area in accordance with R.S. 37:2659(B). Audiology aides are required to undergo direct supervision by a licensed audiologist, licensed in the area in accordance with R.S. 37:2659(A). Audiology aides and Speech-language pathology aides may not be supervised by a provisional licensee, restricted licensee, assistant licensee, an individual on inactive status, a telehealth registrant, or an immediate family member.

2. The direct observation in subsequent years shall be established by the supervising audiologist or speech-language pathologist on an individual basis but shall be no less than once every three months.

3. The supervising audiologist or speech-language pathologist shall be readily available for consultation with the aide at all times.

4. Documentation of direct supervision shall be maintained by the supervising audiologist or speech-language pathologist and shall be submitted to the board upon request.

5. The supervising audiologist or speech-language pathologist shall report to the board at the time of licensure renewal, the names and employment locations of aides.

D. The speech-language pathology aide may engage in activities limited to those that are planned and directed by the supervising speech-language pathologist. Providing that the preparation, training, and supervision are appropriate, the following tasks may be assigned to speech-language pathology aides:

1. setting up room and equipment;
2. clearing room and storing equipment;
3. preparing materials (such as making copies, typing forms) for use by the speech-language pathologist;
4. checking equipment to determine if the equipment is performing adequately;
5. transporting patients/clients to and from sessions;
6. assisting with field trips;
7. performing hearing screenings limited to pure-tone air conduction screening and screening tympanometry;
8. recording, charting, graphing, or otherwise displaying objective data relative to the patient's/client's performance.

E. The audiology aide may engage in activities limited to those that are planned and directed by the supervising audiologist. Providing that the preparation, training, and supervision are appropriate, the following tasks may be assigned to audiology aides:

1. setting up room and equipment;
2. clearing room and storing equipment;
3. preparing materials (such as making copies, typing forms) for use by the audiologist;
4. checking equipment to determine if the equipment is performing adequately;
5. transporting patients/clients to and from sessions;
6. assisting with field trips;
7. performing hearing screening tests and pure-tone air conduction threshold tests without interpretation;
8. recording, charting, graphing, or otherwise displaying objective data relative to the patient/client's performance.

F. Only the audiologist or speech-language pathologist shall exercise independent judgment in the provision of professional services. Specifically, the audiologist or speech-language pathologist may not delegate any of the following to the aide:

1. speech-language screening;
2. evaluation, diagnosis, or therapy with individuals with speech, language or hearing disorders;
3. interpretation of test and assessment results or discussion of confidential information despite the fact that this information may have been requested by the patient/client, parent or referring agency;
4. performance of any procedure for which the aide has not been trained.

G. Exemption. Aides employed on or before April 1996 may continue to operate under the provisions of Chapter 3, §§301-305 of the *Louisiana Register* 16:409 (May 1990) of the Louisiana Board of Examiners for Speech Pathology and Audiology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 16:409 (May 1990), amended LR 22:355 (May 1996), LR 27:201 (February 2001), LR 28:1781 (August 2002), LR 30:2318 (October 2004), LR 33:2199 (October 2007), LR 48:2748 (November 2022).

§141. Disciplinary Actions

A. This board may refuse to issue, may suspend or revoke a license for the practice of audiology or speech-language pathology or otherwise discipline an applicant or

licensee, upon finding that the applicant or licensee has violated any provisions of R.S. 37:2650 et seq., or any of the rules or regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:354 (May 1996), LR 28:1975 (September 2002), LR 30:2319 (October 2004), LR 33:2200 (October 2007), LR 48:2748 (November 2022).

Chapter 3. Impaired Practitioner Program

§301. Purpose

A. - B.7. ...

C. The applicant or licensee will be responsible for executing all required releases of information and authorizations required for the board to obtain information from any monitor, treatment or service provider concerning the licensee's progress and participation in the program.

D. - G. ...

H. The board will, to the full extent permissible, maintain an agreement or consent agreement and order relating to the licensee's participation in the Impaired Practitioner Program as a confidential matter. The board retains the discretion to share information it deems necessary with those persons providing evaluation/assessment, therapy, treatment, supervision, monitoring or drug/alcohol testing or reports. Violation of any terms, conditions or requirements contained in any consent agreement and order, or board decision can result in a loss of the confidential status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 30:2319 (October 2004), amended LR 37:2398 (August 2011), LR 48:2749 (November 2022).

Chapter 5. Procedural Rules

§501. Investigation of Complaints

A. The board is authorized to receive from any person, a complaint(s) against licensees, registrants, applicants, or other persons engaging in practices which violate or are alleged to violate the provisions of R.S. 37:2650 et seq.

B. Any complaint bearing on a licensee or registrant's professional competence, conviction of a crime, unauthorized practice, mental competence, neglect of practice, or violation of state law or ethical standards where applicable to the practice of audiology or speech-language pathology shall be submitted to the board.

C. Once a written complaint is received, the board shall designate a board member consultant to assist in the investigatory process. The board member consultant will assist the investigator by providing information related to the area of practice. Following completion of the investigation, the investigator and the board member consultant may recommend disposal of the complaint informally through correspondence or conference with the licensee, registrant, and/or the complainant, which may result in a private letter of concern or a consent agreement and order. If the licensee or registrant stipulates to the complaint and waives her/his right to a formal hearing, the board may impose appropriate sanctions without delay.

D. The board's designated investigator shall have authority to investigate the nature of the complaint through conference, correspondence, and other investigative

procedures, directed to those parties or witnesses involved. The board's designated investigator shall send the involved licensee or registrant notice by certified mail, return receipt requested, of the investigation containing a short summary of the complaint. All subsequent letters to the involved licensee or registrant, all letters to the complainant, or any other witness, shall be sent with a designation "personal and confidential" clearly marked on the outside of the envelope.

E. The designated investigator shall conclude the investigation as quickly as possible, without compromising thoroughness. Unless good cause is shown by the designated investigator satisfactory to the board, which may extend the time for the investigation, the investigation and recommendations to the board shall be delivered to the board member consultant within 60 days of the date that the designated investigator first received the assignment from the board.

F. Following an investigation, the designated investigator shall report to the board member consultant and together they will make a recommendation to the board for either dismissal of the complaint or proceeding to an informal hearing, consent agreement and order, or formal hearing. Following the completion of the investigation, the board member consultant will be recused from final adjudication, deliberations, and voting.

G. If the designated investigator and board member consultant's recommendation for an informal hearing is accepted by the board, the designated investigator shall notify the licensee or registrant of the time, date, and place of the informal hearing and of the issues to be discussed. The licensee or registrant shall appear on a voluntary basis. The licensee or registrant shall be advised that the hearing will be informal, no attorneys will be present, and no transcript of the hearing will be made. Any witnesses who testify will not be placed under oath, and no subpoenas will be issued. The licensee or registrant shall be informed that any statements made at the informal hearing will not be used or introduced at a formal hearing, unless all parties consent. If the licensee or registrant notifies the designated investigator that s/he does not wish an informal hearing, or if the licensee fails or refuses to attend an informal hearing, the informal hearing shall not be held. In that event, the board shall initiate a formal disciplinary hearing.

H. A complaint may be resolved by:

1. a private letter of concern to the licensee, registrant, or other appropriate parties.

2. a consent agreement and order approved by the board and entered into by the licensee or registrant.

I. The designated investigator, along with the board member consultant, shall recommend to the board the initiation of a formal disciplinary hearing if the investigation discloses any of the following: the complaint is sufficiently serious to require a formal adjudication; the licensee or registrant fails to respond to the correspondence by the designated investigator concerning the complaint; the licensee or registrant's response to the designated investigator discloses that further action is necessary; an informal hearing is held but does not resolve all of the issues; or the licensee or registrant refuses to comply with the recommended remedial action.

J. The board member consultant shall submit any recommended action to the board in brief, concise language,

without any reference to the particulars of the investigation, to any findings of fact or any conclusions of law arrived at during the investigative process.

K. The board shall have the authority to delegate to the designated investigator any alleged violations of the Speech-Language Pathology and Audiology Act, R.S. 37:2650 et seq., and any alleged violations of any and all rules and regulations adopted by the board pursuant thereto, prior to board action on those alleged violations. If requested by the board, the designated investigator shall submit to the board's executive director the complete investigation file. Final authority for appropriate action rests solely with the board including formal notification to the complainant, licensee, or registrant.

L. At no time shall the designated investigator investigate any case as authorized by the board where the investigator has any personal or economic interest in the outcome of the investigation, or is personally related to or maintains a close friendship with the complainant, the licensee, the registrant, or any of the witnesses involved. In such event, the designated investigator shall immediately notify the board, who shall appoint a substitute investigator for disposition of that particular case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:373 (April 1991), amended LR 22:356 (May 1996), LR 30:2320 (October 2004), LR 33:2200 (October 2007), LR 37:2398 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1668 (October 2016), LR 48:2749 (November 2022).

§503. Compliance Hearings

A. The board shall provide a compliance hearing to a rejected applicant for licensure or registration provided that the rejected applicant requests a compliance hearing in writing within 30 days of the receipt of the notice of rejection. The applicant's request for a compliance hearing shall state with specificity the reason(s) why the application should be accepted.

B. ...

C. The purpose and intent of the compliance hearing is to provide a forum for the applicant, licensee, or registrant to present documentary evidence, in the form of affidavits, public records, official records, letters, etc., along with testimony under oath to establish that the applicant, licensee, or registrant does, in fact, meet the lawful requirements for issuance of a license or registration, or the retention of the license or registration. The board shall have the authority to administer oaths, hear the testimony, and conduct the hearing. The applicant, licensee, or registrant may be represented by counsel, or may represent her/himself.

D. In any compliance hearing, the burden of proof shall rest with the applicant, licensee, or registrant.

E. Within 30 days after the compliance hearing, the board shall forward its final decision, including specific reasons thereof, by certified mail, return receipt requested, to the applicant, licensee, or registrant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:374 (April 1991), amended LR

22:357 (May 1996), LR 27:201 (February 2001), LR 30:2321 (October 2004), LR 37:2399 (August 2011), LR 48:2750 (November 2022).

§505. Formal Disciplinary Hearings

A. If, after completion of the investigation, the board determines that the circumstances may warrant the withholding, denial, suspension, or revocation of a license or registration, or other disciplinary action, the board shall initiate a formal disciplinary hearing. The board shall promptly notify the attorney general who is authorized and directed to appear on behalf of the state. The hearing shall be held before the board only after the involved licensee or registrant is given at least 30-days' notice by certified mail, return receipt requested. The notice shall include the following:

A.1. - E. ...

F. It is the licensee and registrant's continuing obligation to keep the board informed of her/his whereabouts. Accordingly, if notice of the hearing cannot be delivered by mail because of a licensee or registrant's change of address and the new address is not provided to the board, the board may hold the hearing in the licensee or registrant's absence, after making reasonable efforts to obtain the licensee or registrant's new address.

G. Within 15 days of the licensee or registrant's receipt of notice, s/he may file a written answer to the notice, denying some or all of the charges, or offering any explanation or asserting whatever defense s/he deems applicable.

H. - J. ...

K. If the board finds by a preponderance of the evidence that the withholding, denial, suspension, or revocation of a license or registration, or other disciplinary action is warranted, the board shall sanction said individual according to the provisions of R.S. 37:2662(B):

1. refuse to issue a license or registration;
2. refuse to renew a license or registration;
3. issue a public letter of reprimand;
4. require restitution of costs and expenses incurred by the board related to the enforcement of R.S. 37:2650 et seq.;
5. impose probationary conditions;
6. impose a fine for each violation not to exceed \$1,000 per violation;
7. suspend a license or registration;
8. revoke a license or registration;
9. restrict the license by limiting or reducing the scope of practice; and/or
10. otherwise discipline a licensee or registrant.

L. A final decision or order adverse to a party in an adjudication proceeding shall be in writing or stated in the record within 45 days of the formal procedure. A final decision shall include findings of fact and conclusions of law. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Parties shall be notified by the board, either personally or by certified mail, return receipt requested, of any decision or order. Upon request, a copy of the decision or order shall be mailed to each party and to her/his attorney of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language

Pathology and Audiology, LR 17:374 (April 1991), amended LR 22:357 (May 1996), LR 30:2321 (October 2004), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1669 (October 2016), LR 48:2750 (November 2022).

§507. General Procedural Rules for Hearings

A. The board is empowered to issue subpoenas upon receipt of a written request from the licensee, registrant, or attorney general at least 15 days in advance of any scheduled hearing. The board shall issue said subpoenas upon receipt of said written request and receipt of any and all fees for subpoenas as provided for in §123.A. promulgated by the board.

B. - H. ...

I. Upon request by either the licensee, registrant, or the attorney general, witnesses shall be sequestered and not allowed in the hearing chambers during the hearing or permitted to discuss their testimony with other witnesses prior to the conclusion of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:374 (April 1991), amended LR 22:358 (May 1996), LR 27:201 (February 2001), LR 28:1975 (September 2002), LR 30:2322 (October 2004), LR 37:2399 (August 2011), LR 48:2751 (November 2022).

§512. Summary Suspension of License/Registration

A. The board may suspend an existing license or registration because of a person's conviction of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of the licensee or registrant. The board may also suspend an existing license or registration if there are allegations of fact that the board believes demonstrates a substantial likelihood that the licensee or registrant poses a risk of harm to the public health, safety or welfare.

B. If the board finds that public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license or registration may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

C. Following the proceedings, the notice to summarily suspend an existing license or registration shall be serviced personally upon the respondent or by certified mail or by other reasonable means. The notice shall inform the licensee or registrant of the opportunity, including the time and place, to appear before the board to show cause regarding why the license or registration should not be suspended. The opportunity for the licensee or registrant to be heard shall occur from 2 to 10 days following the summary suspension of the license or registration.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37: 2651-2666.

HISTORICAL NOTE: Promulgated by the Department of Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 33:2201 (October 2007), LR 48:2751 (November 2022).

Chapter 7. Code of Ethics

§701. Preamble

A. The Code of Ethics of the Louisiana Board of Examiners for Speech-Language Pathology and Audiology specifies professional standards that govern clinical and

scientific practice, direct professional conduct, provide for proper implementation of professionals' responsibilities to those served, and ensure the welfare of the consumer.

B. Any action that violates the intent and purpose of this code shall be considered unethical. Although the Code of Ethics cannot be inclusive of all specific situations, failure to delineate any particular responsibility or practice in this Code of Ethics shall not be construed as denial of the existence of such responsibilities or practices.

C. Principles of ethics form the underlying moral basis for the Code of Ethics. Individuals shall observe these principles as affirmative obligations under all conditions of professional activity.

D. Rules of ethics are specific statements of minimally acceptable as well as unacceptable professional conduct which are applicable to all individuals.

E. Rules of Ethics for Audiology, Speech-Language Pathology, Provisional Speech-Language Pathology, and Restricted Speech-Language Pathology Licensees

1. Principle of Ethics I. Licensees shall honor their responsibility to hold paramount the welfare of persons they serve professionally or who are participants in research and scholarly activities, provide professional services with honesty and compassion, and respect the rights of those served. The licensee shall take all reasonable precautions to avoid harm to the individual served professionally.

a. Individuals shall provide all clinical services and scientific activities competently.

b. Individuals shall use every resource, including interprofessional collaboration and referral when applicable, to ensure that appropriate service is provided.

c. Individuals shall not discriminate in the delivery of professional services or in the conduct of research and scholarly activities on the basis of race, ethnicity, citizenship, sex, gender identity/gender expression, sexual orientation, age, religion, national origin, disability, culture, language, or dialect.

d. Individuals shall not misrepresent their credentials nor those under their supervision including aides, assistants, technicians, other support personnel, students, research interns, or individuals completing the postgraduate professional employment/experience, and they shall fully inform those they serve professionally of the name, role, and credentials of persons providing services.

e. Individuals may delegate tasks related to the provision of clinical services to students, aides, assistants, technicians, or other support personnel only if those persons are adequately trained and appropriately supervised. The responsibility for the welfare of those served remains with the fully licensed individual.

f. Individuals shall not delegate tasks that require the unique skills, knowledge, judgment or credentials that are within the scope of practice of their profession to aides, assistants, technicians, other support personnel or nonprofessionals over whom they have supervisory authority.

g. Individuals shall obtain consent from the persons they serve only after a description of and discussion about the nature and possible risks and effects of services to be rendered, technology to be employed, and products to be dispensed. Consumers shall also be informed about possible effects of not engaging in treatment or following clinical

recommendations. When the consumer is incapable of providing informed consent, individuals should seek authorization from a legally authorized/appointed representative or family member.

h. Individuals shall enroll and include persons as participants in research only if participation is voluntary, without coercion, and with informed consent.

i. Individuals shall accurately represent the intended purpose of a service, product, or research endeavor and shall abide by established standards for clinical practice and the responsible conduct of research.

j. Individuals shall evaluate the effectiveness of services rendered, technology employed, and products dispensed and shall provide services or dispense products only when benefit can reasonably be expected.

k. Individuals shall not guarantee, directly or by implication, the results of any treatment or procedure; however, they may make a reasonable statement of prognosis.

l. Individuals shall use independent and evidence-based clinical judgment, keeping paramount the welfare of those served.

m. Individuals shall not provide clinical services solely by correspondence but may provide services via telepractice consistent with professional standards and state and federal regulations.

n. Individuals shall protect the confidentiality of any professional or personal information about persons served professionally or participants involved in research and scholarly activities, and may disclose confidential information only when doing so is necessary to protect the welfare of the person or of the community, is legally authorized, or is otherwise required by law.

o. Individuals shall protect the confidentiality and security of records of professional services rendered, research and scholarly activities conducted, and products dispensed. Access to these records shall be allowed only when doing so is necessary to protect the welfare of the person or of the community, is legally authorized, or is otherwise required by law.

p. Individuals shall maintain timely records and accurately record and bill for services provided and products dispensed, and shall not misrepresent services rendered, products dispensed, or research and scholarly activities conducted.

q. Individuals whose professional practice is adversely affected by substance abuse or other health-related conditions are impaired practitioners and shall seek professional assistance and, where appropriate, withdraw from the affected areas of practice.

r. Individuals who have knowledge a practitioner is unable to provide professional services with reasonable skill and safety shall report this information to the appropriate authority including the licensure board.

s. Individuals shall provide reasonable notice and information about alternatives for obtaining care in the event that the individual can no longer provide professional services.

2. Principle of Ethics II. Individuals shall honor their responsibility to achieve and maintain the highest level of professional competence and performance consistent with prevailing practice standards.

a. Individuals shall engage in only those aspects of the professions that are within the scope of their practice and competence, considering their level of licensure, registration, education, training and experience.

b. Individuals who engage in research shall comply with institutional, state, and federal regulations that address any aspects of research.

c. Individuals shall enhance and refine their professional competence and expertise through engagement in lifelong learning applicable to their professional activities and skills.

d. Individuals in administrative or supervisory roles shall not require or permit their professional staff to provide services or conduct research activities that exceed their competence, education, training, experience, and licensure status.

e. Individuals in administrative or supervisory roles shall not require or permit their professional staff to provide services or conduct clinical activities that compromise their independent and objective professional judgment.

f. Individuals shall make use of technology and instrumentation consistent with accepted professional practice guidelines and shall ensure that all technology and instrumentation used to provide services or to conduct research and scholarly activities are in proper working order and are properly calibrated. When such technology is not available, an appropriate referral should be made.

3. Principle of Ethics III. Individuals shall honor their responsibility to the public when advocating for communication, swallowing, and vestibular needs of the public, and shall provide accurate information involving any aspect of the professions.

a. Individuals shall not misrepresent their credentials, competence, education, training, experience, or scholarly contributions.

b. Individuals shall avoid engaging in conflicts of interest whereby personal, financial, or other considerations have the potential to influence or compromise professional judgment and objectivity.

c. Individuals shall not misrepresent research and scholarly activities, diagnostic information, services rendered, results of services provided, products dispensed, or the effects of products dispensed.

d. Individuals shall not defraud through intent, ignorance, or negligence, or engage in any scheme to defraud in connection with obtaining payment, reimbursement, or grants and contracts for services provided, research conducted, or products dispensed.

e. Individuals' statements to the public shall provide accurate and complete information about the nature and management of communication disorders, about the professions, about professional services, about products, and about research and scholarly activities.

f. Individuals' statements to the public shall adhere to prevailing professional norms and shall not contain misrepresentations when advertising, announcing, and promoting their professional services and products or when reporting research results.

g. Individuals shall not make false statements regarding areas of professional practice, and shall complete all materials honestly and without omission.

4. Principle of Ethics IV. Individuals shall uphold the dignity and autonomy of the professions, maintain collaborative and harmonious interprofessional and intraprofessional relationships, and accept the professions' self-imposed standards.

a. Individuals shall work collaboratively, when appropriate, with members of one's own profession and members of other professions to deliver the highest quality of care.

b. Individuals shall exercise independent professional judgment in recommending and providing professional services when an administrative mandate, referral source, or prescription prevents keeping the welfare of persons served paramount.

c. Individuals' statements to colleagues about professional services, research results, and products shall adhere to prevailing professional standards and shall contain no misrepresentations.

d. Individuals shall not engage in any form of conduct that adversely reflects on the professions or on the individual's fitness to serve persons professionally.

e. Individuals shall not engage in dishonesty, negligence, fraud, deceit, or misrepresentation.

f. Applicants for licensure or registration, and individuals making disclosures shall not make false statements and shall complete all application and disclosure materials honestly and without omission.

g. Individuals shall not engage in any form of harassment, power abuse, or sexual harassment.

h. Individuals shall not engage in sexual activity with students, patients/clients, research participants, speech-language pathology assistants, aides, or licensees over whom they exercise professional authority or power.

i. Individuals shall not allow anyone under their supervision to engage in any practice that violates any provision of the practice act or Rules and Regulations including the Code of Ethics.

j. Individuals shall assign credit only to those who have contributed to a publication, presentation, protocol, process, or product. Credit shall be assigned in proportion to the contribution and only with the contributor's consent.

k. Individuals shall not engage in plagiarism and shall reference the source when using other persons' ideas, research, presentations, or products in written, oral, or any other media presentation or summary.

l. Individuals shall not discriminate in their relationships with colleagues, assistants, other support personnel, students, and members of other professions and disciplines on the basis of race, ethnicity, citizenship, sex, gender identity/gender expression, sexual orientation, age, religion, national origin, disability, culture, language, or dialect.

m. Individuals shall comply with local, state, and federal laws and regulations applicable to professional practice, research ethics, and the responsible conduct of research.

n. Individuals shall inform the board of any violations of the practice act and the Rules and Regulations including the Code of Ethics.

o. Individuals shall cooperate fully with the board on matters of professional conduct relative to the practice act and the Rules and Regulations including the Code of Ethics,

and shall not make false statements of fact or withhold relevant facts necessary to fairly adjudicate complaints.

p. Individuals who have been publicly sanctioned or denied a license, registration, or a professional credential by any professional association, professional licensing authority or board, or other professional regulatory body shall self-report by notifying the Board in writing within thirty (30) days of the final action or disposition. Such written notification shall consist of a certified copy of the final action, sanction, or disposition.

q. Individuals who have been convicted, been found guilty, or entered a plea of nolo contendere to any misdemeanor involving dishonesty, physical harm or the threat of physical harm to the person or property of another, or any felony, shall self-report by notifying the Board in writing within thirty (30) days of the conviction, plea, or finding of guilt. Such written notification shall consist of a certified copy of the conviction, plea, nolo contendere record, or minute/docket entry.

F. Rules of Ethics for Speech-Language Pathology Assistant and Provisional Speech-Language Pathology Assistant Licensees

1. Principle of Ethics I. Licensees shall honor their responsibility to hold paramount the welfare of persons they serve or who are participants in research and scholarly activities, provide services with honesty and compassion, and respect the rights of those served. The licensee shall take all reasonable precautions to avoid harm to the individual served.

a. Individuals shall provide clinical services and scientific activities competently, and engage only in those activities prescribed by the supervising speech-language pathologist.

b. Individuals shall not discriminate in the delivery of services or in the conduct of research and scholarly activities on the basis of race, ethnicity, citizenship, sex, gender identity/gender expression, sexual orientation, age, religion, national origin, disability, culture, language, or dialect.

c. Individuals shall not misrepresent their credentials and shall fully inform those they serve of their name, role, and credentials.

d. Speech-language pathology assistants shall not interpret test or assessment results, guarantee results, make referrals, discharge patients/clients, nor provide patient/client or family counseling.

e. Provisional speech-language pathology assistant licensees shall not provide services via telepractice, interpret test or assessment results, guarantee results, make referrals, discharge patients/clients, provide patient/client or family counseling.

f. Individuals shall protect the confidentiality of clinical or personal information about persons served or participants involved in research and scholarly activities, and shall not disclose confidential information orally or in writing to anyone not designated by the supervising speech-language pathologist and without the authorization of the patient/client or their designee.

g. Individuals shall protect the confidentiality and security of records of services rendered, research and scholarly activities conducted, and products dispensed.

Access to these records shall not be allowed unless directed by the supervising speech-language pathologist.

h. Individuals shall maintain timely and adequate records of services rendered, shall not charge for services not rendered, and shall not misrepresent services rendered, or research and scholarly activities conducted.

i. Individuals whose services are adversely affected by substance abuse or other health-related conditions are impaired practitioners and shall seek professional assistance and, where appropriate, withdraw from the affected areas of practice.

j. Individuals who have knowledge that a licensee is unable to provide services with reasonable skill and safety shall report this information to the appropriate authority including the licensure board.

2. Principle of Ethics II. Individuals shall honor their responsibility to achieve and maintain the highest level of competence and performance.

a. Individuals shall engage in only those aspects of service provision that are within the scope of their practice and competence, considering their level of licensure, education, training and experience.

b. Individuals shall hold the appropriate qualifications for the area(s) in which they are providing services. Individuals shall engage in lifelong learning throughout their careers.

c. Individuals shall not provide services unless appropriately supervised.

d. Individuals shall not provide services for which the licensee has not been properly prepared.

e. Individuals shall utilize technology and instrumentation as directed by the supervising speech-language pathologist, ensuring that proper working order is maintained and calibration has been established.

3. Principle of Ethics III. Individuals shall honor their responsibility to the public by providing accurate information in all communications.

a. Individuals shall not misrepresent their credentials, competence, education, training or experience.

b. Individuals shall not participate in professional activities that constitute a conflict of interest.

c. Individuals shall not misrepresent research and scholarly activities, services rendered or any information, or engage in any scheme or maneuver to defraud in connection with obtaining payment or reimbursement for services.

d. Individuals shall not make false statements regarding areas of practice, and shall complete all materials and documents honestly and without omission.

4. Principle of Ethics IV. Individuals shall honor their responsibilities and their relationships with colleagues and members of other professions and disciplines. Individuals shall maintain harmonious interprofessional and intraprofessional relationships and accept the standards delineated for assistants.

a. Individuals' statements to colleagues about services, research, or products shall adhere to prevailing standards and contain no misrepresentations.

b. Individuals shall not engage in dishonesty, negligence, fraud, deceit, or misrepresentation.

c. Applicants for licensure and individuals making disclosures shall not make false statements and shall

complete all application and disclosure materials honestly and without omission.

d. Individuals shall not engage in any form of harassment, power abuse, or sexual harassment, or any other form of conduct that adversely reflects on service delivery or on the individual's fitness to serve persons.

e. Individuals shall not engage in sexual activity with a patient/client or research participant.

f. Individuals shall assign credit only to those who have contributed to a publication, presentation, protocol, process, or product. Credit shall be assigned in proportion to the contribution and only with the contributor's consent.

g. Individuals shall not engage in plagiarism and shall reference the source when using other persons' ideas, research, presentations, or products in written, oral, or any other media presentation or summary.

h. Individuals shall not discriminate in their relationships with colleagues and members of other professions and disciplines on the basis of race, ethnicity, citizenship, sex, gender identity/gender expression, sexual orientation, age, religion, national origin, disability, culture, language or dialect.

i. Individuals shall comply with local, state, and federal laws and regulations applicable to practice and research.

j. Individuals shall inform the board of any violations of the practice act or the Rules and Regulations including the Code of Ethics.

k. Individuals shall cooperate fully with the board on matters of professional conduct relative to the practice act or the Rules and Regulations including the Code of Ethics, and shall not make false statements of fact or withhold relevant facts necessary to fairly adjudicate complaints.

l. Individuals who have been publicly sanctioned or denied a license or a professional credential by any professional association, professional licensing authority or board, or other professional regulatory body shall self-report by notifying the Board in writing within thirty (30) days of the final action or disposition. Such written notification shall consist of a certified copy of the final action, sanction, or disposition.

m. Individuals who have been convicted, been found guilty, or entered a plea of nolo contendere to any misdemeanor involving dishonesty, physical harm or the threat of physical harm to the person or property of another, or any felony, shall self-report by notifying the Board in writing within thirty (30) days of the conviction, plea, or finding of guilt. Such written notification shall consist of a certified copy of the conviction, plea, nolo contendere record, or minute/docket entry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:370 (April 1991), amended LR 22:360 (May 1996), LR 30:2324 (October 2004), LR 33:2201 (October 2007), LR 37:2399 (August 2011), LR 39:1044 (April 2013), LR 48:2751 (November 2022).

Jolie Jones
Executive Director

2211#028

RULE

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

Applied Behavior Analysis-Based Therapy Services
Place of Service Limitations
(LAC 50:XV.301)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XV.301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 1. Applied Behavior Analysis-Based Therapy Services

Chapter 3. Services

§301. Covered Services and Limitations

- A. - D. ...
- E. Service Limitations
 - 1. ...
 - 2. Services must be delivered in a natural setting (e.g., home and community-based settings, including schools and clinics).
 - a. Services delivered in a school must not duplicate services rendered under an individualized family service plan (IFSP) or an individualized educational program (IEP) as required under the federal Individuals with Disabilities Education Act (IDEA).
 - 3. ...
- F. Not Medically Necessary/Non-Covered Services. The following services do not meet medical necessity criteria, nor qualify as Medicaid covered ABA-based therapy services:
 - 1. - 3. ...
 - 4. treatment whose purpose is vocationally- or recreationally-based; and
 - 5. - 5.a.ii. ...
 - iii. could be provided by persons without professional skills or training.
 - 6. - 6.d. 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 41:926 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2498 (December 2017), LR 48:2755 (November 2022).

Dr. Courtney N. Phillips
Secretary

2211#060

RULE

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

Behavioral Health Service Providers
Licensing Standards
(LAC 48:I.Chapters 56 and 57)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.Chapters 56 and 57 and adopted §5733 as authorized by R.S. 36:254. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 56. Behavioral Health Service Providers

Subchapter A. General Provisions

§5603. Definitions

Community Psychiatric Support and Treatment (CPST)—Centers for Medicare and Medicaid Services (CMS) approved Medicaid mental health rehabilitation services designed to reduce disability from mental illness, restore functional skills of daily living, build natural supports, and achieve identified person-centered goals or objectives through counseling, clinical psycho-education, and ongoing monitoring needs as set forth in an individualized treatment plan.

Geographic Service Area—the geographic service location for a public or private behavioral health services provider licensed pursuant to this Part shall be defined to include all of the following:

- 1. - 2. ...
- 3. any location within a 50 mile radius of the provider’s business office.

Off-Site—a parent facility’s alternate location or premises that provides behavioral health services on a routine basis within the geographic service area of the licensed BHS provider that:

- 1. ...
- 2. is owned by, leased by or donated or loaned to the parent provider for the purpose of providing behavioral health services; and
 - a. - c. Repealed.
- 3. has a sub-license issued under the parent facility’s license.
- 4. Repealed.

Onsite Access—for purposes of §5712 and §5733 of this Rule, the delivery of the treatment to the patient at the location of the substance use disorder facility. For purposes

of §5712 and §5733, onsite access shall not mean that the substance use disorder facility is required to maintain stock of the medication-assisted treatment at the facility.

Peer Support Specialist—an individual with personal lived experience with a minimum of 12 consecutive months of recovery from behavioral health conditions and successfully navigating the behavioral health services system. Recognized peer support specialists must successfully complete an OBH-approved peer training program, continuing education requirements, and clinical supervision in order to provide peer support services.

Psychosocial Rehabilitation (PSR) Services—CMS approved Medicaid mental health rehabilitation services designed to assist the individual with compensating for or eliminating functional deficits and interpersonal or environmental barriers associated with mental illness through skill building and supportive interventions to restore and rehabilitate social and interpersonal skills and daily living skills.

Substance Use Disorder Facilities/Addiction Treatment Service—a service related to the screening, diagnosis, management, or treatment for the use of or addiction to controlled dangerous substances, drugs or inhalants, alcohol, problem gambling or a combination thereof; may also be referred to as substance use disorder service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1682 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1380 (July 2017), LR 46:587 (April 2020), LR 48:1277 (May 2022), LR 48:2755 (November 2022).

Subchapter B. Licensing

§5605. General Provisions

A. - F.3. ...

G. Off-Sites. A licensed BHS provider may have an off-site location with the approval of HSS that meets the following requirements.

1. The off-site may share a name with the parent facility if a geographic indicator (e.g., street, city or parish) is added to the end of the off-site name.

2. - 4. ...

5. The licensed BHS provider may operate within a 50 mile radius of one designated off-site location.

6. A residential off-site shall be reviewed under the plan review process.

7. An initial survey may be required prior to opening a residential off-site.

8. An off-site shall have staff to comply with all requirements in this Chapter and who are present during established operating hours to meet the needs of the clients.

9. Personnel records and client records may be housed at the parent facility.

10. Clients who do not receive all treatment services at an off-site may receive the services at the parent facility or be referred to another licensed provider that provides those services.

11. The off-site may offer fewer services than the parent facility and/or may have less staff than the parent facility.

12. The off-site together with the parent facility provides all core functions of a BHS provider and meets all licensing requirements of a BHS provider.

H. - L.9. ...

M. Geographic Service Area

1. - 2.d.i. ...

ii. for providers of outpatient services (other than providers with a mental health service program that provide services only in the home and community – see below) the geographic service area shall be:

(a). - (c). ...

(d). in a home or community location in any parish contiguous to the parish in which the BHS provider's primary business office is located;

(e). in a home or community location that is within a 50 mile radius of the BHS provider's primary business office; and

(f). in a home or community location that is within a 50 mile radius of one designated off-site location.

iii. - iii.(c). ...

3. A BHS provider that is not a licensed mental health professional or a provisionally licensed mental health professional acting within his/her scope of practice may not provide telehealth services outside of its geographic service area.

4. A licensed mental health professional or a provisionally licensed mental health professional acting within his scope of practice, who is employed by a behavioral health service provider licensed pursuant to this Part, may provide professional outpatient psychiatric services to any established client or patient, regardless of the client's or patient's particular location within the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2162.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1687 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1380 (July 2017), LR 46:588 (April 2020), LR 48:1281 (May 2022), LR 48:2756 (November 2022).

§5606. License Restrictions and Exceptions

A. - B.5. ...

C. The provider shall not provide services to a client residing outside of the provider's designated geographic service area unless the provider has received a written waiver request approval from HSS or meets the requirements of Subsection B of this Section.

D. - F.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2162.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 46:588 (April 2020), amended LR 48:1281 (May 2022), LR 48:2756 (November 2022).

Subchapter E. Personnel

§5641. General Requirements

A. - D.1.b. ...

2. For any provider that is treating adults, prior to any employer making an offer to employ or contract with a non-licensed person or any licensed person, the provider shall

obtain a statewide criminal background check in accordance with R.S. 40:1203.1 et seq. At the latest, the background check shall be conducted within 90 days prior to hire or employment.

D.3. - F. ...

1. The provider is prohibited from knowingly employing or contracting with, or retaining the employment of or contract with, a member of the direct care staff who:

a. has entered a plea of guilty or nolo contendere, no contest, or has been convicted of a felony listed in R.S. 40:1203.3, unless the individual meets one of the exceptions allowed by the statute; or

i. - v. Repealed.

F.1.b. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1699 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:2756 (November 2022).

§5643. Core Staffing Personnel Qualifications and Responsibilities

A. - C.1.b.vi. ...

2. CPST Professionals

a. The provider shall maintain a sufficient number of CPST professionals to meet the needs of its clients;

b. CPST professionals shall:

i. provide direct care to clients and may serve as primary clinician to specified caseload under clinical supervision;

ii. - iv. ...

v. prepare and write notes or other documents related to recovery (e.g., assessment, progress notes, treatment plans, etc.).

3. Unlicensed Professionals

a. The provider shall maintain a sufficient number of UPs to meet the needs of its clients;

b. The UP shall:

i. provide direct care to clients and may serve as primary case worker to specified caseload under clinical supervision;

ii. serve as resource person for other professionals and paraprofessionals in their specific area of expertise;

iii. attend and participate in individual care conferences, treatment planning activities and discharge planning;

iv. function as the client's advocate in all treatment decisions affecting the client; and

v. prepare and write notes or other documents related to recovery (e.g., assessment, progress notes, treatment plans, etc.).

c - d.x. Repealed.

4. Direct Care Aides

a. A residential provider shall have a sufficient number of direct care aides to meet the needs of the clients;

i. - viii. Repealed.

b. A provider that provides outpatient services shall use direct care aides as needed;

i. - v. Repealed.

c. Direct care aides shall meet the following minimum qualifications:

i. have obtained a high school diploma or equivalent; and

ii. be at least 18 years old in an adult provider and 21 years old in a provider that treats children and/or adolescents.

iii. Repealed.

d. Direct care aides shall have the following responsibilities:

i. ensure a safe environment for clients;

ii. exercise therapeutic communication skills;

iii. take steps to de-escalate distressed clients;

iv. observe and document client behavior;

v. assist with therapeutic and recreational activities;

vi. monitor clients' physical well-being;

vii. provide input regarding client progress to the interdisciplinary team;

viii. oversee the activities of the facility when there is no professional staff on duty;

ix. possess adequate orientation and skills to assess situations related to relapse and to provide access to appropriate medical care when needed; and

x. function as client advocate.

5. Volunteers

a. If a BHS provider utilizes volunteers, provider shall ensure that each volunteer is:

i. supervised to protect clients and staff;

ii. oriented to the provider, job duties, and other pertinent information;

iii. trained to meet the requirements of duties assigned;

iv. given a written job description or written agreement;

v. identified as a volunteer;

vi. trained in privacy measures;

vii. required to sign a written confidentiality agreement; and

viii. required to submit to a statewide criminal background check by an agency authorized by the Office of the State Police to conduct criminal background checks prior to providing direct care.

b. If a BHS provider utilizes student volunteers, it shall ensure that each student volunteer:

i. has current registration with the applicable Louisiana professional board, when required, and is in good standing at all times that is verified by the provider;

ii. is actively pursuing a degree in a human service field or professional level licensure or certification at all times;

iii. provides direct client care utilizing the standards developed by the professional board;

iv. provides care only under the direct supervision of the appropriate supervisor; and

v. provides only those services for which the student has been trained and deemed competent to perform.

c. A volunteer's duties may include:

i. direct care activities only when qualified provider personnel are present;

- ii. errands, recreational activities; and
 - iii. individual assistance to support services.
- d. The provider shall designate a volunteer coordinator who:

- i. has the experience and training to supervise the volunteers and their activities; and
- ii. is responsible for selecting, evaluating and supervising the volunteers and their activities.

6. Care Coordinator

a. The provider shall ensure that each care coordinator:

- i. has a high school diploma or equivalent;
- ii. is at least 18 years old in an adult provider and 21 years old in provider that treats children and/or adolescents; and
- iii. has been trained to perform assigned job duties.

D. Multiple Positions. If a BHS provider employs a staff member in more than one position, the provider shall ensure that:

- 1. the person is qualified to function in both capacities; and
- 2. one person is able to perform the responsibilities of both jobs.

E. - E.2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1700 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1383 (July 2017), LR 48:1283 (May 2022), LR 48:2757 (November 2022).

Subchapter L. Additional Requirements for Mental Health Programs

§5689. Community Psychiatric Support and Treatment

A. The provider that provides community psychiatric support and treatment (CPST) services shall:

- 1. - 3. ...
- 4. provide counseling, solution-focused interventions, emotional and behavioral management and problem behavior analysis with the client; and
- 5. participate in and utilize strengths-based planning and treatments, that includes identifying strengths and needs, resources, natural supports and developing goals and objectives to address functional deficits associated with the client's mental illness.

6. Repealed.

B. Staffing Requirements

1. Professionals Providing CPST Services

a. The program's professionals that provide CPST shall be one of the following:

- i. licensed mental health professional (LMHP);
- ii. provisionally licensed professional counselor (PLPC);
- iii. provisionally licensed marriage and family therapist (PLMFT);
- iv. licensed master social worker (LMSW);
- v. certified social worker (CSW); or
- vi. psychology intern from an American Psychological Association approved internship program.

b. The responsibilities of any professionals providing CPST services include:

i. assisting the client with effectively responding to or avoiding identified precursors or triggers that would risk the client remaining in a natural community location; and

ii. assisting the client and family members to identify strategies or treatment options associated with the client's mental illness.

c. - c.iii. Repealed.

2. Licensed Mental Health Professionals

a. - b. ...

c. The LMHP is responsible for rendering the assessment and treatment planning components of CPST.

3. - 3.b....

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1713 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:2758 (November 2022).

Subchapter O. Additional Requirements for Opioid Treatment Programs

§5733. Treatment to Pregnant Women

A. Each substance use disorder facility licensed as an OTP provider that provides treatment for opioid use disorder to pregnant women shall provide onsite access to at least one form of FDA-approved opioid agonist treatment.

1. An OTP shall not be found to be in violation of this Section if prior authorization from a patient's health insurer, including the Medicaid program, is required and the preapproval request is denied by the patient's health insurer.

B. Each OTP that provides treatment for opioid use disorder to pregnant women shall submit to the department, on its initial licensing application or its annual licensing renewal application, an attestation as to whether it is complying with the requirements of Subsection A of this Section. The requirement for submission of the attestation shall commence on January 1, 2023.

1. If the OTP is not fully complying with the requirements of Subsection A of this Section, then the attestation that the OTP submits shall include a report addressing its progress toward satisfying those requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2758 (November 2022).

Dr. Courtney N. Phillips
Secretary

2211#061

RULE

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

Inpatient Hospital Services
Urban Metropolitan Statistical Area Facility
(LAC 50:V.Chapter 19)

The Department of Health, Bureau of Health Services Financing has adopted LAC 50:V.Chapter 19 in the Medical

Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 19. Urban Metropolitan Statistical Area (MSA) Facility

§1901. Qualifying Criteria

A. In order to qualify as an urban metropolitan statistical area (MSA) facility, the hospital:

1. has a facility type code of acute and opened subsequent to the March 12, 2020 presidential declaration of a national emergency due to COVID-19 to provide availability of additional beds and services for COVID-19 patients;

2. must have been licensed and certified no later than June 30, 2020, and located in zip code 70806, east of I-110, north of I-10, and south of Business Highway 190;

3. is located in an urban metropolitan statistical area (MSA) as defined by the United States Office of Management and Budget;

4. has an operational emergency room and is located greater than five miles in distance from the closest hospital emergency room; and

5. is located on a single site.

a. The addition of any off-site campus location to the license of this hospital will invalidate the provisions of this reimbursement methodology.

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 48:2759 (November 2022).

§1903. Reimbursement Methodology

A. Effective July 1, 2022, the inpatient hospital per diem rate paid to an urban MSA facility for acute care services shall be increased by indexing annually to 95 percent of the small rural hospital acute per diem rate in effect.

B. Effective July 1, 2022, the inpatient hospital per diem rate paid to an urban MSA facility for psychiatric services shall be increased by indexing annually to 95 percent of the small rural hospital psychiatric per diem rate in effect.

C. These rates are conditional on the hospital continuing to meet all qualifying criteria included in §1901. If the hospital no longer qualifies, payments will revert back to appropriate non-rural, non-state hospital assigned rates effective on the date that the qualification(s) in §1901 are no longer met.

D. The department may review all above provisions every three years, at a minimum, to evaluate continuation of these enhanced reimbursements.

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 48:2759 (November 2022).

Dr. Courtney N. Phillips
Secretary

2211#062

RULE

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

**Outpatient Hospital Services
Urban Metropolitan Statistical Area Facility
(LAC 50:V.Chapter 73)**

The Department of Health, Bureau of Health Services Financing has adopted LAC 50:V.Chapter 73 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospital Services

Chapter 73. Urban Metropolitan Statistical Area (MSA) Facility

§7301. Qualifying Criteria

A. In order to qualify as an urban metropolitan statistical area (MSA) facility, the hospital:

1. has a facility type code of acute and opened subsequent to the March 12, 2020 presidential declaration of a national emergency due to COVID-19 to provide availability of additional beds and services for COVID-19 patients;

2. must have been licensed and certified no later than June 30, 2020, and located in zip code 70806, east of I-110, north of I-10, and south of Business Highway 190;

3. is located in an urban metropolitan statistical area (MSA) as defined by the United States Office of Management and Budget;

4. has an operational emergency room and is located greater than five miles in distance from the closest hospital emergency room; and

5. is located on a single site.

a. The addition of any off-site campus location to the license of this hospital will invalidate the provisions of this reimbursement methodology.

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 48:2759 (November 2022).

§7303. Reimbursement Methodology

A. Effective for dates of service on or after July 1, 2022, payments for outpatient services to qualifying urban MSA hospitals who meet all of the criteria in §7301 shall be made as follows.

1. Outpatient Surgery. The reimbursement amount for outpatient hospital surgery services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

2. Clinic Services. The reimbursement amount for outpatient clinic services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable

Medicaid cost as calculated through the cost report settlement process.

3. Laboratory Services. The reimbursement amount for outpatient clinical diagnostic laboratory services shall be the Medicaid fee schedule amount on file for each service.

4. Rehabilitation Services. The reimbursement amount for outpatient rehabilitation services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

5. Other Outpatient Hospital Services. The reimbursement amount for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services, and outpatient hospital facility fees shall be an interim payment equal to 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

B. The department may review all above provisions every three years, at a minimum, to evaluate continuation of these enhanced reimbursements.

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 48:2759 (November 2022).

Dr. Courtney N. Phillips
Secretary

2211#063

RULE

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., has repealed Rule 9—Prelicensing Education. The Department of Insurance is repealing Rule 9 as required by Act 273 of the 2022 Regular Legislative Session. This Rule is hereby adopted on the day of promulgation.

Title 37

INSURANCE

Part XI. Rules

Chapter 5. Rule Number 9—Prelicensing Education

§501. Authority

Repealed.

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 47:595 (May 2021), repealed LR 48:2760 (November 2022).

§503. Purpose

Repealed.

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 47:595 (May 2021), repealed LR 48:2760 (November 2022).

§505. Applicability and Scope

Repealed.

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 37:2169 (July 2011), amended LR 47:595 (May 2021), repealed LR 48:2760 (November 2022).

§507. Effective Date

Repealed.

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 37:2169 (July 2011), amended LR 47:595 (May 2021), repealed LR 48:2760 (November 2022).

§509. Definitions

Repealed.

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 37:2169 (July 2011), amended LR 47:595 (May 2021), repealed LR 48:2760 (November 2022).

§511. Prelicensing Requirements

Repealed.

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 37:2169 (July 2011), amended LR 47:596 (May 2021), repealed LR 48:2760 (November 2022).

§513. Program Certification Requirements

Repealed.

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 37:2170 (July 2011), amended LR 47:596 (May 2021), repealed LR 48:2760 (November 2022).

§515. Measurement of Credit Hours

Repealed.

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 37:2171 (July 2011), amended LR 47:597 (May 2021), repealed LR 48:2760 (November 2022).

§517. Provider Requirements

Repealed.

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 37:2171 (July 2011), amended LR 47:597 (May 2021), repealed LR 48:2761 (November 2022).

§519. Instructor Qualifications

[Formerly §517]

Repealed.

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 37:2171 (July 2011), amended LR 47:598 (May 2021), repealed LR 48:2761 (November 2022).

§521. Training Facilities Requirements

[Formerly §519]

Repealed.

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 37:2172 (July 2011), amended LR 47:598 (May 2021), repealed LR 48:2761 (November 2022).

§523. Authority of the Commissioner to Conduct On-Site Review of Preclicensing Programs

[Formerly §521]

Repealed.

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 37:2172 (July 2011), amended LR 47:598 (May 2021), repealed LR 48:2761 (November 2022).

§525. Program Completion

[Formerly §523]

Repealed.

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 37:2172 (July 2011), amended LR 47:599 (May 2021), repealed LR 48:2761 (November 2022).

§527. Fees

[Formerly §525]

Repealed.

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 37:2172 (July 2011), amended LR 47:599 (May 2021), repealed LR 48:2761 (November 2022).

§529. Complaints

[Formerly §527]

Repealed.

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 37:2172 (July 2011), amended LR 47:599 (May 2021), repealed LR 48:2761 (November 2022).

§531. Violations

[Formerly §529]

Repealed.

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 37:2172 (July 2011), amended LR 47:599 (May 2021), repealed LR 48:2761 (November 2022).

James J. Donelon
Commissioner

2211#019

RULE

**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., has amended Rule 10—Continuing Education. The amendment of Rule 10 implements the provisions of Act 56 and Act 273 of the 2022 Regular Session of the Louisiana Legislature. The purpose of the amendment to Rule 10 is to (1) remove the first renewal exemption for completion of continuing education as preclicensing education is no longer required; (2) include required information that must be submitted to qualify for continuing education credit for participation in professional association activities; (3) clarify what data is required in association with the renewal of a continuing education course; (4) modify terminology relative to accident and

health insurance and the commissioner; and (5) provide for technical changes. This Rule is hereby adopted on the day of promulgation.

Title 37
INSURANCE
Part XI. Rules

Chapter 7. Rule Number 10—Continuing Education

§703. Purpose

A. The purpose of this Rule is to protect the public, maintain high standards of professional competency in the insurance industry, and maintain and improve the insurance skills and knowledge of producers, adjusters, and insurance consultants licensed by the commissioner. This shall be accomplished by prescribing the following:

1. - 2. ...

3. a procedure for establishing to the commissioner that continuing education requirements have been met.

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), repromulgated LR 47:600 (May 2021), amended LR 48:2762 (November 2022).

§705. Applicability and Scope

A. This Rule applies to all natural persons who are licensed by the commissioner 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 commissioner. 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 claims adjuster license for the first time after initial issuance. Thereafter the licensee shall be subject to all applicable continuing education requirements;

3. an individual renewing a public adjuster license within one year of initial issuance;

4. an individual licensed as an insurance producer 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. is no longer actively engaged in the insurance business as a producer and who is receiving social security benefits, if eligible; or

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.4 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 47:600 (May 2021), amended LR 48:2762 (November 2022).

§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 commissioner 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. 22:1691-1708.

Claims Adjuster—an individual who is licensed by the commissioner as a claims adjuster pursuant to the provisions of R.S. 22:1661-1678.

Commissioner—the commissioner of insurance of Louisiana.

Insurance Consultant—an individual licensed as an insurance consultant pursuant to the provisions of R.S. 22:1808.1-1808.13.

Insurance Producer or Producer—an individual who is licensed by the commissioner 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 commissioner.

Provider—an entity presenting a continuing education program.

Public Adjuster—an individual who is licensed by the commissioner as a public adjuster pursuant to the provisions of R.S. 22:1691-1708.

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 47:600 (May 2021), amended LR 48:2762 (November 2022).

§711. Continuing Education Requirements

A. As a condition of the renewal of a license, the continuing education provider or licensee must furnish the commissioner, prior to the license expiration date, proof of satisfactory completion of approved programs having the required minimum hours of continuing education credit.

1. Insurance producers or insurance consultants licensed for one or more of the lines of life, accident and health or sickness, property, casualty or personal lines—24 hours.

2. - 4. ...

B. The 24 hours of continuing education required for insurance producers or insurance consultants 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 or insurance consultants 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. - K. ...

L. Subject to the provisions of Subsection K above, a licensee who acts as an instructor for any program approved for continuing education credit by the commissioner shall receive the same number of hours as would be granted to a licensee taking and successfully completing the program.

M. - N. ...

O.1. Insurance producers who are members of state or national insurance associations may be granted up to four continuing education credits each renewal period for actively participating in a state or national insurance association in any of the following methods:

a. attend a formal meeting of a state or national insurance 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 insurance 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 insurance association; or

d. participate in other formal insurance business activities of a state or national chapter of the insurance association.

2. To qualify for continuing education credit under this provision, members must participate in qualified activities as described in Paragraph O.1 of this Section. The state or national insurance association shall be responsible for verifying participation. Attendance at meetings which are otherwise approved for continuing education credit do not qualify under the terms of this provision. The state or national insurance association shall submit a formal request to the commissioner for approval of continuing education credits issued under the terms of this provision. The request shall include the name and Louisiana license number for all producers for whom credit is being requested and information on the completed activities including the dates, times and descriptions of those activities. Such requests shall be made to the commissioner no more than 365 days after completion of the activity and shall be made in increments of not less than one hour. The commissioner shall review the requests and grant credit to the producers only after determining that the request is consistent with the provisions of this Rule.

3. ...

4. Regardless of the number of state or national insurance associations in which an insurance producer actively participates, under no circumstances shall an insurance producer 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 47:600 (May 2021), amended LR 48:2762 (November 2022).

§715. Program Certification Requirements

A. An application for certification of a continuing education program shall be submitted to the commissioner not less than 30 days prior to the expected use of the program. Each application shall be submitted electronically using the "CE Course Administration Module" of the Industry Access System or succeeding system and shall include:

1. - 2. ...

3. a statement of the method used to determine the course has been completed and whether there has been a positive achievement of education on the part of the licensee participating in 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 the licensee, or any other method approved by the commissioner as appropriate for the subject;

4. - 9. ...

10. payment of all fees as required by R.S. 22:821(B)(29).

B. - L. ...

M. A request for renewal of an internet-based self-study program shall include statistical information related to the program including the total number of Louisiana resident licensees who participated in the program in the previous three years and the average and median amount of time spent in the course environment by those licensees. In addition to the required information, the provider may also include information for all participants of the program. 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. - N.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 37:2175 (July 2011), amended LR 47:602 (May 2021), amended LR 48:2763 (November 2022).

§717. Measurement of Credit Hours

A. ...

B. Credit for continuing education programs shall be given in full hours only.

B.1. - 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 37:2176 (July 2011), amended LR 47:602 (May 2021), amended LR 48:2763 (November 2022).

§719. Provider Requirements

A. - B.8. ...

9. the fee required by R.S. 22:821(B)(29);

B.10 - D.6. ...

E. Every certification of a provider 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. If the certification of a provider expires without renewal or is rescinded or renewal refused, 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 37:2176 (July 2011), amended LR 47:603 (May 2021), amended LR 48:2763 (November 2022).

§721. Instructor Qualifications
[Formerly §719]

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 all 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. - D.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 37:2176 (July 2011), repromulgated LR 47:603 (May 2021), amended LR 48:2764 (November 2022).

§727. Program Completion
[Formerly §725]

A. - C. ...

D. A provider may not provide credit unless the licensee has completed the full continuing education program. A licensee may not receive partial credit.

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 37:2177 (July 2011), amended LR 47:604 (May 2021), amended LR 48:2764 (November 2022).

§729. Fees
[Formerly §727]

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(B)(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 37:2177 (July 2011), amended LR 47:604 (May 2021), amended LR 48:2764 (November 2022).

§733. Violations
[Formerly §731]

A. The commissioner may deny, suspend, rescind, or refuse to renew 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. - C. ...

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 37:2177 (July 2011), amended LR 47:604 (May 2021), amended LR 48:2764 (November 2022).

James J. Donelon
Commissioner

2211#020

RULE

Department of Revenue
Policy Services Division

Mandatory Electronic Filing and Payment
of Tobacco Tax by Vapor Dealers
(LAC 61.III.1533 and 1534)

Under the authority of R.S. 13:5077, 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 amended LAC 61.III.1533 and 1534, to mandate electronic filing and payment by retail dealers of vapor products.

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 tobacco tax returns and reports by retail dealers of vapor products and electronic payment of all tobacco tax by retail dealers of vapor products. 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

§1533. Tobacco Tax—Electronic Filing Requirements

A.1. For tax periods beginning on or after October 1, 2019, every dealer that files a Louisiana Tobacco Tax Return shall be required to file the return and all reports electronically with the Department of Revenue using the electronic format prescribed by the department.

2. For tax periods beginning on or after January 1, 2023, every retail dealer of vapor products that files a Louisiana Tobacco Tax Return for Retail Dealers of Vapor Products shall be required to file the return and all reports electronically with the Department of Revenue using the electronic format prescribed by the department.

B. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:5077, 47:1511, and 47:1520.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 45:932 (July 2019), amended LR 48:2764 (November 2022).

§1534. Tobacco Tax—Electronic Payment Required

A. R.S. 47:1519(B)(1) allows the secretary to require payment of tobacco tax by electronic funds transfer.

B.1. Effective for all taxable periods beginning on or after October 1, 2019, all payments by a tobacco dealer 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.

2. Effective for all taxable periods beginning on or after January 1, 2023, all payments by a retail dealer of vapor products 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. - G. ...

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 45:932 (July 2019), amended LR 48:2765 (November 2022).

Kevin J. Richard, CPA
Secretary

2211#018

RULE

**Department of Revenue
Policy Services Division**

**Manufacturer’s Net Invoiced Price
(LAC 61.I.5103)**

Under the authority of R.S. 47:841(D) and 1511, 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.I.5103 relative to the determination of manufacturer’s net invoiced price.

The purpose of this regulation is to provide definitions relative to the calculation of manufacturer’s net invoiced price and provide guidance regarding the inclusion and exclusion of certain items such as, trade discounts, cash discounts, federal excise tax, and shipping charges routinely reflected on invoices issued to tobacco dealers. This Rule is hereby adopted on the day of promulgation.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 51. Tobacco Tax

§5103. Manufacturer’s Net Invoiced Price

A. Definitions

Cash Discounts—reduction to the total invoiced amount based upon a payment method or timing of payment such as payment by electronic funds transfer, automatic withdrawal or full payment within a specified period.

Promotional Incentives—product provided to the Louisiana dealer and listed on the invoice at no cost.

Trade Discounts—reduction in list price or unit price given by a manufacturer or other supplier. These discounts are listed in the product line item as either a percentage or specified amount and are reflected in the extended price of the product on the invoice.

B. The tobacco tax is imposed on the invoice price of cigars, smoking tobacco, smokeless tobacco, and other tobacco products. R.S. 47:842(6) defines invoice price as the manufacturer’s net invoiced price as invoiced to the Louisiana tobacco dealer.

C. Manufacturer’s net invoiced price is the product line item price charged to the dealer by the manufacturer, supplier, jobber or other person who sells the tobacco product to the dealer inclusive of any trade discount reflected in the line item price.

D. Federal excise and other taxes, shipping charges, and freight charges separately stated on an invoice are not considered part of the price of the taxable product and are excluded from the determination of manufacturer’s net invoiced price.

E. Cash discounts shall not be considered when determining the manufacturer’s net invoiced price.

F. R.S. 47:854(B) requires that any tobacco products given away at no cost must be taxed in the same manner as products sold, used, consumed, handled or distributed in this state. The tobacco tax due on promotional incentives listed on an invoice at no cost shall be determined as follows.

1. If the invoice reflects a purchase of the same product, then the tobacco excise tax should be calculated on the invoiced price charged on the invoice for the same product.

2. If the invoice does not show the purchase of the same product, then the tax is calculated on the manufacturer’s list price for that product.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:841(D) and 1511.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, Policy Services Division, LR 48:2765 (November 2022).

Kevin J. Richard, CPA
Secretary

2211#027

RULE

**Department of Revenue
Policy Services Division**

**Presidential Disaster Tax Relief Credit, Federal Income Tax
Deduction and Withholding by Professional Athletic Teams
(LAC 61:I.601, 1307, and 1520)**

Under the authority of R.S. 39:100.1, 47:164(D), 287.785, 295, 1511, and 1602.1 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and Acts 395 and 396 of the 2021 Regular Session of the Louisiana Legislature, which became operative on January 1, 2022 due to the passage of Constitutional Amendment Two during the November 13, 2021 election, the Department

of Revenue, Policy Services Division, has amended LAC 61:I.601, relative to certain federal disaster tax relief credits, LAC 61:I.1307 relative to the federal income tax deduction, and LAC 61:I.1520(C), relative to the withholding of Louisiana individual income tax by professional athletic teams for nonresident team members who render services to the team within Louisiana.

These amendments repeal regulations pertaining to Louisiana's federal income tax deduction and federal disaster tax relief credits which became obsolete due to the repeal of R.S. 47:293(4) and R.S. 47:287.85(C)(2). The purpose of LAC 61:I.601 was to declare the Katrina Emergency Tax Relief Act of 2005 and the Gulf Opportunity Zone Act of 2005 as disaster relief credits and provide guidance regarding their applicability in accordance with R.S. 47:293(4), while the purpose of LAC 61:I.1307 was to provide clarification regarding the two options for taxpayers to compute their federal income tax liability deduction when the taxpayer claimed the federal credit for foreign taxes paid pursuant to R.S. 47:297(B). In addition, the amendments make LAC 61:I.1520, which requires periodic withholding for professional athletic teams domiciled outside Louisiana on their nonresident team members, consistent with the new individual income tax rates provided for by Act 395. This Rule is hereby adopted on the day of promulgation.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 6. Presidential Disaster Relief

§601. Presidential Disaster Relief

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 47:1511, R.S. 47:287.85(C)(2), R.S. 47:293(3) and R.S. 47:287.785.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 32:642 (April 2006), amended LR 32:1907 (October 2006), repealed LR 48:2766 (November 2022).

§1307. Federal Income Tax Deduction

Repealed.

AUTHORITY NOTE: Adopted in accordance with 47:293(3), R.S. 47:297(B), R.S. 47:295, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 28:1030 (May 2002), repealed LR 48:2766 (November 2022).

Chapter 15. Income: Withholding Tax

§1520. Withholding by Professional Athletic Teams

A. - B.3. ...

C. Rate of Withholding. Effective on or after January 1, 2022, the withholding tax rate under this Section shall be 4.25 percent of the compensation attributable to "duty days" spent in Louisiana.

D. - H. ...

AUTHORITY NOTE: Adopted in accordance with R.S. 39:100.1, R.S. 47:164(D), R.S. 47:295, R.S. 47:1511, R.S. 47: 114 and R.S. 47:1602.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 30:91 (January 2004), amended LR 39:104 (January 2013), repromulgated LR 39:330

(February 2013), amended LR 48:507 (March 2022), amended LR 48:2766 (November 2022).

Kevin J. Richard, CPA
Secretary

2211#039

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Daily Take of Crappie on Bayou D'Arbonne Lake (LAC 76:VII.197)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission has amended a Rule (LAC 76:VII.197) by modifying the daily take of crappie on Bayou D'Arbonne Lake. The new daily take will be 50 fish per person of which no more than 7 fish may exceed 12 inches in length, and the possession limit will be as established in statute. This Rule is intended to increase the potential of catching trophy-size crappie by protecting larger fish and allowing for the harvest of smaller fish.

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 Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and compiling public comments and submissions for the commission's review and consideration. In the absence of any further action by the commission following an opportunity to consider all public comments regarding the Rule, the secretary is authorized and directed to prepare and transmit a summary report to the legislative oversight committees and file the final Rule. This Rule is hereby adopted on the day of promulgation. This Rule is hereby adopted on the day of promulgation.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic life

Chapter 1. Freshwater Sports and Commercial Fishing

§197. Crappie Regulations—Daily Take

A. Poverty Point Reservoir (Richland Parish)

1. Daily Limit—25 fish per person:

a. on water possession—same as daily limit per person.

B. Bayou D'Arbonne Lake (Union and Lincoln Parishes) including all areas between the Bayou D'Arbonne spillway structure and Gill's Ferry Landing on D'Arbonne Creek and Hogpen Landing on Corney Creek.

1. Daily Limit—50 fish per person, of which no more than 7 fish may exceed 12 inches total length:

a. on water possession—same as daily limit per person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:325(C).

HISTORICAL NOTE: Promulgated in accordance with Department of Wildlife and Fisheries, Wildlife and Fisheries

Joe McPherson
Chairman

2211#008

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Derelict Crab Trap Removal Program (LAC 76:VII.367)

In accordance with the Administrative Procedure Act, R.S. 49:961 et seq., and through the authority granted in R.S. 56:332(N), the Wildlife and Fisheries Commission has amended LAC 76:VII.367 to temporarily close a portion of state inside waters to the use of crab traps in order to facilitate the removal of abandoned crab traps in these waters.

These abandoned crab traps can cause navigational hazards, user-group conflicts, and cause stress on the state blue crab stock by continuing to fish after being abandoned or displaced. Traps are often displaced or abandoned due to storm and tidal movements, theft, captured in another fisherman's gear, or from having the floats cut by propellers. The removal of these traps is necessary to keep Louisiana's coast pristine and to facilitate improvement in the blue crab stock.

The Wildlife and Fisheries Commission has amended the provisions in LAC 76:VII.367 governing the locations of temporary crab trap closures to address problems in portions of state waters resulting from large numbers of abandoned and derelict crab traps (*Louisiana Register, Volume 30, Number 1; Volume 31, Number 1; Volume 32, Number 2; Volume 33, Number 1; Volume 34, Number 1; Volume 36; Number 1; Volume 38, Number 1; Volume 38, Number 12; Volume 40, Number 1; Volume 41, Number 1; Volume 42, Number 1; Volume 42, Number 12; Volume 44, Number 1; Volume 45, Number 2; Volume 45, Number 12; Volume 46, Number 11; Volume 47, Number 11*). The Wildlife and Fisheries Commission took action on August 4, 2022 to describe a new portion of state waters to be temporarily closed to the use of crab traps for the purpose of conducting a crab trap cleanup. This Rule is hereby adopted on the day of promulgation.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery §367. Derelict Crab Trap Removal Program

A. The use of crab traps shall be prohibited for a 14-day period from 12 a.m. February 1, 2023 through 11:59 p.m. February 14, 2023 within portions of Plaquemines and St. Bernard Parishes as described below:

1. from a point originating at the intersection of the western shoreline of Bayou Terre Aux Boeufs and the western shoreline of Bayou Gentilly (29 degrees 45 minutes 39.81 seconds north latitude, 89 degrees 47 minutes 30.29 seconds west longitude); thence southerly along the western

shoreline of Bayou Gentilly to its intersection with Petit Lake (29 degrees 43 minutes 45.19 seconds north latitude, 89 degrees 48 minutes 02.37 seconds west longitude); thence westerly following the northern and western shorelines of Petit Lake to its intersection with Alligator Pass (29 degrees 43 minutes 26.65 seconds north latitude, 89 degrees 48 minutes 39.16 seconds west longitude); thence westerly following the northern shoreline of Alligator Pass into Grand Lake; thence westerly and southerly along the northern and western shorelines of Grand Lake to its intersection with the western shoreline of Orange Bayou (29 degrees 41 minutes 58.25 seconds north latitude, 89 degrees 51 minutes 30.88 seconds west longitude); thence southerly along the western shoreline of Orange Bayou to its intersection with the eastern shoreline of River Aux Chenes (29 degrees 40 minutes 57.53 seconds north latitude, 89 degrees 51 minutes 43.98 seconds west longitude); thence southerly to the western shoreline of River Aux Chenes (29 degrees 40 minutes 54.79 seconds north latitude, 89 degrees 51 minutes 43.98 seconds west longitude); thence southeasterly along the western shoreline of River Aux Chenes to its intersection with Bay of River Aux Chenes (29 degrees 38 minutes 12.97 seconds north latitude, 89 degrees 39 minutes 39.14 seconds west longitude); thence northerly and easterly along the northern shoreline of Bay of River Aux Chenes to its intersection with the western shoreline of Lake Campo Pass (29 degrees 38 minutes 47.55 seconds north latitude, 89 degrees 38 minutes 36.47 seconds west longitude); thence northerly along the western shoreline of Lake Campo Pass to its intersection with Lake Campo (29 degrees 39 minutes 19.10 seconds north latitude, 89 degrees 38 minutes 47.40 seconds west longitude); thence easterly along the western, northern, and eastern shorelines of Lake Campo to its intersection with the northern shoreline of Dead Duck Pass (29 degrees 39 minutes 33.15 seconds north latitude, 89 degrees 37 minutes 14.78 seconds west longitude); thence southeasterly along the marsh shoreline of Dead Duck Pass and the marsh shoreline along the western shoreline of Bayou Terre Aux Boeufs to Mozambique Point (29 degrees 38 minutes 04.25 seconds north latitude, 89 degrees 30 minutes 03.70 seconds west longitude); thence northwesterly along the marsh shoreline along the eastern shoreline of Bayou Terre Aux Boeufs and the marsh islands surrounding Drum Bay to its intersection with the eastern shoreline of Pumpkin Bay (29 degrees 40 minutes 34.57 seconds north latitude, 89 degrees 33 minutes 30.96 seconds west longitude); thence southerly and westerly along the eastern and southern shorelines of Pumpkin Bay and the southern marsh of Bayou Grande to its intersection with Bayou Terre Aux Boeufs (29 degrees 41 minutes 02.81 seconds north latitude, 89 degrees 37 minutes 50.39 seconds west longitude); thence northwesterly along the eastern shoreline of Bayou Terre Aux Boeufs to 29 degrees 45 minutes 41.88 seconds north latitude, 89 degrees 47 minutes 28.65 seconds west longitude; thence southwesterly to the point of origin.

B. The use of crab traps shall be prohibited for a 14-day period from 12 a.m. February 1, 2023 through 11:59 p.m. February 14, 2023 within portions of Plaquemines Parish as described below:

1. from a point originating on the south bound lane of Highway 23 (29 degrees 28 minutes 35.89 seconds north latitude, 89 degrees 41 minutes 25.88 seconds west

longitude), approximately 0.15 miles south of the Plaquemines Parish Office; thence southerly along Highway 23 to its intersection with eastern shoreline of Doullut Canal (29 degrees 23 minutes 00.06 seconds north latitude, 89 degrees 36 minutes 08.94 seconds west longitude); thence southerly along the eastern shoreline of Bayou Long to its intersection with Bayou Fontanelle (29 degrees 18 minutes 29.29 seconds north latitude, 89 degrees 36 minutes 03.72 seconds west longitude); thence southerly along the eastern shoreline of Bayou Fontanelle to its intersection with a point along the inside-outside shrimp line as defined in LAC 76:VII.370 (29 degrees 15 minutes 28.28 seconds north latitude, 89 degrees 36 minutes 14.79 seconds west longitude); thence westerly along the inside-outside shrimp line to 29 degrees 18 minutes 39.23 seconds north latitude, 89 degrees 46 minutes 00.00 seconds west longitude, to a point on the inside-outside shrimp line; thence due north on longitude 89 degrees 46 minutes 00.00 seconds west longitude to a point on the southern shoreline of the Freeport Sulphur Canal (29 degrees 24 minutes 21.24 seconds north latitude, 89 degrees 46 minutes 00.00 seconds west longitude); thence northerly to the northern shoreline of the Freeport Sulphur Canal (29 degrees 24 minutes 36.94 seconds north latitude, 89 degrees 46 minutes 00.02 seconds west longitude); thence northeasterly along the northerly shoreline of the Freeport Sulphur Canal to the point of origin.

C. The use of crab traps shall be prohibited for a 14-day period from 12 a.m. February 1, 2023 through 11:59 p.m. February 14, 2023 within portions of Terrebonne Parish as described below:

1. from a point originating along the western shore of Bayou Pointe Aux Chenes (29 degrees 25 minutes 59.26 seconds north latitude, 90 degrees 27 minutes 31.39 seconds west longitude) near the intersection of Lower U.S. Highway 665 and Island Road; thence westerly to the south bound lane of Island Road; thence southerly along the south bound lane of Island Road to its intersection with the western boundary of the Pointe Aux Chenes Unit of the Pointe Aux Chenes Wildlife Management Area (29 degrees 24 minutes 25.77 seconds north latitude, 90 degrees 29 minutes 28.43 seconds west longitude); thence northerly along the western boundary of the Pointe Aux Chenes Unit of the Pointe Aux Chenes Wildlife Management Area to its intersection with the southern boundary of the Montegut Unit of the Pointe Aux Chenes Wildlife Management Area (29 degrees 25 minutes 20.38 seconds north latitude, 90 degrees 29 minutes 58.29 seconds west longitude); thence westerly along the southern boundary of the Montegut Unit of the Pointe Aux Chenes Wildlife Management Area to its southwestern most point located on the eastern shore of the Humble Canal (29 degrees 25 minutes 51.12 seconds north latitude, 90 degrees 33 minutes 31.88 seconds west longitude); thence northerly along the eastern shore of the Humble Canal to its intersection with Bayou Terrebonne (29 degrees 26 minutes 17.70 seconds north latitude, 90 degrees 34 minutes 00.19 seconds west longitude); thence westerly to a point located on the western shore of Bayou Terrebonne at 29 degrees 26 minutes 17.66 seconds north latitude, 90 degrees 34 minutes

02.75 seconds west longitude; thence southerly along the western shore of Bayou Terrebonne to its intersection with Bush Canal (29 degrees 22 minutes 07.16 seconds north latitude, 90 degrees 36 minutes 05.44 seconds west longitude); thence westerly along the northern shore of Bush Canal to its intersection with Bayou Little Caillou (29 degrees 22 minutes 52.50 seconds north latitude, 90 degrees 37 minutes 14.93 seconds west longitude); thence southerly along the western shore of Bayou Little Caillou to 29 degrees 17 minutes 00.00 seconds north latitude, 90 degrees 38 minutes 41.40 seconds west longitude; thence east along 29 degrees 17 minutes 00 seconds north latitude to the western shore of Bayou Pointe Aux Chenes (29 degrees 17 minutes 00.00 seconds north latitude, 90 degrees 23 minutes 00.51 seconds west longitude); thence northerly along the western shore of Bayou Pointe Aux Chenes to the origin.

D. The use of crab traps shall be prohibited for a 10-day period from 12 a.m. February 17, 2023 through 11:59 p.m. February 26, 2023 within portions of Cameron Parish as described below:

1. from a point originating at the Louisiana/Texas state line at 29 degrees 57 minutes 00.00 seconds north latitude, 93 degrees 48 minutes 29.67 seconds west longitude; thence northerly along the Louisiana/Texas state line to its intersection with the southernmost east bound lane on Interstate 10; thence northeasterly along the southernmost east bound lane on Interstate 10 to its intersection at 30 degrees 11 minutes 15.16 seconds north latitude, 93 degrees 33 minutes 18.00 seconds west longitude; thence southerly along 93 degrees 33 minutes 18.00 seconds west longitude to its intersection at 29 degrees 57 minutes 00.00 seconds north latitude, 93 degrees 33 minutes 18.00 seconds west longitude; thence westerly along 29 degrees 57 minutes 00.00 seconds north latitude to its point of origin.

E. All crab traps remaining in the closed area during the specified period shall be considered abandoned. Crab trap removal regulations do not provide authorization for access to private property; authorization to access private property can only be provided by individual landowners. Crab traps may be removed only between one-half hour before sunrise to one-half hour after sunset. Department of Wildlife and Fisheries personnel or its designees are authorized to remove these abandoned crab traps within the closed area. All traps removed during a closed area are to be brought to the designated disposal area. The Wildlife and Fisheries Commission authorizes the secretary of the Department of Wildlife and Fisheries to designate disposal sites and determine the final disposition of crab traps removed from the closure areas, including but not limited to disposal, buy-back, recycling, or returned to industry members participating in the retrieval of crab traps from within a closure area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:332(N).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 30:101 (January 2004), amended LR 31:108 (January 2005), LR 32:266 (February 2006), LR 33:113 (January 2007), LR 34:97 (January 2008), LR 36:77 (January 2010), LR 38:146 (January 2012), LR 38:3250 (December 2012), LR 40:96 (January 2014),

LR 41:155 (January 2015), LR 42:70 (January 2016), amended by the Department of Wildlife and Fisheries, Office of Fisheries and the Wildlife and Fisheries Commission LR 42:2196 (December 2016), LR 44:100 (January 2018), LR 45:78 (January 2019), repromulgated LR 45:282 (February 2019), amended LR 45:1815 (December 2019), LR 46:1613 (November 2020), LR 47:1649 (November 2021), LR 48:2767 (November 2022).

Jack Montoucet
Secretary

2211#031

RULE

**Office of the Governor
Division of Administration
Office of Group Benefits**

**Schedule of Benefits—Emergency Room Copayment
(LAC 32:V.205 and 305)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., as authorized pursuant to R.S. 42:801 and 42:802, the Office of the Governor, Division of Administration, Office of Group Benefits, has amended Chapters 2 and 3, of LAC 32:V, Additional Plans and Operations. The Rule is revised to amend the schedule of benefits. The schedule of benefits is amended to increase the emergency room (facility charge) copayment amount to \$200 for the Magnolia Open Access and the Magnolia Local plans. This Rule is hereby adopted on the day of promulgation.

**Title 32
EMPLOYEE BENEFITS**

Part V. Additional Plans and Operations

Chapter 2. PPO Plan Structure—Magnolia Open Access Plan

§205. Schedule of Benefits

A. Benefits and Coinsurance

	Coinsurance		
	Active Employees/ Non-Medicare Retirees (regardless of retire date)		Retirees with Medicare (regardless of retire date)
	Network Providers	Non- Network Providers	Network and Non-Network Providers
Physician Office Visits including surgery performed in an office setting: <ul style="list-style-type: none"> • General Practice • Family Practice • Internal Medicine • OB/GYN • Pediatrics 	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Allied Health/Other Professional Visits: <ul style="list-style-type: none"> • Chiropractors • Federally Funded Qualified Rural Health Clinics • Nurse Practitioners • Retail Health Clinics • Physician Assistants 	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹

	Coinsurance		
	Active Employees/ Non-Medicare Retirees (regardless of retire date)		Retirees with Medicare (regardless of retire date)
	Network Providers	Non- Network Providers	Network and Non-Network Providers
Specialist (Physician) Office Visits including surgery performed in an office setting: <ul style="list-style-type: none"> • Physician • Podiatrist • Optometrist • Midwife • Audiologist • Registered Dietician • Sleep Disorder Clinic 	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Ambulance Services - Ground <i>(for Emergency Medical Transportation only)</i>	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Ambulance Services - Air <i>(for Emergency Medical Transportation only)</i> Non-emergency requires prior authorization ²	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Ambulatory Surgical Center and Outpatient Surgical Facility	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Birth Control Devices - Insertion and Removal <i>(as listed in the Preventive and Wellness Care Article in the Benefit Plan)</i>	100% - 0%	70% - 30% ¹	Network Providers 100% - 0% Non-Network Providers 80% - 20% ¹
Cardiac Rehabilitation <i>(limit of 36 visits per Plan Year)</i>	90% - 10% ^{1,2}	70% - 30% ^{1,2}	80% - 20% ^{1,2}
Chemotherapy/Radiation Therapy (Authorization not required when performed in Physician's office)	90% - 10% ^{1,2}	70% - 30% ^{1,2}	80% - 20% ^{1,2}
Diabetes Treatment	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Diabetic/Nutritional Counseling - Clinics and Outpatient Facilities	90% - 10% ¹	Not Covered	80% - 20% ¹
Dialysis	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Durable Medical Equipment (DME), Prosthetic Appliances and Orthotic Devices	90% - 10% ^{1,2}	70% - 30% ^{1,2}	80% - 20% ^{1,2}
Emergency Room <i>(Facility Charge)</i>	\$200 Copayment ¹ ; Waived if admitted to the same facility		
Emergency Medical Services <i>(Non-Facility Charges)</i>	90% - 10% ¹	90% - 10% ¹	80% - 20% ¹
Eyeglass Frames and One Pair of Eyeglass Lenses or One Pair of Contact Lenses <i>(purchased within six months following cataract surgery)</i>	Eyeglass Frames - Limited to a Maximum Benefit of \$50 ¹		
Flu shots and H1N1 vaccines <i>(administered at Network Providers, Non-Network Providers, Pharmacy, Job Site or Health Fair)</i>	100% - 0%	100% - 0%	100% - 0%

	Coinsurance		
	Active Employees/ Non-Medicare Retirees (regardless of retire date)		Retirees with Medicare (regardless of retire date)
	Network Providers	Non- Network Providers	Network and Non-Network Providers
Hearing Aids (Hearing Aids are not covered for individuals age eighteen (18) and older)	90% - 10% ^{1,3}	70% - 30% ^{1,3}	80% - 20% ^{1,3}
Hearing Impaired Interpreter Expense	100% - 0%	100% - 0%	100% - 0%
High-Tech Imaging – Outpatient <ul style="list-style-type: none"> CT Scans MRA/MRI Nuclear Cardiology PET Scans 	90% - 10% ^{1,2}	70% - 30% ^{1,2}	80% - 20% ^{1,2}
Home Health Care (limit of 60 Visits per Plan Year)	90% - 10% ^{1,2}	70% - 30% ^{1,2}	Not Covered
Hospice Care (limit of 180 Days per Plan Year)	80% - 20% ^{1,2}	70% - 30% ^{1,2}	Not Covered
Injections Received in a Physician’s Office (when no other health service is received)	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Inpatient Hospital Admission, All Inpatient Hospital Services Included Per Day Copayment Day Maximum Coinsurance	\$0 Not Applicable 90% - 10% ^{1,2}	\$50 5 Days 70% - 30% ^{1,2}	\$0 Not Applicable 80% - 20% ^{1,2}
Inpatient and Outpatient Professional Services	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Mastectomy Bras - Ortho-Mammary Surgical (limit of three (3) per Plan Year)	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Mental Health/Substance Abuse - Inpatient Treatment and Intensive Outpatient Programs Per Day Copayment Day Maximum Coinsurance	\$0 Not Applicable 90% - 10% ^{1,2}	\$50 5 Days 70% - 30% ^{1,2}	\$0 Not Applicable 80% - 20% ^{1,2}
Mental Health/Substance Abuse – Office Visit and Outpatient Treatment (Other than Intensive Outpatient Programs)	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Newborn - Sick, Services Excluding Facility	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Newborn - Sick, Facility Per Day Copayment Day Maximum Coinsurance	\$0 Not Applicable 90% - 10% ^{1,2}	\$50 5 Days 70% - 30% ^{1,2}	\$0 Not Applicable 80% - 20% ^{1,2}
Oral Surgery for Impacted Teeth	90% - 10% ^{1,2}	70% - 30% ^{1,2}	80% - 20% ^{1,2}
Pregnancy Care - Physician Services	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Preventive Care - Services include screening to detect illness or health risks during a Physician office visit. The Covered Services are based on prevailing medical standards and may vary according to age and family history. (For a complete list of benefits, refer to the Preventive and Wellness Care Article in the Benefit Plan.)	100% - 0% ³	70% - 30% ^{1,3}	Network 100% - 0 ³
			Non-Network 80% - 20% ^{1,3}

	Coinsurance		
	Active Employees/ Non-Medicare Retirees (regardless of retire date)		Retirees with Medicare (regardless of retire date)
	Network Providers	Non- Network Providers	Network and Non-Network Providers
Rehabilitation Services - Outpatient: <ul style="list-style-type: none"> Speech Physical/ Occupational (Limited to 50 Visits combined PT/OT per Plan Year. Authorization required for visits over the combined limit of 50.) (Visit limits do not apply when services are provided for Autism Spectrum Disorders)	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Skilled Nursing Facility (limit 90 days per Plan Year)	90% - 10% ^{1,2}	70% - 30% ^{1,2}	80% - 20% ^{1,2}
Sonograms and Ultrasounds (Outpatient)	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Urgent Care Center	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Vision Care (Non-Routine) Exam	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
X-ray and Laboratory Services (low-tech imaging)	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
¹ Subject to Plan Year Deductible, if applicable			
² Pre-Authorization Required, if applicable. Not applicable for Medicare primary.			
³ Age and/or Time Restrictions Apply			

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:356 (February 2015), effective March 1, 2015, amended LR 43:2155 (November 2017), effective January 1, 2018, LR 48:2769 (November 2022).

Chapter 3. Narrow Network HMO Plan Structure—Magnolia Local Plan (in certain geographical areas)

§305. Schedule of Benefits

A. Benefits, Copayments, and Coinsurance

	Copayments and Coinsurance	
	Network Providers	Non-Network Providers
Physician Office Visits including surgery performed in an office setting: <ul style="list-style-type: none"> General Practice Family Practice Internal Medicine OB/GYN Pediatrics 	\$25 Copayment per Visit	No Coverage
Allied Health/Other Professional Visits: <ul style="list-style-type: none"> Chiropractors Federally Funded Qualified Rural Health Clinics Nurse Practitioners Retail Health Clinics 	\$25 Copayment per Visit	No Coverage

	Copayments and Coinsurance	
	Network Providers	Non-Network Providers
• Physician Assistants		
Specialist Office Visits including surgery performed in an office setting: • Physician • Podiatrist • Optometrist • Midwife • Audiologist • Registered Dietician • Sleep Disorder Clinic	\$50 Copayment per Visit	No Coverage
Ambulance Services - Ground (for Emergency Medical Transportation only)	\$50 Copayment	\$50 Copayment
Ambulance Services - Air (for Emergency Medical Transportation only) Non-emergency requires prior authorization ²	\$250 Copayment	No Coverage
Ambulatory Surgical Center and Outpatient Surgical Facility	\$100 Copayment	No Coverage
Birth Control Devices - Insertion and Removal (as listed in the Preventive and Wellness Article in the Benefit Plan.)	100% - 0%	No Coverage
Cardiac Rehabilitation (limit of 36 visits per Plan Year)	\$25/\$50 Copayment per day depending on Provider Type ² \$50 Copayment-Outpatient Facility ²	No Coverage
Chemotherapy/Radiation Therapy (Authorization not required when performed in Physician's office)	Office - \$25 Copayment per Visit Outpatient Facility 100% - 0% ^{1,2}	No Coverage
Diabetes Treatment	80% - 20% ¹	No Coverage
Diabetic/Nutritional Counseling - Clinics and Outpatient Facilities	\$25 Copayment	No Coverage
Dialysis	100% - 0% ¹	No Coverage
Durable Medical Equipment (DME), Prosthetic Appliances and Orthotic Devices	80% - 20% ^{1,2} of first \$5,000 Allowable per Plan Year; 100% - 0% of Allowable in Excess of \$5,000 per Plan Year	No Coverage
Emergency Room (Facility Charge)	\$200 Copayment; Waived if admitted to the same facility	
Emergency Medical Services (Non-Facility Charges)	100% - 0% ¹	100% - 0% ¹
Eyeglass Frames and One Pair of Eyeglass Lenses or One Pair of Contact Lenses (purchased within six months following cataract surgery)	Eyeglass Frames - Limited to a Maximum Benefit of \$50 ¹	No Coverage
Flu shots and H1N1 vaccines (administered at Network Providers, Non-Network Providers, Pharmacy, Job Site or Health Fair)	100% - 0%	No Coverage
Hearing Aids (Hearing Aids are not covered for individuals age eighteen (18) and older.)	80% - 20% ^{1,3}	No Coverage

	Copayments and Coinsurance	
	Network Providers	Non-Network Providers
Hearing Impaired Interpreter Expense	100% - 0%	No Coverage
High-Tech Imaging - Outpatient • CT Scans • MRA/MRI • Nuclear Cardiology • PET Scans	\$50 Copayment ²	No Coverage
Home Health Care (limit of 60 Visits per Plan Year)	100% - 0% ^{1,2}	No Coverage
Hospice Care (limit of 180 Days per Plan Year)	100% - 0% ^{1,2}	No Coverage
Injections Received in a Physician's Office (when no other health service is received)	100% - 0% ¹	No Coverage
Inpatient Hospital Admission, All Inpatient Hospital Services Included	\$100 Copayment per day ² , maximum of \$300 per Admission	No Coverage
Inpatient and Outpatient Professional Services for which a Copayment is Not Applicable	100% - 0% ¹	No Coverage
Mastectomy Bras (limited to three (3) per Plan Year)	80% - 20% ¹ of first \$5,000 Allowable per Plan Year; 100% - 0% of Allowable in Excess of \$5,000 per Plan Year	No Coverage
Mental Health/Substance Abuse - Inpatient Treatment and Intensive Outpatient Programs	\$100 Copayment per day ² , maximum of \$300 per Admission	No Coverage
Mental Health/Substance Abuse - Office Visit and Outpatient Treatment (Other than Intensive Outpatient Programs)	\$25 Copayment per Visit	No Coverage
Newborn - Sick, Services excluding Facility	100% - 0% ¹	No Coverage
Newborn - Sick, Facility	\$100 Copayment per day ² , maximum of \$300 per Admission	No Coverage
Oral Surgery	100% - 0% ^{1,2}	No Coverage
Pregnancy Care - Physician Services	\$90 Copayment per pregnancy	No Coverage
Preventive Care - Services include screening to detect illness or health risks during a Physician office visit. The Covered Services are based on prevailing medical standards and may vary according to age and family history. (For a complete list of benefits, refer to the Preventive and Wellness Article in the Benefit Plan.)	100% - 0% ³	No Coverage
Rehabilitation Services - Outpatient: • Speech • Physical/Occupational (Limited to 50 Visits combined PT/OT per Plan Year. Authorization required for visits over the combined limit of 50.) (Visit limits do not apply when services are provided for Autism Spectrum Disorders.)	\$25 Copayment per Visit	No Coverage

	Copayments and Coinsurance	
	Network Providers	Non-Network Providers
Skilled Nursing Facility (<i>limit of 90 days per Plan Year</i>)	\$100 Copayment per day ² , maximum of \$300 per Admission	No Coverage
Sonograms and Ultrasounds (<i>Outpatient</i>)	\$50 Copayment	No Coverage
Urgent Care Center	\$50 Copayment	No Coverage
Vision Care (Non-Routine) Exam	\$25/\$50 Copayment depending on Provider Type	No Coverage
X-ray and Laboratory Services (<i>low-tech imaging</i>)	Hospital Facility 100% - 0% ¹ Office or Independent Lab 100% - 0%	No Coverage

	Copayments and Coinsurance	
	Network Providers	Non-Network Providers
¹ Subject to Plan Year Deductible, if applicable ² Pre-Authorization Required, if applicable. Not applicable for Medicare primary. ³ Age and/or Time Restrictions Apply		

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:359 (February 2015), effective March 1, 2015, amended LR 43:2157 (November 2017), effective January 1, 2018, LR 48:2770 (November 2022).

David W. Couvillon
Chief Executive Officer

Notices of Intent

NOTICE OF INTENT

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

Chronic Wasting Disease (LAC 7:XXI.Chapter 17)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and pursuant to the authority set forth in R.S. 3:3101 et seq., notice is hereby given that the Department of Agriculture and Forestry ("Department"), through the Office of Animal Health and Food Safety, intends to amend LAC 7:XXI.1705 and to promulgate LAC 7:XXI.1727-1737, relative to Chronic Wasting Disease, as it relates to Alternative Livestock within the state of Louisiana. The proposed rule changes are being made in accordance with R.S. 3:3101, which authorizes the Commissioner to promulgate rules and regulations setting forth the requirements for the raising, slaughtering, and sale of imported deer and antelope, elk, farm-raised white tail deer, and other exotic cervidae for commercial purpose in this state. The proposed rule changes establish provisions for preventive measures to Impede the spread CWD into alternative livestock populations within the state.

The amendments to Section 1705 provide additional definitions relative to CWD, to Include the terms "certified herds," "enrolled herds," "surveillance zone," and "USDA," and provides amended definition of the term "Chronic Wasting Disease." Section 1727 sets forth the requirements and procedures by which the commissioner of agriculture and forestry may establish a surveillance zone whenever any cervid within the state has tested positive for CWD, as well as the cancellation or modification of any such surveillance zone. Section 1729 establishes a prohibition on the export of any cervid carcass or part thereof from within a surveillance as well as certain enumerated exceptions to that prohibition. Section 1731 establishes a prohibition on the transport of live cervids Into, out of, and within a surveillance zone as well as certain exceptions and the procedures by which a transport permit may be obtained. Section 1733 establishes an exception to the general prohibition on the transport of live cervids Into, out of, and within a surveillance zone for certified and enrolled herds, who have voluntarily enrolled in the USDA APHIS Herd Certification Program if certain requirements are met. Section 1735 sets forth requirements for permits to transport alternative livestock within a surveillance zone as well as licenses to establish new herds. Section 1737 set forth enforcement procedures for violations of R.S. 3:3101 et seq. or LAC 7:XXI.Chapter 17—Alternative Livestock.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Animals and Animal Health

Chapter 17. Alternative Livestock—White-Tailed Deer and Captive Cervids (Formerly Chapter 15)

§1705. Definitions (Formerly §1503)

* * *

Certified Herds—a herd that has enrolled in the Herd Certification Program and has attained certified status as defined in 9 CFR part 55.

Chronic Wasting Disease (CWD)—a neurodegenerative disease found in most deer species, including white-tailed deer, mule deer, elk, red deer, moose, and caribou. It is infectious, always, fatal, and has no treatment. CWD is part of a group of diseases known as transmissible spongiform encephalopathies (TSEs) and is similar to BSE (mad cow disease) in cattle and scrapie in sheep. These diseases cause irreversible damage to brain tissue in the animal, which leads to excessive salivation, neurological symptoms, emaciation, and death of the animal.

* * *

Enrolled herds—a herd that has enrolled in a Herd Certification Program and met the minimum requirements defined in 9 CFR part 55.

* * *

Surveillance Zone—an LDAF-designated area consisting of a 25-mile radius from the positive animal in which mitigation measures and regulations are applied to alternative livestock facilities.

* * *

USDA—the United States Department of Agriculture.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1671 (September 1998), amended by the Department of Agriculture and Forestry, Board of Animal Health, LR 38:961 (April 2012), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:971 (May 2014), amended LR 42:1864 (November 2016); amended LR 48:

§1727. Chronic Wasting Disease; Surveillance Zones

A. Whenever the commissioner or his designee has been notified that any cervid, whether in an alternative livestock facility or not, has tested positive for CWD anywhere within the state, he may establish a surveillance zone by the following procedures:

1. by giving notice, in writing, to any and all alternative livestock facilities within the surveillance zone;

2. by publishing notice of the surveillance zone in the *Louisiana Register*; and

3. by posting notice of the surveillance zone on the LDAF website.

B. Once imposed, a surveillance zone will remain in effect unless and until otherwise cancelled or modified by the commissioner or his designee.

C. LDAF shall annually, on or before December 31, publish in the *Louisiana Register* a list of all areas of Louisiana which are included in surveillance zones.

D. The commissioner or his designee may, at his discretion, cancel a surveillance zone or modify an area from a surveillance zone when it is proven to his satisfaction that the area has been mitigated and no longer warrants surveillance zone restrictions, by the following procedures:

1. by giving notice, in writing, to any and all alternative livestock facilities within the surveillance zone;

2. by publishing notice of the surveillance zone in the *Louisiana Register*; and

3. by posting notice of the surveillance zone on the LDAF website.

E. Surveillance zones in this state include:

1. an area consisting of a 25-mile radius from the positive animal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 48:

§1729. Chronic Wasting Disease; Export of Carcasses from a Surveillance Zone.

A. The export of any cervid carcass or part of a cervid carcass originating from a facility, as defined in this Chapter, located within a surveillance zone, is prohibited, except for:

1. meat that has been cut and wrapped;
2. meat that has been boned out;
3. quarters or other portions of meat with no spinal column or head attached;
4. antlers;
5. cleaned skull plates with antlers;
6. cleaned skulls without tissue attached;
7. capes;
8. tanned hides;
9. finished taxidermy mounts; and
10. cleaned cervid teeth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 49:

§1731. Chronic Wasting Disease; Transport of Cervids in Surveillance Zone.

A. The transport of alternative livestock into, out of, and within an LDAF-designated surveillance zone is prohibited, except as indicated in this Chapter.

B. Alternative livestock may be transported into, out of, and within an LDAF-designated surveillance zone only with prior authorization of LDAF in the form of an LDAF-issued permit.

C. Permits to transport into, out of, or within an LDAF-designated surveillance zone may be obtained by contacting the Office of Animal Health.

D. Failure to obtain a permit prior to transporting alternative livestock to or from a facility located within an LDAF-designated surveillance zone shall constitute a violation of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 49:

§1733. Chronic Wasting Disease; Certified Herds; Non-Certified/Non-Enrolled Herds.

A. Alternative livestock facilities who have voluntarily enrolled in the USDA/APHIS Herd Certification Program may transport cervids into, out of, and within the surveillance zone subject to the following requirements:

1. Certified Herds who have been in good standing with the USDA/APHIS CWD Program for a period of at least 60 months may transport cervids into, out of and within the surveillance zone only upon the prior issuance of an LDAF-issued movement permit.

2. Enrolled Herds who have been in good standing with the USDA/APHIS CWD Program for a period of at least 24 months may transport cervids into, out of, and within the surveillance zone only:

a. upon the prior issuance of an LDAF-issued transport permit; and

b. in accordance with same guidelines and procedures set forth in Appendix II - USDA-APHIS CWD Program Standards (May 2019 or amended).

B. Alternative livestock facilities located within a surveillance zone shall stock any new herds with cervids from a USDA/APHIS-certified herd and shall first obtain a license from LDAF to do so.

C. Movement is prohibited in non-enrolled herds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 49:

§1735. Chronic Wasting Disease: Permits and Licenses

A. Permits to transport alternative livestock within an LDAF-designated surveillance zone, and licenses to establish new herds, may be obtained by application to the Office of Animal Health.

B. Permits to transport and/or permits to establish new herds may be cancelled by the commissioner or his designee whenever, in his sole judgment, such cancellation is necessary to prevent the spread of CWD.

C. Permits to transport shall specify the origin, destination, proposed date(s) of transport, and individual official identification for each animal being transported.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 49:

§1737. Chronic Wasting Disease; Enforcement.

A. Any person violating the provisions of R.S. 3:3101 et seq. or this Chapter shall be subject to enforcement action

B. The commissioner may suspend or revoke any license issued under the provisions of R.S. 3:3108 and this Chapter. The commissioner may also assess a civil penalty for violation of any provision of R.S. 3:1461 et seq., or any violation of any regulation enacted under the authority of said statutes.

C. Whenever the commissioner has reason to believe that any person has violated any provision of the R.S. 3:3101 et seq., or this Chapter, the commissioner shall notify the person of the alleged violation as well as an opportunity to respond thereto, by certified mail, prior to any scheduled hearing date.

D. Each separate day on which any violation occurs shall be considered a separate violation.

E. No penalty may be assessed, nor may any license be suspended or revoked by the commissioner, prior to the holding of an adjudicatory hearing before a hearing officer. Such adjudicatory hearing shall be conducted in accordance with the requirements of the Administrative Procedure Act; any person alleged to have violated any provision of R.S. 3:3101 et seq., or this Chapter shall be accorded all rights and privileges under said Act.

F. The hearing officer shall make an initial determination on alleged violations and recommend findings of fact and conclusions of law together with penalties, if applicable, in writing.

G. The commissioner shall make the final determination on the disposition of alleged violations.

H. Reinstatement of a revoked license shall be by a formal hearing before a hearing officer held pursuant to the Administrative Procedure Act and shall require the approval of the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 49:

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 Rules via U.S. Mail or hand delivery. Written submissions must be directed to Kevin Wofford, Assistant Commissioner for Animal Health and Food Safety, Department of Agriculture & Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806 and must be received no later than 4:00 p.m. on December 10, 2022. All written comments must be signed and dated.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Chronic Wasting Disease

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

The proposed rule changes will have no associated costs or savings to the Louisiana Department of Agriculture and Forestry (LDAF) other than the cost of rule promulgation in FY 23, which is normally included in the department's annual operating budget. The department intends to amend LAC 7:XXI.1705, 1727-1737 to establish requirements in the event that a cervid tests positive for Chronic Wasting Disease (CWD). The proposed rule changes will have no associated costs or savings to local governmental units.

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

The proposed rule changes are not anticipated to have any effect on revenue collections for state or local governmental entities.

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

In certain circumstances, such as the establishment of a CWD surveillance zone by LDAF, licensed deer farmers may realize increased costs. Successfully controlling the transmission of CWD will result in positive economic benefits for deer farmers and hunters statewide. There are no anticipated additional costs or economic benefits to other affected persons, small businesses, or non-governmental groups as a result of the proposed rule changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes are not anticipated to impact competition and employment.

Dane K Morgan
Assistant Commissioner
2211#054

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Trichomoniasis (LAC 7:XXI.101, 103, 701, and 751)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and pursuant to the authority set forth in R.S. 3:2093 et seq., notice is hereby given that the Department of Agriculture and Forestry (“Department”), through the Office of Animal Health, intends to amend LAC 7:XXI.101, 103, 701, and 751, and to promulgate LAC 7:XXI.752, relative to Trichomoniasis. The proposed rule changes are being made in accordance with R.S. 3:2093, which authorizes the board to promulgate rules and regulations necessary to implement and enforce the powers and duties assigned to the board by law. The proposed rule changes clarify requirements for handling trichomoniasis-positive animals, updating the language in the existing rules and adding definitions. The proposed rule changes also identify violations of rules and regulations relative to handling trichomoniasis-positive animals as well as clarifying requirements and procedures for identification and quarantine of trichomoniasis-positive animals.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Animals and Animal Health

Chapter 1. General Provisions; Administrative Matters

Subchapter A. General Provisions

§101. Definitions

A. As used in this Part, the following terms shall have the following meanings ascribed to them.

Accredited Veterinarian—a licensed veterinarian accredited by the United States Department of Agriculture (USDA).

AIN—animal identification number issued by the USDA.

Board—the Louisiana Board of Animal Health.

Bull—an uncastrated male of domestic cattle.

Cattle—all dairy and beef animals of the genus *Bos* and bison of the genus *Bison*.

Department—Louisiana Department of Agriculture and Forestry

GIN—group identification number.

Individually Identified—cattle that is identified with official identification number assigned to each individual animal.

LADDL—Louisiana Animal Disease Diagnostic Lab.

NAHLN—National Animal Health Laboratory Network.

NUES—National Uniform Eartag System, established by the USDA.

Official Animal Identification—identification of animals through the use of an official eartag conforming to the USDA NUES or AIN numbering systems, breed registry brand, breed registry tattoo, or microchip. Animals may be either individually identified by assigning each animal a unique official identification number or through group identification wherein a GIN is assigned to a unit of animals.

Official Identification Number—a nationally unique number that is permanently associated with an animal or group of animals that adheres to, but is not limited to, one of the following USDA-approved systems:

a. the National Uniform Eartagging System (NUES) with metal silver eartags or orange calfhood vaccination tags; or

b. the Animal Identification Number (AIN) with an official 840 Radio Frequency Identification Device (RFID).

PCR Test—*Polymerase-Chain Reaction Test*

Permit—a permit issued annually by the Louisiana Board of Animal Health.

RFID—radio frequency identification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:230 (March 1985), amended LR 11:615 (June 1985), LR 12:289 (May 1986), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 12:498 (August 1986), LR 14:217 (April 1988), LR 15:811 (October 1989), LR 16:391 (May 1990), LR 17:29 (January 1991), LR 18:840 (August 1992), LR 23:949 (August 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1677 (September 1998), LR 28:1170 (June 2002), amended by the Department of Agriculture and Forestry, Board of Animal Health, LR 34:2336 (November 2008), LR 35:1465 (August 2009), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:3246 (December 2013), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:935 (May 2014), amended LR 43:1276 (July 2017), LR 49:

§103. Prohibited Removal of Official or Permanent Animal Identification

A. It shall be a violation of this regulation for anyone to remove any type of official animal identification from any animal. It will be a separate violation for each animal that has had its official or permanent individual animal identification removed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 15:812 (October 1989), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:938 (May 2014), LR 49:

Chapter 7. Cattle, Bison, and other Bovine (Formerly Chapter 3)

Subchapter A. General Provisions

§701. Definitions

A. As used in this Chapter, the following terms shall have the following meanings ascribed to them, unless otherwise indicated herein:

Annual Test—tests conducted at intervals of not less than 10 months or more than 14 months.

Bovine Tuberculosis—a disease in cattle, bison, or dairy goats caused by *Mycobacterium bovis*.

Confirmatory Test—an additional PCR test requested by the owner of an animal that has previously tested positive for trichomoniasis; the test must be requested within five business days of receipt of positive result from lab to the state veterinarian and samples must be submitted to LADDL. If the confirmatory test is positive, the animal will be classified as infected with Trichomoniasis. If the confirmatory test is negative, the animal shall be tested again in not less than seven days of receipt of positive test from lab to determine its disease status. Two negative tests are required to reclassify a positive bull as negative.

Department—Louisiana Department of Agriculture and Forestry.

Mexican Cattle—cattle that originated in Mexico.

PCR Test—Polymerase-Chain Reaction Test

Trichomoniasis-Infected Herd—a herd in which any cattle have been determined by an official test to be infected with trichomoniasis.

Virgin Bull—a bull of less than 18 months of age, whose permanent central incisor teeth are not present, and who has never been commingled with breeding females.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 49:

Subchapter E. Trichomoniasis

§751. Trichomoniasis Testing and Movement Requirements for Cattle (Formerly §339)

A. Every bull moved into this state and every bull which is sold, exchanged, leased, rented, or otherwise transferred in ownership or possession (hereinafter collectively referred to as “transferred”) from one person or entity to another within this state shall be accompanied by a test result showing that the bull is free from trichomoniasis (hereinafter referred to as “negative test result” or “testing negative”) except for the following bulls:

1. exhibition and rodeo bulls that are temporarily in the state for the sole purpose of an event and will be leaving the state immediately after the event;

2. bulls going directly to slaughter or sold to go directly to slaughter;

3. virgin bulls accompanied by a certificate of virgin status, including the bull’s official animal identification

number (“AIN”), and signed by the owner of the bull, the owner’s agent, or a Category II accredited veterinarian;

4. bulls being transported through this state in interstate commerce, unless offloaded and commingled with female cattle already in this state that are not going directly to slaughter; and

5. untested bulls traveling to a trichomoniasis quarantine facility with an official permit or quarantine notice.

B. Every bull required to be accompanied by a negative test result shall be tested no later than 60 days prior to being moved into the state or the date of transfer, except for bulls that are in a trichomoniasis-free certification program or a semen certification program recognized by the state veterinarian. Such bulls must not have commingled with breeding females within 60 days from the date the lab reported the sample.

C. Every bull moved into this state and every bull within this state which is transferred from one person or entity to another shall have official animal identification. This requirement does not apply to bulls going directly to slaughter or to bulls being sold to go directly to slaughter.

D. The requirements for testing cattle for trichomoniasis are as follows.

1. All test samples shall be drawn by a Category II accredited veterinarian.

2. The official test for *trichomoniasis* shall be one negative PCR for *Trichomonas foetus* that is performed at an NAHLN-approved laboratory. Pooled tests are not considered official tests in Louisiana;

3. Test results indicating that the tested animal has trichomoniasis (hereinafter referred to as “positive test results” or “testing positive”) shall immediately cause the tested animal to be classified as trichomoniasis-infected and subject to the restrictions of this Subchapter.

4. For trichomoniasis-positive bulls to be reclassified as negative or non-infected, two additional negative PCR tests must be obtained. The request for the confirmatory testing must be made to the state veterinarian within 5 business days of notification of the positive test result. Samples for retesting must be drawn a minimum of 7 days apart and must be submitted to the LADDL for testing.

a. If the confirming tests are negative, then the tested animal is considered negative for trichomoniasis and may be moved as such.

b. If either of the confirming tests reveal a positive result, then the tested animal shall be classified as trichomoniasis-positive and is subject to the restrictions for trichomoniasis-positive animals set forth in this Subchapter.

5. A bull tested for trichomoniasis shall be kept separate from female cattle at all times during the entire test period from the sample collection until receipt of the results from the initial test. A bull testing negative on the initial test shall be kept separate from all female cattle prior to change of possession. If a bull has been commingled with female cattle, all official tests for trichomoniasis prior to the commingling are invalid.

6. All test results for trichomoniasis, whether negative or positive, shall be reported to the state veterinarian within 24 hours after receipt of the results.

7. When a positive test result is received, the attending veterinarian shall consult with the state veterinarian on the

first business day after receipt of the test results to determine a plan of action regarding the animal testing positive.

E. Bulls that are required to be tested for trichomoniasis prior to being moved into this state or prior to being transferred from one person to another but which have not been tested, shall be kept separate from female cattle over 12 months of age until a negative result is obtained.

F. A bull being moved directly to slaughter or sold to go directly to slaughter may be commingled with breedable-type cattle also being moved directly to slaughter or being sold to go direct to slaughter.

G. Bulls classified as trichomoniasis-infected are subject to the following restrictions:

1. no known trichomoniasis-infected bull shall be moved into or within this state or transferred within this state from one person to another, unless the bull is going directly to slaughter or sold to go directly to slaughter;

2. no known trichomoniasis-infected bull, whether being moved into or within this state, shall be used for breeding purposes and shall be kept separate from female cattle, from the time the first positive test result is received;

3. a trichomoniasis-infected bull shall be moved directly to slaughter or sold to go directly to slaughter within 30 days from receipt of the positive results of the original test or the results of the confirming test, whichever is later, unless otherwise specified by the state veterinarian; and

4. a trichomoniasis-infected bull may be moved only after a USDA form VS 1-27 permit is issued by the state veterinarian, or the state veterinarian's representative. The VS 1-27 permit shall accompany the bull upon movement of the animal.

H. If a trichomoniasis-infected bull has been in a herd with female cattle, then the infected bull and the other bulls in the herd, are subject to the following requirements.

1. The trichomoniasis-infected bull shall be immediately separated from the herd and all other bulls in the herd and shall be moved or transferred only as allowed by this Section.

2. If there is any other bull or bulls in the herd, then those bulls shall be immediately separated from, and kept separate from, all female cattle.

3. Each bull shall be tested for trichomoniasis within 30 days from separation from all female cattle. Test samples shall not be pooled.

4. A bull testing negative in an infected herd shall be immediately removed from all other bulls that have not been tested, or for which the test results have not been received, and shall have one additional official test with negative results, for a total of two negative tests, to be considered negative for trichomoniasis. The additional official test sample shall be drawn a minimum of seven days from the original test and must be submitted to LADDL for testing.

5. Bulls testing positive in an infected herd may be retested but shall have two additional negative PCR tests to be reclassified as negative or non-infected bulls and the request for the confirmatory testing must be made to the state veterinarian within five business days of notification of the positive test result. Samples for retesting shall be drawn a minimum of seven days apart and shall be submitted to the LADDL for testing.

a. If the confirming tests are negative, then the tested animal is considered negative for trichomoniasis and may be moved as such.

b. If either of the confirming tests reveal a positive result, then the tested animal shall be classified as trichomoniasis-infected and subject to the restrictions for trichomoniasis-infected animals set forth in this Subchapter.

I. A trichomoniasis infected herd is a herd known to contain or have contained a trichomoniasis infected bull or cow. If a virgin bull or bull that has tested negative for trichomoniasis is commingled with female cattle from a trichomoniasis-infected herd, then the virgin bull or bull with a negative test results shall be tested twice for and found to be free of trichomoniasis as set forth in this Subchapter before being moved, placed into another herd, or transferred from one person to another.

J. A cow is not required to be tested for trichomoniasis before being moved into this state or transferred from one person to another; but if a cow is tested then the same procedure set forth in this Section for testing a bull shall apply to testing a cow.

K. A cow testing positive for trichomoniasis shall be subject to the following restrictions.

1. A cow testing positive for trichomoniasis shall not be moved into this state, except to go directly to slaughter or sold to go directly to slaughter.

2. A cow within this state that has tested positive for trichomoniasis shall be immediately separated from, and kept separate from, all bulls.

a. The cow shall be moved directly to slaughter or sold to go directly to slaughter within 30 days from receipt of the positive result of the original test or the confirmatory test, whichever is later, unless placed under a quarantine program approved by the state veterinarian.

b. If the cow is quarantined, it may not be removed from quarantine until released in writing by the state veterinarian. The cow may be released from quarantine only by an order from the state veterinarian or the state veterinarian's representative if the cow is subsequently tested in accordance with the procedures set forth in this Subchapter and found to be free from trichomoniasis, or if the cow is to be moved directly to slaughter or sold to go directly to slaughter.

3. A trichomoniasis-infected cow may be moved only after a VS 1-27 permit is issued by the state veterinarian., or the state veterinarian's representative. The VS 1-27 permit shall accompany the cow upon movement.

L. The state veterinarian may grant a written exception or variance to the provisions of this Section, with such conditions as the state veterinarian deems appropriate, if such action is necessary to provide for unforeseen situations or circumstances. Any exception or variance shall balance the need to protect cattle from trichomoniasis with the need to allow cattle to move in commerce.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, 3:2095, and 3:2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Board of Animal Health, LR 35:1466 (August 2009), amended LR 36:2518 (November 2010), repromulgated by the Department of Agriculture and Forestry,

§752. Trichomoniasis Quarantine Facility

A. Permit Required. No person may operate a trichomoniasis quarantine facility without first obtaining a permit from the Board of Animal Health. Approval for a trichomoniasis quarantine facility may be given after initial inspection by an authorized agent of the board. The purpose of a facility shall be to hold bulls being moved into this state or being sold in this state until they can be tested for trichomoniasis.

B. A trichomoniasis quarantine facility shall meet the following requirements:

1. The fencing or railing of the facility must be of sufficient strength to keep bulls properly contained and prevent escape from the facility. There shall be no adjacent fence-line contact between quarantine bulls and female cattle.

2. Facility owners and operators shall generate and maintain records for a minimum of 12 months. All records shall be provided to an authorized agent of the Department upon request. The records shall include the following information:

- a. first and last name of the seller of the animal;
- b. address of the seller;
- c. first and last name of the owner of the animal;
- d. address of the owner;
- e. date each bull was placed into and removed from the facility;
- f. official animal identification;
- g. trichomoniasis testing date, testing veterinarian and results; and
- h. disposition after testing, including resale date and destination.

C. The facility shall be inspected and approved by the state veterinarian or the state veterinarian's representative prior to being placed into use and may be inspected thereafter as deemed necessary.

D. Bulls in a facility shall not be used for breeding purposes of any kind.

E. Within 30 days of purchase, bulls in a facility shall either be tested for Trichomoniasis in accordance with this Subchapter or resold to slaughter at a USDA-approved livestock market or recognized slaughter establishment.

F. A trichomoniasis quarantine facility permit may be canceled upon written notice that the operation does not meet the requirements of this Section, or when the owner or operator of such facility has been found to be in violation of a rule in this Subchapter or has been found to be in violation of any provision of Chapter 16 of Title 3 of the Louisiana Revised Statutes.

1. The board shall give written notice of the cancellation of a facility permit to the operator thereof.

2. Any owner or operator of a trichomoniasis quarantine facility whose permit is canceled may appeal the cancellation thereof by written notice to the board within ten days of receipt of the notice of cancellation. Any owner or operator of a facility who appeals cancellation of his permit shall be entitled to a hearing before the board. The decision of the board will be final and may be appealed to a court of competent jurisdiction in accordance with the Administrative Procedure Act, R.S. 49:961 et seq.

G. Closure of a Trichomoniasis Quarantine Facility

1. Upon termination of a permit, the owner or operator shall dispose of all animals at the facility in accordance with the provisions of this Subchapter within 14 days of receipt of the notice of cancellation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and 3:2133.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 49:

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 Rules via U.S. Mail or hand delivery. Written submissions must be directed to Kevin Wofford, Assistant Commissioner for Animal Health and Food Safety, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806

and must be received no later than 4 p.m. on December 10, 2022. All written comments must be signed and dated.

Mike Strain, DVM
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Trichomoniasis**

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

The proposed rule changes are not anticipated to have any costs or savings to the Louisiana Department of Agriculture and Forestry (“LDAF”), other than the cost of promulgation for FY23, which is normally included in the agency’s operating budget. The proposed rule changes clarify and add definitions, identify violations of the rules and regulations, and clarify the requirements and procedures for identifying and quarantining Trichomoniasis.

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

The proposed rule changes are not anticipated to increase or decrease revenue collections of state or local governmental units. The proposed rule changes are intended to update and clarify existing rules and regulations.

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

The proposed rule changes are not anticipated to increase or decrease costs to the market.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes are not anticipated to influence competition or employment.

Dane K Morgan
Assistant Commissioner
2211#053

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Children and Family Services
Child Support Enforcement Section**

**Criminal History Records Checks for Access to
Federal Tax Information
(LAC 67:I.205)**

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953 (A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:I, Chapter 2 Criminal Background and State Central Registry Checks, Section 205 Criminal History Records Checks for Access to Federal Tax Information.

Pursuant to IRS statute 26 USCS 6103(p)(4) and its supplemental publication 1075, the department must conduct fingerprinting, along with national, state and local criminal history record checks on all individuals handling and those who may handle Federal Tax Information (FTI). The criminal history record checks are used to determine the suitability of individuals to access FTI in performance of their job duties or services for the department. Section 205 is

being amended to obtain the authority to terminate or remove current employees who are determined to be FTI unsuitable as unauthorized use or disclosure of FTI could result in agency penalties and sanctions being imposed by the Administration of Children and Families, Office of Child Support Enforcement.

Title 67

SOCIAL SERVICES

Part I. General Administration

**Chapter 2. Criminal Background and State Central
Registry Checks**

**§205. Criminal History Records Checks for Access to
Federal Tax Information**

A. Purpose

1. As required by the IRS statute found at 26 USCS 6103(p)(4) and its supplemental publication 1075, the Department of Children and Family Services (DCFS) will conduct fingerprinting, along with national, state and local criminal history record checks on all individuals handling and those who may handle Federal Tax Information (FTI). The criminal history record checks will be used to determine the suitability of individuals to access FTI in performance of their job duties or services for the Department of Children and Family Services.

B. Applicability

1. Pursuant to R.S. 46:51.3, this regulation applies to all current and prospective employees, contractors, or subcontractors of the office of family support or child support enforcement that have access to federal tax information (FTI). This provision shall also apply to employees of contractors, as well as, subcontractors of the office of family support or child support enforcement who require access to FTI.

C. Definitions

Criminal History Record Check—a review of an individual’s criminal history using fingerprints and other identifying information sent to the Louisiana Bureau of Criminal Identification and Information for submission to the Federal Bureau of Investigation (FBI) and compilation of data from state and local law enforcement agencies.

Federal Tax Information (FTI)—consists of federal tax returns and return information (and information derived from it) that is in the department’s possession or control which is covered by the confidentiality protections of the Internal Revenue Code and subject to its safeguarding requirements, including IRS oversight.

FTI Suitable (no reports)—an employee, contractor or subcontractor whose criminal history records check results in a report containing no information and who is permitted to access FTI in the performance of his duties, function or service to the department.

FTI Suitable (with reports)—an employee, contractor or subcontractor whose criminal history records check results in a report containing criminal cases, convictions, or arrests and access to FTI for the performance of his duties, functions or service of the department is permitted after determination.

FTI Unsuitable—an employee, contractor or subcontractor whose criminal history records check results

in a report containing criminal cases, convictions or arrests who deemed not suitable to access federal tax information in the performance of his duties, function or service of the department after determination.

D. General Provisions

1. All current or prospective employees, contractors, or subcontractors within the office of family support and child support enforcement requiring access to FTI shall be required to submit to a criminal history records check by providing authorization, fingerprints and other identifying information to DCFS.

2. Fingerprints and other identifying information shall be submitted to the Louisiana Bureau of Criminal Identification and Information for performance of the criminal history records check.

3. The department may request local criminal history from any jurisdiction where the current or prospective employee, contractor, or subcontractor has lived, worked, or attended school.

4. Criminal history records checks shall be used by the department to determine the suitability of current or prospective employees, contractors, or subcontractors within the office of child support enforcement and family support sections to access FTI and records.

a. Prospective employees shall be subject to criminal history records checks only after a conditional offer of employment has been made.

b. Current employees, contractors and subcontractors shall be subject to fingerprinting and national, state, and local criminal history records checks, at a minimum of every 10 years.

c. Criminal history record checks on prospective contractors or prospective employees of contracts must be performed prior to obtaining access to FTI.

5. The costs of providing the criminal history records check for current employees, contractors, or subcontractors within the office of child support enforcement and family support shall be charged to the department by the Louisiana Bureau of Criminal Identification and Information for furnishing information contained in its criminal history and identification files, including any additional costs of providing the national and local criminal history records checks, which pertains to the current or prospective employee, contractor or subcontractor.

E. Suitability Standards

1. Any criminal history record check resulting in a report containing criminal cases, convictions, or arrests must receive a case by case assessment.

2. The case by case assessment must consider:

- a. the nature of the offense;
- b. the relation of the offense to the duties of the employee, contractor or subcontractor;
- c. any aggravating or mitigating circumstances, including the passage of time; and
- d. any evidence of rehabilitation of the subject or the lack thereof.

3. An individual is deemed to be FTI suitable or FTI unsuitable based on the following table.

Criminal History Record Check Result	FTI Access Determination
No Reports	
Report resulting from criminal history records check contains no information.	FTI Suitable
Reports	
A case-by-case assessment must be performed.	
<p>Reports of criminal cases, convictions, arrests or serious misconduct that includes but is not limited to:</p> <ul style="list-style-type: none"> • Misappropriation Crimes (as designated in Louisiana Revised Statutes) • Computer Related Crimes (as designated in Louisiana Revised Statutes) • Offenses Affecting Organized Government, subparts B through F (as listed in Louisiana Revised Statutes) • Tax, Alcohol Beverage, Tobacco or Charitable Gaming offenses where the federal or state statute exposes the offender to a penalty of imprisonment with or without hard labor. <p>Compelling mitigation documentation to show the offense irrelevant to duties of the position or FTI suitability may be provided during appeal.</p>	FTI Unsuitable
<p>No reports of open criminal cases, convictions, or arrests with relevance to the duties of the position requiring access to FTI.</p> <p>Reports of open criminal cases, convictions, or arrests related to the duties of the position or access to FTI but compelling mitigation documentation has been provided during appeal.</p>	FTI Suitable (with reports)

F. Impact of Suitability Determination

1. Individuals who have been deemed FTI suitable (no reports) or FTI suitable (with reports) will be able to exercise one of the options below that is applicable to their status:

- a. continue to or be allowed to access FTI in the performance of job duties;
- b. continue to or be allowed to access FTI in the performance of job duties with special restrictions or caveats; or
- c. be considered for a vacant position with FTI access.

2. If a current or prospective employee, contractor or subcontractor has been deemed FTI unsuitable, the department will exercise one or more of the options below:

- a. access or use of FTI will immediately be denied, suspended or prevented;
- b. the job offer may be rescinded;
- c. the contract may be terminated; ~~or~~
- d. the contractor or subcontractor's employee may be removed or prohibited from performing work on the contract; or
- e. current employee may be terminated and/or removed from employment.

F.3. - G.3. ...

AUTHORITY NOTE: Promulgated in accordance with Act 147 of the 2017 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Child Support Enforcement Section, LR 45:651 (May 2019), LR 46:1543 (November 2020), LR 49:

Family Impact Statement

The proposed rule is not anticipated to have an adverse impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed rule is not anticipated to have a significant negative impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through, December 27, 2022, to Shavana Howard, Assistant Secretary of Family Support, Department of Children and Family Services, P.O. Box 94065, Baton Rouge, LA 70804.

Public Hearing

A virtual public hearing on the proposed Rule will be held at 9 a.m. on December 27, 2022, by the Department of Children and Family Services. All interested persons will be afforded an opportunity to submit data, views, or arguments via PC, Mac, Linux, iOS or Android at <https://stateoflacfcs.zoom.us/j/88295796644>; via telephone by dialing (713) 353-0212 and entering conference code 430033. To find local AT&T numbers visit <https://www.teleconference.att.com/servlet/glbAccess?process=1&accessNumber=USA7133530212&accessCode=430033>. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Marketa Garner Walters
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Criminal History Checks for Access to Federal Tax Information

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

Other than publication cost, the proposed rule change will have no fiscal impact on state or local governmental units because there is no change in the estimated number of background checks that DCFS performs each year.

In June 2019, DCFS promulgated Title 67, Part I. General Administration, Chapter 2, Section 205 Criminal History Records Checks for Access to Federal Tax Information to comply with Act 147 of the 2017 RLS, which requires background checks every ten years of DCFS employees, contractors, and subcontractors who have access to federal tax information.

The rule amends Title 67, Part I. General Administration, Chapter 2, Section 205 Criminal History Records Checks for Access to Federal Tax Information to align Department of Children and Family Service's process with other agencies subject to Internal Revenue Service oversight, including Department of Revenue and Department of Health.

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

Implementation of the proposed change will have no effect on revenue collections of state or local governmental units.

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

There are 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)

The proposed change has no known effect on competition and employment.

Shavana Howard
Assistant Secretary
2211#051

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

BESE/8(g) Operations
(LAC 28:I.305 and 1103)

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 proposes to amend LAC 28:I, BESE/8(g) Operations. The revisions provide for revisions to the emergency contracting process, as recommended by the Legislative Auditor.

Title 28

EDUCATION

Part I. BESE/8(g) Operations

Subpart 1. Board of Elementary and Secondary Education

Chapter 3. Composition and General Authority

§305. Election of Officers and Their Duties

A. ...

B. The president shall conduct board meetings and perform duties designated by the board or by statute. The president shall appoint members of committees of the board. The president shall sign, on behalf of the board, contracts, agreements, and/or official documents approved by the board. The president is authorized to make ad hoc decisions for the board in emergency situations when the board is not in regular or special session and where policies and statutes are silent. However, excluding emergency contract approval outlined in §1103.C.5 of this Part, any such decisions that constitute an obligation, official position, or action of the board are subject to ratification by the board at the next scheduled meeting.

B.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3 and R.S. 17:22.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:409 (March 2008), amended LR 38:3149 (December 2012), LR 39:3262 (December 2013), LR 48:2558 (October 2022), LR 49:

Chapter 11 Finance and Property
§1103. Purchasing, Auditing, and Contracts for Professional/Consulting/Social Services

A. - C.4.d.iv. ...

5. In the event that there is an emergency, as defined in applicable law and BESE policy below and prior to execution, issuance, or payment, the chairman of the Board Finance Committee and the board president may jointly approve, upon signature, a contract, contract amendment, or allocation, upon the receipt of a written memorandum from the state superintendent of education or his/her designee, setting forth the request for approval.

a. The request shall be forwarded to the BESE Executive Director to include the following:

- i. the reason for the request, the name of the contractor/recipient, the amount of the contract/allocation;
- ii. the contract/allocation period; and
- iii. a description of the services to be provided.

b. The emergency approval shall be communicated, to the extent possible, electronically, including all of the aforementioned information, to all board members within 24 hours of approval, as well as presented at its next meeting.

c. An emergency condition is a situation which creates a threat to public health, welfare, safety, or public property such as may arise by reason of floods, epidemics, riots, equipment failures, or such other reason as proclaimed by the state superintendent. The existence of such condition creates an immediate and serious need for supplies, services, or major repairs that cannot be met through normal procurement methods and the lack of which would seriously threaten:

- i. the functioning of Louisiana government;
- ii. the preservation or protection of property; or
- iii. the health or safety of any person.

d. The state superintendent shall require that a record be created of all emergency declarations by making a written determination stating the basis for an emergency procurement, in addition to BESE emergency approval, as well as the selection of a particular contractor/recipient. In addition to the written determination describing the basis for the emergency procurement and issuance, the record shall also contain:

- i. each contractor's/recipient's name;
- ii. the amount and type of each contract/recipient;

and

- iii. a listing of services procured under each contract or allocated to each recipient; and
- iv. the written memorandum from the state superintendent of education or his designee setting forth the request for BESE approval, the reason for the request, the name of the contractor, the amount of the contract, the contract period, and a description of the services to be provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:424 (March 2008), amended LR 38:3155 (December 2012), LR 39:3266 (December 2013), LR 48:2559 (October 2022), LR 49:

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? No.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business 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 noon, December 12, 2022, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: BESE/8(g) Operations**

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

The proposed revisions will not have an effect on costs or savings to state or local governmental units. The revisions amend the emergency contracting process, as recommended in a report published by the Louisiana Legislative Auditor.

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

The proposed revisions will not have an effect on revenue collections of state or local governmental units.

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

The proposed revisions will not result in costs and/or benefits to directly affected persons, small businesses, or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed revisions will not have an effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
2211#046

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System—Alternative Education (LAC 28:XI.3503)

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 proposes to amend LAC 28:XI, *Bulletin 111—The Louisiana School, District, and State Accountability System*. The aforementioned revisions relate to alternative school

accountability and adjust the way points are awarded in the Dropout/Credit Accumulation index to allow points based on credits earned in a single semester, remove from the Core Credit Attainment Index seniors in need of minimal core credits to graduate, and update student inclusion rules for the credential attainment index.

Title 28

EDUCATION

Part XI. Accountability/Testing

Subpart 1. Bulletin 111—The Louisiana School, District, and State Accountability System

Chapter 35. Inclusion of Alternative Education Schools and Students in Accountability

§3503. Alternative Schools Including Alternative Charter Schools

[Formerly LAC 28:LXXXIII.3503]

A. - D.6.b ...

c. Students who are considered dropouts will be included in the calculation for the semester of drop out and earn 0 points. Calculations will follow the table below with the updated points starting in 2025-2026.

7. - 7.b. ...

c. Points will be allocated according to the following table.

Number of Carnegie Units	Index Point Award
3.5 or more	150
3	125
2.5	100
2	75
1.5	50
1	25
0.5	0
Dropout	0

8. - 8.b. ...

c. Beginning in 2017-2018 (2016-2017 cohort) and through 2022-2023 (2021-2022 cohort), points will be assigned for each student according to the following table.

d. Beginning in 2023-2024 (2022-2023 cohort) and beyond, points shall be assigned for each member of a cohort according to the following table.

Student Result	Points
HS Diploma plus: (a) Associate's Degree or (b) Fast Forward Apprenticeship Pathway (Advanced Plus) or (c) Statewide Advanced Plus Level III/IV Jump Start credential	175
HS Diploma plus: (a) At least 12 Board of Regents-recognized TOPS CORE College credit hours attained via dual enrollment, AP, CLEP, IB, or Cambridge or (b) Statewide Advanced Jump Start credential or Tech Diploma (TD)	150

Student Result	Points
HS Diploma plus: (a) At least 6 Board of Regents-recognized TOPS CORE College credit hours attained via dual enrollment, AP, CLEP or IB, or Cambridge or (b) Statewide Basic Jump Start credential or Certificate of Tech Studies (CTS)	125
Four-year graduate (includes Career Diploma student with a regional Jump Start credential)	100
Five-year graduate with any diploma *Five-year graduates who earn at least 12 Board of Regents-recognized TOPS CORE College credit hours attained via dual enrollment, AP, CLEP, IB, or Cambridge, or a Statewide Advanced Jump Start credential or Tech Diploma (TD) will generate 140 points. Five-year graduates who earn an Associate's Degree will generate 150 points.	75
Six-year graduate with any diploma	50
HiSET plus Jump Start credential	40
HiSET	25
Non-graduate without HiSET	0

NOTE: Students that begin the year in the eleventh grade and exit as a twelfth grader with a diploma and/or credential based on the table above will be included in both the numerator and denominator.

e. Students counted in the graduation cohort for the alternative education school will continue to be included in the school system cohort, not the sending school.

9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended 31:423 (February 2005), LR 34:868 (May 2008), LR 35:1472 (August 2009), LR 37:2119 (July 2011), LR 37:3202 (November 2011), LR 38:1213 (May 2012), LR 39:472 (March 2013), LR 40:2240 (November 2014), LR 45:396 (March 2019), LR 47:449 (April 2021), LR 49:

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? No.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business 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 noon, December 10, 2022, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 111—The Louisiana School,
District, and State Accountability System
Alternative Education**

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

There are no estimated costs or savings to state or local governmental units as a result of the proposed rule revisions.

The proposed rule revisions make three primary changes in the the way points are awarded for alternative schools in accountability calculations. The revisions adjust the way points are awarded in the Dropout/Credit Accumulation index to allow points based on credits earned in a single semester, remove from the Core Credit Attainment Index seniors in need of minimal core credits to graduate, and update student inclusion rules for the credential attainment index.

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

There are no estimated effects on the revenue collections of state or local governmental units as a result of the proposed rule revisions.

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

There are no estimated costs and/or economic benefits to directly affected persons, small businesses, or non-governmental groups as a result of the proposed rule revisions.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no estimated effect on competition and employment as a result of the proposed rule revisions.

Beth Scioneaux
Deputy Superintendent
2211#041

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 119—Louisiana School Transportation
Specifications and Procedures
(LAC 28: CXIII.903, 1701, and 2305)

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 proposes to amend LAC 28: CXIII, Bulletin 119—*Louisiana School Transportation Specifications and Procedures*. The aforementioned revisions align BESE policy with legislation enacted by the 2022 Regular Legislative Session regarding school bus equipment usage, salary compensation calculation, and definitions of school bus types.

Title 28

EDUCATION

**Part CXIII. Bulletin 119—Louisiana School
Transportation—Specifications and Procedures**

Chapter 9. Vehicle Operation

§903. Loading and Unloading

A. - A.1. ...

2. Amber and red Eight-Light Flashing Warning System. For buses equipped with an amber and red eight-light flashing warning system, drivers must activate the amber flashing lights at least 100 feet but not more than 500

feet before coming to a stop. Red flashing warning lights, stop signal arms, and the crossing control device must be activated when the bus is stopped and lights must continue flashing while children board, alight, and/or cross roadways.

B. - B.5. ...

C. Operations: Preparing to Safely Load or Unload Students

1. The bus driver must activate warning lights, stop signal arms, and the crossing control device after the bus has stopped and before students are permitted to board or alight from the bus. When traveling on undivided roadways, the Louisiana "School Bus Stop Law" (R.S. 32:80) requires drivers of vehicles meeting or overtaking school buses stopped on a highway for the purpose of loading or unloading students to stop the vehicle not less than 30 feet from the school bus when flashing warning lights and stop arms have been activated and to remain stopped until the signals have been deactivated and the bus has resumed motion. (Bus drivers must deactivate signals before resuming motion.)

C.2. - D.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, R.S. 32:80, and R.S. 32:318.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:835 (May 1999), amended LR 25:2169 (November 1999), LR 36:1470 (July 2010), LR 37:2123 (July 2011), LR 42:231 (February 2016), LR 49:

**Chapter 17. Compensation of School Bus Drivers
§1701. Salary Compensation Based on School Bus
Routes**

A. The term *route* shall apply to the combined total daily trips (or "runs") regularly assigned to the bus driver.

B. Bus routes are measured in terms of "paid mileage." Paid mileage for contract drivers begins when the first student is picked up and ends when the final student discharge destination or school is reached.

C. When one-way mileage differs in the afternoon from that of the morning route, the one-way mileage for the morning and afternoon is totaled and divided by two. The result is the average one-way mileage for that particular route.

D. The rate of compensation is determined in accordance with R.S. 17:497.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166 and R.S. 17:497.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:633 (April 1999), amended LR 36:1475 (July 2010), LR 49:

**Chapter 23. Bus Body Standards for School Buses
§2305. Definitions and Descriptions of School Bus Types**

A. School buses must meet both federal and state definitions.

1. Federal Definition. *School Bus*—a passenger motor vehicle designed to carry a driver and more than 10 passengers, which the Secretary of Transportation decides is likely to be used significantly to transport preprimary, primary, and secondary students to or from school or an event related to school.

2. State Definition. *School Bus*—every motor vehicle that is used to transport students to and from school or in connection with school activities, but not including a charter bus or transit bus.

B. - B.4. ...

5. *Multifunction school activity bus (MFSAB)*—school bus whose purposes do not include transporting students to and from home or school bus stops, as defined in 49 CFR 571.3. This subcategory of school bus meets all FMVSS for school buses except the traffic control requirements of alternately flashing signal and stop arm.

6. *Specially Equipped*—a school bus designed, equipped, or modified to accommodate students with special needs.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999), amended LR 36:1478 (July 2010), LR 37:2125 (July 2011), LR 49:

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? Yes.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business 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 noon, December 10, 2022, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 119—Louisiana School Transportation Specifications and Procedures

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

The proposed rule revisions align BESE policy with Acts 449, 640, and 661 of the 2022 Regular Legislative Session regarding school bus equipment usage, the school bus operator salary compensation calculation, and definitions of school bus types. There will likely be an indeterminable increase in Local Funds expenditures for local school districts to provide for an increased operational pay rate to school bus operators and to provide for supplemental payments for certain equipment purchases. District costs will depend on the difference between the new compensation structure and districts’ existing operational pay structures. Costs will vary based on the number of owner/operators, the size of school buses, and the supplemental payment system established by districts.

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

The proposed rule revisions will not have an effect on revenue collections of state or local governmental units.

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

The proposed rule revisions may result in additional compensation for school bus owner/operators. This will depend on whether school districts with current supplemental payment

systems in place continue offering those systems in addition to the increased compensation outlined in the revised statute.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule revisions may improve the feasibility of owning and operating a school bus, possibly increasing the number of available owner/operators.

Beth Scioneaux
Deputy Superintendent
2211#042

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators
(LAC 28:CXV.719)

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 proposes to amend LAC 28:CXV, Bulletin 741—*Louisiana Handbook for School Administrators*. The aforementioned revisions require the website of each public school to contain a link to the school attendance data page designated by the LDOE no later than December 1, 2023. Attendance data is used as a measure of student engagement and success, as well as an early indicator of students at-risk for academic deficits and drop out.

Title 28 EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 7. Records and Reports

§719. Reports to the Supervisors of Child Welfare and Attendance

A. The principals, or administrators, and the teachers of all schools shall report the names, birth dates, race, parents, and residence of all students in attendance at their schools or classes in writing to the central office within 30 days after the beginning of the school term or session, and at such other times as may be required by BESE or the LDE.

B. No later than December 1, 2023, the website of each public school shall contain a link to the school attendance data page designated by the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:232.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005), amended LR 39:2204 (August 2013), LR 49:

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? No.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business 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 noon, December 10, 2022, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA

70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**
**RULE TITLE: Bulletin 741—Louisiana Handbook for
School Administrators**

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

There are no estimated costs or savings to state or local governmental units as a result of the proposed rule revisions.

The proposed rule revisions require the website of each public school to contain a link to the school attendance data page designated by the LDOE, no later than December 1, 2023. The Success Through Attendance Recovery (STAR) Task Force was established by the LDOE in response to a directive by the Board of Elementary and Secondary Education to examine and develop strategies to assist school systems and families in addressing the conditions of chronic absenteeism and truancy. One need identified by STAR is to publicly provide current, accurate school attendance data. Attendance data is used as a measure of student engagement and success, as well as an early indicator of students at-risk for academic deficits and drop-out. The LDOE operates a website, School Finder, where school performance and attendance data are currently available. The proposed rule revisions make the data for each public school more easily located and accessed by the public.

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

There are no estimated effects on the revenue collections of state or local governmental units as a result of the proposed rule revisions.

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

There are no estimated costs and/or economic benefits to directly affected persons, small businesses, or non-governmental groups as a result of the proposed rule revisions.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no estimated effect on competition and employment as a result of the proposed rule revisions.

Beth Scioneaux
Deputy Superintendent
2211#043

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1566—Pupil Progression Policies and Procedures
(LAC 28:XXXIX.705)

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

proposes to amend LAC 28:XXXIX, Bulletin 1566—*Pupil Progression Policies and Procedures*. The proposed revision requires third and fourth grade students that score below grade-level on the end-of-the-year LDOE-approved literacy assessment, to receive a minimum of 30 hours of explicit literacy instruction during the summer. The proposed revision will begin with the 2022-2023 school year and continue through the summer following the 2023-2024 school year.

**Title 28
EDUCATION**

**Part XXXIX. Bulletin 1566—Pupil Progression Policies
and Procedures**

Chapter 7. Promotion and Support Policy
§705. Supports for Students

A. - B.3. ...

C. Beginning with the 2022-2023 school year, and continuing through the summer following the 2023-2024 school year, any student enrolled in third or fourth grade and scoring below grade-level on the end-of-the-year LDOE-approved literacy assessment shall receive a minimum of 30 hours of explicit literacy instruction inclusive of targeted interventions during the summer. The literacy instruction shall be based on the science of reading.

1. No tuition or fees can be charged for the attendance of an eligible student, and transportation must be offered.

2. Summer learning shall be provided by an LDOE-approved tutoring vendor or by a teacher who is enrolled in or has completed the required foundational literacy skills course required per LAC 28:XXV.509 and who has achieved a rating of “effective: proficient” or greater on the most recent evaluation.

3. Students not participating in the required summer literacy interventions may be retained in the grade level during the subsequent school year. Such retention shall be included in each local pupil progression plan. A student qualifying for summer literacy interventions who fails to participate in the program but scored Basic or higher on the ELA portion of the most recent LEAP assessment may be promoted to the next grade level.

4. The LEA may waive the state policy for students scoring below grade-level on the end-of-the-year LDOE-approved literacy assessment for students with an IEP at the discretion of the IEP team.

5. Prior to retaining a student pursuant to this Section, a meeting of the SBLC committee may be called by the school or parent to determine whether retention or another option for additional student support is in the best interest of the student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17.7, and 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2005 (September 2010), amended LR 40:2533 (December 2014), LR 44:482 (March 2018), LR 44:1004 (June 2018), LR 46:18 (January 2020), LR 49:

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? No.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business 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 noon, December 10, 2022, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: **Bullein 1566—Pupil Progression Policies
and Procedures****

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

The proposed rule revisions require third and fourth grade students who score below grade-level on an end-of-the-year LDOE-approved literacy assessment to receive a minimum of 30 hours of explicit literacy instruction during the summer. The proposed rule revisions will begin with the 2022-2023 school year and continue through the summer following the 2023-2024 school year. The cost of implementation will depend upon the number of students requiring interventions and the staffing decisions made by local schools and school districts.

Schools who do not have access to the end-of-the-year version of an LDOE-approved literacy assessment may use the Acadience screener, which is free of charge. The LDOE has also developed a diagnostic tool and intervention resources that may be used, at no charge, in planning and conducting the interventions required by this rule. Schools who choose to purchase additional screening or intervention resources may incur additional costs.

The current number of third and fourth grade students reading below grade level is not known; however, several metrics can be used to approximate the scope of students who could be impacted. According to spring 2022 LEAP data, approximately 30,812 third graders and 28,002 fourth graders scored below mastery on the English Language Arts portion of the test. The literacy screener measures how well a student can read, as opposed to the LEAP English Language Arts test, which measures other factors such as comprehension and text analysis. According to the fall 2021 reading report presented by the LDOE to BESE at the January 2022 meeting of the board, which reported on student performance measured by a literacy screener at the beginning of the 2021-2022 school year, 22,915 third graders, who comprise the 2022-2023 fourth grade cohort, and 23,881 second graders, who comprise the 2022-2023 third grade cohort, were reading below grade level.

Local costs will include compensating teachers to provide the required literacy instruction, school bus operators to provide transportation for students, and program administrators in accordance with local policy. These costs are indeterminable. Some districts and schools may elect to use

funding provided to local districts through the Elementary and Secondary School Emergency Relief Fund (ESSER) to offset the cost of providing this instruction. Further, many of the students requiring interventions according to the proposed rule will qualify for the Steve Carter Literacy Program, which will provide up to \$1,000 per student to cover the costs of literacy tutoring. LDOE is contributing \$40 million from ESSER III funds over FY 22-23 and 23-24 to fund the Steve Carter Literacy Program. Additionally, the LDOE has compiled a tutoring vendor guide for districts who experience a shortage of qualified teachers and will provide additional guidance to assist in implementation.

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

There are no estimated effects on the revenue collections of state or local governmental units as a result of the proposed rule change.

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

The earnings of teachers, school bus operators, and other school personnel who choose to participate in summer programming will increase as a result of this measure. Tutoring vendors may see an increase in contracted services as a result of this measure.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Teachers, school bus operators, and other school personnel who choose to participate in summer programming may experience increased opportunities for employment as a result of this measure. Tutoring vendors may see an increase in contracted services as a result of this measure.

Beth Scioneaux
Deputy Superintendent
2211#045

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletins Regarding Administration of Educational Programs

(LAC 28:XXXV.103; LAC 28:XXXIX.700; LAC 28:XLV.743 and 745; LAC 28:LXXIX.1311 and 2120; LAC 28:CXV.325, 337, 517, 901, 915, 1303, 2305, 2307, 2319, 3305, and 3503; LAC 28:CXXXIX.4305; and LAC 28:CXLVII.305)

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 proposes to amend LAC 28:XXXV, *Bulletin 1903—Louisiana Handbook for Students with Dyslexia*, LAC 28:XXXIX, *Bulletin 1566—Pupil Progression Policies and Procedures*, LAC 28:XLV, *Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs*, LAC 28:LXXIX, *Bulletin 741(Nonpublic)—Louisiana Handbook for Nonpublic School Administrators*, LAC 28:CXV, *Bulletin 741—Louisiana Handbook for School Administrators*, LAC 28:CXXXIX, *Bulletin 126—*

Charter Schools, and LAC 28:CXLVII, *Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel*. The aforementioned revisions are in response to Acts of the 2022 Regular Session of the Louisiana Legislature. These Acts relate to the administration of educational programs and require revisions to policy regarding such programs. Local policy and procedures will need to be amended in accordance with statutory requirements.

**Title 28
EDUCATION**

Part XXXV. Bulletin 1903—Louisiana Handbook for Students with Dyslexia

Chapter 1. General Provisions

§103. Local Education Agency (LEA) Responsibilities

A. - B. ...

C. No later than December 15 annually, LEAs shall report to the LDOE the numbers of students of all grade levels identified as dyslexic or exhibiting characteristics of dyslexia.

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 47:723 (June 2021), repromulgated LR 47:1287 (September 2021), LR 49:

**Title 28
EDUCATION**

Part XXXIX. Bulletin 1566—Pupil Progression Policies and Procedures

Chapter 7. Promotion and Support Policy

§700. Support Standard for Grades Kindergarten-3

A. Beginning with the 2022-2023 school year and every school year thereafter, each local education agency shall identify all students in kindergarten, first, second, and third grade who score below grade-level on the literacy screener.

B. - B.4. ...

C. Beginning with the 2023-2024 school year, a student in grades kindergarten through three, within thirty days of being identified as having literacy skills that are below grade level based on the results of the literacy screener, shall receive an individual reading improvement plan. The plan shall be created by the teacher, principal, other pertinent school personnel, and the parent or legal guardian; describe the evidence-based reading intervention services the student will receive; and give suggestions for strategies parents can use at home.

1. The department may audit a random sampling of individual reading improvement plans in each local education agency.

D. The school shall provide mid-year and end-of-the-year updates to the parent or legal custodian of students identified in §700.A of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:7; R.S. 17:24.4; and R.S. 14:24.10.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:1760 (July 2022), LR 49:

Title 28
EDUCATION

**Part XLV. Bulletin 996—Standards for Approval of
Teacher and/or Educational Leader Preparation
Programs**

**Chapter 7. Louisiana State Standards for Educator
Preparation Programs**

Subchapter C. Teacher Preparation Programs

**§743. Minimum Requirements for Traditional Teacher
Preparation Programs**

A. A traditional teacher preparation program is a baccalaureate degree program that includes a minimum of 120 credit hours of coursework and required practice experiences. Beginning with the 2024-2025 school year, an approved teacher education program shall be no more than 120 credit hours unless designated by the Board of Regents as dual degrees or dual certifications. A portion of the total hours must include the minimum number of credit hours in the teaching of reading and literacy as follows:

1. - 4. ...

5. Beginning with the 2024-2025 school year, for all certification areas, candidates must spend three credit hours within the existing credit hour requirements engaged in coursework regarding teaching students with dyslexia, taught by a faculty member who has been provided specialized training in instructing teacher candidates on pedagogical methods for teaching students with dyslexia. The coursework shall include but need not be limited to the following:

a. an overview of the body of scientific work regarding dyslexia, including the history, epidemiology, and clinical presentation, including early clinical indicators of dyslexia and common, persistent classroom presentation;

b. an overview of evidence-based instruction for individuals with dyslexia including remediation of weaknesses, fortification of strengths, and common accommodations to help mediate between the two; and

c. an introduction to the process of becoming a dyslexia practitioner or dyslexia therapist, pursuant to R.S. 17:392.2.

B. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411, and 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:1330 (July 2017), amended LR 43:2492 (December 2017), LR 45:229 (February 2019), LR 48:1274 (May 2022), LR 48:1758 (July 2022), LR 48:

**§745. Minimum Requirements for Alternate Teacher
Preparation Programs**

A. - B.4. ...

5. Beginning with the 2024-2025 school year, for all certification areas, candidates must spend three credit hours within the existing credit hour requirements, or 45 contact hours, engaged in coursework regarding teaching students with dyslexia, taught by a faculty member who has been provided specialized training in instructing teacher candidates on pedagogical methods for teaching students with dyslexia. The coursework shall include but need not be limited to the following:

a. an overview of the body of scientific work regarding dyslexia, including the history, epidemiology, and

clinical presentation, including early clinical indicators of dyslexia and common, persistent classroom presentation;

b. an overview of evidence-based instruction for individuals with dyslexia including remediation of weaknesses, fortification of strengths, and common accommodations to help mediate between the two; and

c. an introduction to the process of becoming a dyslexia practitioner or dyslexia therapist, pursuant to R.S. 17:392.2.

C. - G.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411; and 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:1331 (July 2017), amended LR 43:2492 (December 2017), LR 45:1751 (December 2019), LR 46:324 (March 2020), LR: 48:1274 (May 2022), LR 48:1759 (July 2022), LR 49:

Title 28
EDUCATION

**Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana
Handbook for Nonpublic School Administrators**

Chapter 13. Preventive Programs

**Subchapter B. Reopening School Facilities for the 2020-
2021 School Year**

§1311. Bullying

A. Policy. Each LEA shall develop and adopt a policy that prohibits the bullying of a student by another student.

1. The bullying policy shall be implemented in a manner that is ongoing throughout the year and integrated with a school's curriculum, a school's discipline policies, and other violence prevention efforts.

2. The policy shall contain the definition of bullying found in this Section and shall address the following:

a. behavior constituting bullying;

b. the effect the behavior has on others, including bystanders; and

c. the disciplinary and criminal consequences of bullying another student.

B. Training for School Personnel. Each LEA shall create a program to provide a minimum of four hours of training each year for new school employees who have contact with students, including bus drivers, with respect to bullying. The training shall be two hours each following year for all school employees who have contact with students and have received the four-hour training. The training shall specifically include the following:

1. how to recognize the behaviors defined as bullying;

2. how to identify students at each grade level who are most likely to become victims of bullying, while not excluding any student from protection from bullying;

3. how to use appropriate intervention and remediation techniques and procedures;

4. the procedures by which incidents of bullying are to be reported to school officials; and

5. information on suicide prevention, including the relationship between suicide risk factors and bullying.

C. Definition of Bullying

1. *Bullying* is defined as a pattern of one or more of the following behaviors:

a. gestures, including but not limited to obscene gestures and making faces;

b. written, electronic, or verbal communications, including but not limited to calling names, threatening harm, taunting, malicious teasing, or spreading untrue rumors;

c. physical acts, including but not limited to hitting, kicking, pushing, tripping, choking, damaging personal property, or unauthorized use of personal property; and

d. repeatedly and purposefully shunning or excluding from activities.

2. Behavior defined as bullying is exhibited toward a student, more than once, by another student or group of students and occurs, or is received by, a student while on school property, at a school-sponsored or school-related function or activity, in any school bus or van, at any designated school bus stop, in any other school or private vehicle used to transport students to and from schools, or any school-sponsored activity or event.

3. Bullying must have the effect of physically harming a student, placing the student in reasonable fear of physical harm, damaging a student's property, placing the student in reasonable fear of damage to the student's property, or must be sufficiently severe, persistent, and pervasive enough to either create an intimidating or threatening educational environment, have the effect of substantially interfering with a student's performance in school, or have the effect of substantially disrupting the orderly operation of the school.

D. Notice of Bullying Policy to students and parents. The LEA shall inform each student orally and in writing of the prohibition against the bullying of a student by another student, the nature and consequences of such actions, including the potential criminal consequences and loss of driver's license, and the proper process and procedure for reporting any incidents of bullying. A copy of the written notice shall also be delivered to each student's parent or legal guardian.

E. Reporting Incidents of Bullying. The LEA shall develop a procedure for the reporting of incidents of bullying using the bullying report form approved by BESE and available on the DOE website and the school website. The procedure shall include the following.

1. Students and Parents

a. Any student who believes that he or she is or has been the victim of bullying, or any student or parent or legal guardian, who witnesses bullying or has good reason to believe bullying is taking place, may report the bullying to a school official.

b. A student, or parent or guardian, may also report concerns regarding bullying to a teacher, counselor, other school employee, or to any parent chaperoning or supervising a school function or activity.

c. Any report of bullying shall remain confidential.

2. School Personnel and Chaperones. Any teacher, counselor, bus driver, or other school employee, whether full or part time, and any parent chaperoning or supervising a school function or activity, who witnesses or who learns of bullying of a student, shall report the incident to a school official. A verbal report shall be submitted by the school employee or parent on the same day as the school employee or parent witnessed or otherwise learned of the bullying incident, and a written report must be filed no later than two days thereafter.

3. Retaliation. Retaliation against any person who reports bullying in good faith, who is thought to have reported bullying, who files a complaint, or who otherwise participates in an investigation or inquiry concerning allegations of bullying is prohibited conduct and subject to disciplinary action.

4. False Reports. Making false reports about bullying to school officials is prohibited conduct and will result in disciplinary action.

F. Investigation Procedure. When a report of the bullying of a student by another student is received, the school shall conduct an investigation using the following procedure.

1. Timing. The investigation shall begin the next school day following the day on which the written report was received and shall be completed no later than 10 school days after receipt of the report. If additional information is received after the end of the 10-day period, the school official shall amend all documents and reports to reflect such information.

2. Parental Notification of Allegation of Bullying

a. Upon receiving a report of bullying, the school shall notify the parents or legal guardians of the alleged offender and the alleged victim no later than the following school day.

b. Under no circumstances shall the delivery of this notice to the parent or legal guardian, be the responsibility of an involved student. Delivery of notice by an involved student shall not constitute notice as is required by this Section.

c. Before any student under the age of 18 is interviewed, his parents or legal guardians shall be notified of the allegations made and shall have the opportunity to attend any interviews conducted with their child as part of the investigation. If, after three attempts in a 48-hour period, the parents or legal guardians of a student cannot be reached or do not respond, the student may be interviewed.

d. All meetings with the parents or legal guardians of an alleged victim or an alleged offender shall be in compliance with the following:

i. separate meetings with the parents or legal guardians of the alleged victim and the alleged offender;

ii. parents or legal guardians of the alleged victim and alleged offender must be notified of the potential consequences, penalties and counseling options.

e. In any case where a school official is authorized to require a parent or legal guardian of a student under the age of 18 to attend a conference or meeting regarding the student's behavior, and after notice willfully refuses to attend, the principal or designee shall file a complaint with a court of competent juvenile jurisdiction, pursuant to *Children's Code* article 730(8) and 731.

f. A principal or designee may file a complaint pursuant to *Children's Code* article 730(1) or any other applicable ground when, in his judgment, doing so is in the best interests of the student.

3. Scope

a. The investigation shall include documented interviews by the designated school official of the reporter, the alleged victim, the alleged offender, and any witnesses.

b. The school official shall collect and evaluate all facts using the bullying investigation form approved by BESE and available on the DOE website.

c. The school official shall obtain copies or photographs of any audio-visual evidence.

4. Documentation. At the conclusion of a bullying investigation, and after meeting with the parents or legal guardians, the school official or school board shall:

a. prepare a written report containing the findings of the investigation, including input from students' parents or legal guardians, and the decision by the school official or school system official. The document shall be placed in the school records of both students. If completed entirely, the bullying investigation form may serve as the report;

b. promptly notify the reporter/complainant of the findings of the investigation and whether remedial action has been taken, if such release of information does not violate the law;

c. keep reports/complaints and investigative reports confidential, except where disclosure is required by law;

d. maintain reports/complaints and investigative reports for three years;

e. provide a copy of any reports and investigative documents to the LEA, as necessary; and

f. provide a copy of any reports and investigative documents to the appropriate law enforcement officials, as applicable.

5. Disciplinary Action. If the school official has determined bullying has occurred, and after meeting with the parents or legal guardians of the students involved, the school official shall take prompt and appropriate disciplinary action against the offender and report criminal conduct to law enforcement, if appropriate.

6. LEA Reporting

a. The LEA shall electronically report all such documented incidences of bullying to the DOE using the DOE behavior report and incidence checklist to document the details of each reported incident of bullying.

7. Appeal

a. If the school official does not take timely and effective action, the student, parent, or school employee may report the bullying incident to the school board. The school board shall begin an investigation of any properly reported complaint of bullying no later than the next school day after the board receives the report.

b. If the school board does not take timely and effective action, the student, parent, or other school employee may report the bullying incident to the DOE. The DOE shall track the number of reports, shall notify the superintendent and the president of the LEA, and shall publish the number of reports by school district on its website.

8. Parental Relief. If four or more reports of separate incidents of bullying have been made, and no investigation has occurred, the parent or legal guardian of the alleged victim shall have the option to request that the student be transferred to another school operated by the LEA.

a. In order to exercise this option, the parent or legal guardian shall file a request with the superintendent of the LEA for the transfer of the student to another school under the LEA's jurisdiction.

b. The LEA shall make a seat available at another of its schools within 10 school days of receipt of the request for a transfer. If the LEA has no other school serving the grade level of the student, then within 15 school days of receipt of the request, the superintendent of the LEA shall:

i. inform the student and the student's parents or legal guardians and facilitate the student's enrollment in a statewide virtual school;

ii. offer the student placement in a full-time virtual program or virtual school under the jurisdiction of the LEA;

iii. enter into a memorandum of understanding with the superintendent of another LEA to secure a placement and provide for the transfer of the student to a school serving the grade level of the student, pursuant to R.S. 17:105 and 105.1.

c. If no seat or other placement is made available within 30 calendar days of the receipt of the request by the superintendent, the parent or legal guardian may request a hearing with the school board, which shall be public or private at the option of the parent or legal guardian. The school board shall grant the hearing at its next scheduled meeting or within 60 calendar days, whichever is sooner.

d. At the end of any school year, the parent or legal guardian may request that the LEA transfer the student back to the original school. The LEA shall make a seat available at the school.

G. Failure to Act.

1. Any teacher, counselor, bus operator, administrator, or other school employee, whether full- or part-time, who witnesses bullying or who receives a report of bullying from an alleged victim, and who fails to report the incident to a school official, shall be investigated by the school governing authority.

2. Any school administrator or official who fails to do any of the following shall be investigated by the school governing authority:

a. notify a parent or legal guardian of a report of bullying;

b. investigate a report of bullying in a timely manner;

c. take prompt and appropriate disciplinary action against a student that was determined to have engaged in bullying; or

d. report criminal conduct to the appropriate law enforcement official.

3. Upon finding a reasonable expectation that the individual failed to act, the school governing authority shall suspend the individual without pay.

a. The length of the suspension shall be determined by the school governing authority based on the severity of the bullying inflicted on the victim.

b. The school governing authority shall report each finding of a failure to report bullying or to act on such a report to the LDE no later than August first annually, beginning with August 1, 2023.

c. The report shall include the length of suspension issued to each employee who failed to report or to act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.13.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 49:

Chapter 21. Curriculum and Instruction

Subchapter C. Secondary Schools

§2120. Credit Recovery

A. Credit recovery refers to instructional programs for students who have failed courses taken previously.

B. Schools may implement credit recovery programs.

1. Students may earn a maximum of seven credit recovery units applied towards diploma graduation requirements and no more than two Carnegie units annually. The school system must annually report to LDE the rationale for any student:

a. receiving more than two credit recovery credits annually; and/or

b. applying more than seven total credit recovery Carnegie units towards graduation requirements.

2. Students earning Carnegie credit in a credit recovery course must have previously taken and failed the course. Previously-attempted coursework is considered an academic record and must be recorded on the official transcript.

3. Completed credit recovery courses must be recorded and clearly labeled on the official transcript.

4. Students enrolled in credit recovery courses are not required to meet the instructional minute requirements found in §117.A of this Part.

5. Credit recovery courses taught in a classroom setting using online courses designed for credit recovery must be facilitated by a qualified teacher of record or a qualified teacher of record recognized through reciprocity agreement with the entity facilitating the instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, and R.S. 17:22(6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:2348 (November 2009), amended LR 39:1447 (June 2013), LR 49

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 3. Operation and Administration

§325. Kindergarten and Prekindergarten

A. - D.2....

E. Beginning with the 2023-2024 school year, each LEA shall work to develop a mixed-provider delivery model for full-day, year-round, high-quality prekindergarten instruction to each child residing within the boundaries of the school district and obtaining four years of age by September 30 of the year in which the child enrolls for prekindergarten, in accordance with the guidelines set forth in R.S. 17:24.8.

1. As used in this Section, the following words shall have the following meanings.

a. *Full-Day* means at least eight hours.

b. *Mixed Provider Delivery Model* means a program between the school board and one or both of the following:

i. Child care providers rated proficient and above on the most recent performance rating in accordance with LAC 28:CLXVII.509, operating and overseeing programs on school property, pursuant to an agreement with a city, parish, or other local public school board.

ii. Child care providers rated proficient and above on the most recent performance rating in accordance with LAC 28:CLXVII.509, operating and overseeing private

child care within the boundaries of the school district with at least one infant and one toddler classroom and offering prekindergarten seats in the private program, pursuant to an agreement with a city, parish, or other local public school board.

c. *Year-Round* means for a full calendar year, excluding weekends and holidays, or 260 days a year.

2. Each LEA shall submit student data in the same manner as described in LAC 28:I.1107 for all students served through prekindergarten and early childhood programs offered by the school board, including the seats provided through the mixed provider delivery model.

3. No later than March 1, 2024, and annually thereafter by March 1, each LEA shall report to the LDOE the following information.

a. The distribution of seats among each school and quality rated child care provider.

b. Input from at least the majority of providers in the community network, including how the distribution of seats has impacted the stability of infant and toddler care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.8, R.S. 17:151.3, and R.S. 17:391.11.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1260 (June 2005), amended LR 39:2196 (August 2013), LR 49:

§337. Written Policies and Procedures

A. - B.31. ...

32. at least one hour of annual in-service training on recognizing adverse childhood experiences and the utilization of adverse childhood experience educational practices, provided on a day that other types of in-service training will be provided and including research-based information regarding the following:

a. the impact of adverse childhood experiences on student educational experiences and on the school and classroom culture;

b. how to identify the signs and symptoms of adverse childhood experiences;

c. best practices for schools and classrooms regarding adverse childhood experience considerations in education; and

d. recognition of the impact of secondary trauma on school employees.

33. check-in and check-out procedures for student attendance which shall be reviewed at least every three years;

34. annual completion by any school nurse, coach, athletic trainer, and athletic director, whether employed or serving as a volunteer, of sudden cardiac arrest education program;

35. provision for each high school senior who is at least seventeen years old to register to vote via electronic voter registration or mail-in form;

36. attendance policy for pregnant and parenting students regarding excused absences of a minimum of 10 days after the birth of a child, reasonable amount of time for completing missed assignments, accommodations for breastfeeding, and access to child care providers;

37. submission of a seizure management and treatment plan, duly documented and signed, for use when a student is at school or while participating in a school activity;

38. release of a minor into protective custody requiring the official to whom the minor is being released provides

information about the minor to include first and last name, address, and date of birth, unless custody is an arrest for which there is probable cause;

39. maintaining a supply of auto-injectable epinephrine in a secure location in each classroom assigned to a student deemed by a physician to be at high risk for anaphylactic reaction and incapable of self-administration of auto-injectable epinephrine, in accordance with R.S. 17:436.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7(29), R.S. 17:81, R.S. 17:240, R.S. 17:100.8, 17:184, and R.S.17:437.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 33:429 (March 2007), LR 35:1101 (June 2009), LR 36:1224 (June 2010), LR 37:1141 (April 2011), LR 37:1380, 1380 (May 2011), LR 37:2134 (July 2011), LR 38:40, 41 (January 2012), LR 39:2197 (August 2013), LR 40:2530 (December 2014), LR 48:1273 (May 2022), LR 49:

Chapter 5. Personnel

§517. Acceptable Work Experience for Teacher Pay

A. - A.4.a. ...

5. Military

a. Credit for military service shall be in accordance with R.S. 17:423, and salary schedule placement shall be in accordance with R.S. 17:423.1.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:423; R.S. 17:424; R.S. 17:424.1; R.S. 17:424.2; R.S. 17:424.3, R.S. 17:423.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1267 (June 2005), LR 49:

Chapter 9. Scheduling

§901. Scheduling

A. - B.7. ...

8. The school counselor shall inform and assist students and their parents in the selection and scheduling of advanced courses and early college opportunities, such as dual enrollment, advanced placement, Cambridge, or international baccalaureate courses, as educational options.

C. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:175 ; R.S. 17:183.2; and R.S. 17:2926.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005), amended LR 36:1498 (July 2010), LR 39:2204 (August 2013), LR 40:2522 (December 2014), LR 42:557 (April 2016), LR 43:2483 (December 2017), LR 46:1083 (August 2020) , amended LR 48:31 (January 2022), LR 49:

§915. Student Activities

A. - F.3. ...

G. A patriotic organization listed as a patriotic society in Title 36 of the United States Code may use any public school building or property for student participation in its activities at times other than instructional time during the school day.

1. The organization shall provide verbal or written notice to the school principal of its intent to speak to the students and shall submit proof of liability insurance for the organization.

2. The school principal shall provide verbal or written approval of the specific day and time for the organization to address the students.

3. The organization may speak with and recruit students during school hours for the purpose of informing

students about the scholastic and civic benefits of participation in the organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:176 and R.S. 17:2119.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1272 (June 2005), amended LR 39:2205 (August 2013), LR 49:

Chapter 13. Discipline

§1303. Bullying

A. Policy. Each LEA shall develop and adopt a policy that prohibits the bullying of a student by another student.

1. The bullying policy shall be implemented in a manner that is ongoing throughout the year and integrated with a school's curriculum, a school's discipline policies, and other violence prevention efforts.

A.2. - D. ...

E. Reporting Incidents of Bullying. The LEA shall develop a procedure for the reporting of incidents of bullying using the bullying report form approved by BESE and available on the DOE website and the website of each elementary and secondary school. The procedure shall include the following.

E.1. - F.4.d. ...

e. provide a copy of any reports and investigative documents to the LEA, as necessary; and

f. provide a copy of any reports and investigative documents to the appropriate law enforcement officials, as applicable.

E.5. - 8.d. ...

G. Failure to Act.

1. Any teacher, counselor, bus operator, administrator, or other school employee, whether full-or part-time, who witnesses bullying or who receives a report of bullying from an alleged victim, and who fails to report the incident to a school official, shall be investigated by the school governing authority.

2. Any school administrator or official who fails do any of the following shall be investigated by the school governing authority:

a. notify a parent or legal guardian of a report of bullying;

b. investigate a report of bullying in a timely manner;

c. take prompt and appropriate disciplinary action against a student that was determined to have engaged in bullying; or

d. report criminal conduct to the appropriate law enforcement official.

3. Upon finding a reasonable expectation that the individual failed to act, the school governing authority shall suspend the individual without pay.

a. The length of the suspension shall be determined by the school governing authority based on the severity of the bullying inflicted on the victim.

b. The school governing authority shall report each finding of a failure to report bullying or to act on such a report to the LDE no later than August first annually, beginning with August 1, 2023.

c. The report shall include the length of suspension issued to each employee who failed to report or to act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:415, R.S. 17:416, R.S. 17:416.13, and R.S. 17:416.14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:477 (March 2013), amended LR 39:3259 (December 2013), LR 49:

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2305. Ancillary Areas of Instruction

A. - F.4.a. ...

G. Historical Programs. Each school shall hold an educational program pertaining to the United States Constitution on Constitution Day, September 17, of each year. The purpose of the program is to commemorate the September 17, 1787 signing of the Constitution. When September 17 falls on a Saturday, Sunday, or holiday, the Constitution Day program shall be held during the preceding or following week.

1. In conjunction with Constitution Day and Constitution Week, each public school governing authority shall observe Celebrate Freedom Week.

2. Students shall receive age and grade appropriate instruction on topics related to freedom, the nation's founding, and the intent, meaning, and importance of the Declaration of Independence, the U.S. Constitution, and the Bill of Rights.

H. - I. ...

J. Adoption Awareness. Each LEA shall provide instruction on adoption awareness to all high school students that shall include:

1. the benefits to society;
2. types of adoption;
3. differences between foster care and infant adoption;
4. resources and agencies available for pregnant mothers, for parents, and to assist in the adoption process; and
5. statistical data on abortion, adoption, and childbirth.

K. Child Abuse and Assault Awareness and Prevention. Each LEA shall provide age- and grade-appropriate classroom instruction to all students relative to child assault awareness and prevention. Such instruction shall be limited to:

1. education on what constitutes abuse or an assault;
2. how students may safely and confidentially report to a school official the circumstances surrounding any such abuse or assault; and
3. how students may report abuse or assault to the child protection toll-free hotline operated by DCFS and where the number is found on the school website.

4. Each LEA shall annually report to the LDE a grade-level listing of each course that includes instruction on child abuse and assault awareness and prevention, and shall include verification of DCFS child protection toll-free hotline notification on LEA and school websites.

L. - M. ...

N. Eating Disorder Awareness. Each public school LEA shall provide age and grade appropriate instruction regarding eating disorder awareness and prevention integrated into the curriculum of an existing required course.

O. Suicide, Safety, and Violence Education. An LEA offering a youth suicide prevention program shall include student safety, violence prevention, and social isolation prevention training via in-person, video, or a hybrid of both methods. Instruction shall include how to identify signs and signals of depression, suicide, and self-injury in themselves

and peers, as well as the importance of seeking help and the process for reporting harmful or potentially harmful activity.

1. Each public school LEA shall provide a minimum of one hour or one class period of age and grade appropriate instruction to students in grades 6 through 12.

2. Instruction shall be evidence-based through high-quality research findings that show a statistically significant effect on relevant outcomes.

3. Strategies for social inclusion in the classroom and community shall be utilized and may include instruction in self-esteem and peer mediation.

4. A student shall be excused from any of the training upon written request of the parent or legal guardian.

5. For each school enrolling students in grades 6 through 12, the LEA shall allow the creation of a student-led and employee-advised club open to any member of the student population to develop and maintain awareness activities of this Subsection.

P. Water Safety. Each public school LEA shall provide age and grade appropriate instruction regarding water safety integrated into the curriculum of an existing required course, and shall include:

1. proper use of flotation devices;
2. awareness of water conditions and safe behaviors in and around water;
3. supervision and barriers/fencing in pool areas;
4. importance of formal swim lessons;
5. avoidance of alcohol and substance use during water activities; and
6. administering CPR to a drowning victim.

Q. Mental Health. Each public school LEA shall provide age and grade appropriate instruction to students in kindergarten through twelfth grade regarding preventative mental health measures including but not limited to:

1. proper diet, exercise, risk avoidance, and stress reduction;
2. the relationship between mental health and physical health as well as brain health and emotional health;
3. identifying trauma and stress and the impact on mental and physical health; and
4. resources and services available to assist people with mental health issues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:81, 17:154, 17:261 et seq., 17:263, 17:270, 17:280, 17:281 et seq., 17:404, and 17:405 et seq., and 36 USC 106.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1288 (June 2005), amended LR 33:2353 (November 2007), LR 39:2214 (August 2013), LR 39:3259 (December 2013), LR 40:2531 (December 2014), LR 44:1443 (August 2018), LR 44:1868 (October 2018), LR 45:36 (January 2019), LR 45:1746 (December 2019), amended LR 48:33 (January 2022), LR 49:

§2307. Literacy Assessment and Screener

A. Each LEA shall require that every child enrolled in kindergarten-third grade be given the BESE-approved literacy screener three times per school year: within the first 30 days of the school year, in December, and in April. The results of this screener shall be used to plan instruction and provide appropriate and timely intervention. The results of the screener will also provide information required by R.S. 17:24.9, student reading skills; requirements; reports.

1. Each student administered a literacy screener will be identified as reading below, at, or above grade level.

Students scoring above grade level may be considered for evaluation into a gifted program.

2. For students with significant hearing or visual impairment, nonverbal students, or students with significant cognitive impairment, the LEA will provide an alternate assessment recommended by the LDE.

3. Each LEA will report to the LDE screener results by child within the timeframes and according to the guidance established by the LDE.

4. For grades 1-3, the school should use the prior year's latest screener level to begin appropriate intervention until the new screener level is determined.

A.5. - A.5.c. ...

B. Each LEA shall administer the literacy screener provided by the LDE for each grade level to meet kindergarten-third grade literacy assessment requirements.

C. Beginning June 1, 2023, and triennially thereafter, each school shall use data from the literacy screener in order to develop and submit to LDE the school foundational literacy plan for students in kindergarten through third grade pursuant to R.S. 17:24.9.

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

D. Each LEA shall provide for literacy coaches for reading teachers in kindergarten through third grade for the purposes of providing on-site teacher training on evidence-based reading instruction, demonstrating lessons, co-teaching or observation, and providing feedback for improving instruction subject to the appropriation of funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S.17:24.4; R.S. 17:24.9; and R.S.17:24.10.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1289 (June 2005), amended LR 38:1224 (May 2012), LR 39:2214 (August 2013), LR 42:1878 (November 2016), LR 45:36 (January 2019), LR 48:1747 (July 2022), LR 49:

§2319. The Career Diploma

A. - B.7.d. ...

C. Minimum Course Requirements

1. The minimum course requirements for a career diploma for incoming freshmen in 2014-2015 through 2022-2023 shall be the following:

a. English—4 units:

i. one of the following:

- (a). English I;
- (b). English language part 1: Cambridge IGCSE;

or

(c). English literature part 1: Cambridge IGCSE.

ii. one of the following:

- (a). English II;
- (b). English language part 2: Cambridge IGCSE;

or

(c). English literature part 2: Cambridge IGCSE.

iii. the remaining units shall come from the following:

- (a). technical writing;
- (b). business English;
- (c). English III;
- (d). English language part 1: Cambridge AICE—AS (honors);
- (e). literature in English part 1: Cambridge AICE—AS (honors);
- (f). English IV;

(g). any AP or IB English course;

(h). English language part 2: Cambridge AICE—AS (honors);

(i). literature in English part 2: Cambridge AICE—AS (honors); or

(j). comparable Louisiana technical college courses offered by Jump Start regional teams as approved by BESE;

b. Mathematics—4 units:

i. Algebra I (1 unit), Applied Algebra I (1 unit), or Algebra I-Pt. 2 (the elective course Algebra I-Pt. 1 is a pre-requisite);

ii. The remaining units shall come from the following:

- (a). geometry;
- (b). financial literacy (formerly financial math);
- (c). math essentials;
- (d). Algebra II;
- (e). advanced math-functions and statistics;
- (f). advanced math - pre-calculus;
- (g). Algebra III;
- (h). pre-calculus;
- (i). business math;
- (j). probability and statistics; ~~or~~
- (k). statistical reasoning;
- (l). transition to college mathematics; or
- (m). comparable Louisiana technical college courses offered by Jump Start regional teams as approved by BESE;

(n). Integrated Mathematics I, II, and III may be substituted for Algebra I, geometry, and Algebra II and shall count as three math credits;

- (o). additional math—Cambridge IGCSE; or
- (p). math 1 (pure math): Cambridge AICE—AS

(honors);

c. Science 2 units:

- i. 1 unit of biology;
- ii. 1 unit from the following:

- (a). Chemistry I;
- (b). physical science
- (c). earth science;
- (d). Agriscience II;

NOTE: Agriscience I is a prerequisite for Agriscience II and is an elective course.

- (e). environmental science;
- (f). principles of engineering;
- (g). any AP or IB science course PLTW principles of engineering;
- (h). principles of engineering (LSU partnership);
- (i). any AP or IB science course;
- (j). physics I: Cambridge IGCSE;
- (k). biology II: Cambridge AICE—AS (honors);
- (l). chemistry II: AICE—AS (honors); or
- (m). physics II: Cambridge AICE—AS (honors);

d. social studies 2 units:

- i. 1 of the following:
 - (a). U.S. history;
 - (b). AP U.S. history;
 - (c). IB history of the Americas I;
- ii. 1 unit of the following:
 - (a). civics;
 - (b). government;

(c). AP U.S. government and politics: comparative; or

(d). AP U.S. government and politics: United States;

e. Health Education—1/2 unit:

i. JROTC I and II may be used to meet the Health Education requirement. Refer to §2347.

f. Physical Education—1 1/2 units:

i. shall be Physical Education I and

ii. 1/2 unit from among the following:

(a). physical education II;

(b). marching band;

(c). extracurricular sports;

(d). cheering; or

(e). dance team;

iii. ROTC may be substituted;

iv. adaptive PE for eligible special education students may be substituted;

g. at least nine credits in the Jump Start course sequence, workplace experiences, and credentials;

i. Jump Start 1.0 course sequences will be available for incoming freshmen through 2020-2021; and

ii. Jump Start 2.0 course sequences will be available for incoming freshmen beginning in 2020-2021 and beyond;

h. Total—23 units.

2. The minimum course requirements for a career diploma for incoming freshmen in 2023-2024 and beyond shall be the following:

a - b.i. ...

ii. geometry or applied geometry;

iii. The remaining units shall come from the following:

(a). financial literacy (formerly financial math);

(b). math essentials;

(c). algebra II;

(d). advanced math-functions and statistics;

(e). advanced math pre-calculus;

(f). algebra III;

(g). pre-calculus;

(h). business math;

(i). probability and statistics;

(j). statistical reasoning;

(k). transition to college mathematics; or

(l) comparable Louisiana technical college courses offered by Jump Start regional teams as approved by BESE;

(m). integrated mathematics I, II, and III may be substituted for algebra I, geometry, and algebra II and shall count as three math credits;

(n). additional math—Cambridge IGCSE; or

(o). math 1 (pure math): Cambridge AICE—AS (honors);

C.2.c. - D.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:24.4, 17:183.2, 17:183.3, 17:274, 17:274.1, and 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006),

LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 35:1230 (July 2009), LR 35:1876 (September 2009), LR 35:2321 (November 2009), LR 35:2750 (December 2009), LR 36:1490 (July 2010), LR 37:548 (February 2011), LR 37:1130 (April 2011), LR 37:2130 (July 2011), LR 37:3197 (November 2011), LR 38:761 (March 2012), LR 38:1005 (April 2012), LR 40:2522 (December 2014), LR 41:1482 (August 2015), LR 41:2594 (December 2015), LR 42:232 (February 2016), LR 43:1287 (July 2017), LR 43:2132 (November 2017), LR 43:2484 (December 2017), LR 44:1868 (October 2018), LR 45:1747 (December 2019), LR 46:557 (April 2020), LR 46:1086 (August 2020), LR 47:860 (July 2021), LR 48:39 (January 2022), repromulgated LR 48:1093 (April 2022), LR 49:

Chapter 33. Home Study Programs

§3305. Application Process

A. - C. ...

D. Within 30 days of initial approval of an application, denial of an application, or failure to receive an annual renewal application for a previously approved home study program, LDE shall provide notification of the child's legal name, date of birth, and physical residential address to the city, parish, or other local school system in which the child was most recently enrolled and, if different, the school system in which the child resides.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1312 (June 2005), amended LR 39:2229 (August 2013), LR 45:226 (February 2019), LR 49:

Chapter 35. Public School Enrollment Choice

§3503. Public High School Program of Choice

A. The governing authority of each public high school shall work to grow programs of choice as defined by R.S. 17:4035.2.

B. A student may enroll in a program of choice offered within the assigned school district, without regard to attendance zones, contingent upon the following:

1. the program of choice and the high school offering the program have available capacity at the appropriate grade level;

2. the program of choice is not offered at the public high school in which the student was most recently enrolled or would otherwise attend;

3. the enrollment of the student in the public school of choice does not violate an order of a court of competent jurisdiction; and

4. the student meets the published admission requirements, if any, of the program of choice.

C. The governing authority of each public high school shall include in the district policy regarding student transfers:

1. a definition of capacity for each program of choice;

2. admission requirements, if any, for each program of choice; and

3. the process for requesting BESE review of any denied request to transfer to a program of choice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:4035.1 and R.S. 17:4035.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 49:

**Title 28
EDUCATION**

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 43. Discipline

§4305. Bullying

A. - D. ...

E. Reporting Incidents of Bullying. The charter school shall develop a procedure for the reporting of incidents of bullying using the bullying report form approved by charter school and available on the LDE website and the school website. The procedure shall include the following.

E.1. - F.4.d. ...

e. provide a copy of any reports and investigative documents to the charter school, as necessary; and

f. provide a copy of any reports and investigative documents to the appropriate law enforcement officials, as applicable.

E.5. - 8.d. ...

G. Failure to Act

1. Any teacher, counselor, bus operator, administrator, or other school employee, whether full-or part-time, who witnesses bullying or who receives a report of bullying from an alleged victim, and who fails to report the incident to a school official, shall be investigated by the school governing authority.

2. Any school administrator or official who fails to do any of the following shall be investigated by the school governing authority:

a. notify a parent or legal guardian of a report of bullying;

b. investigate a report of bullying in a timely manner;

c. take prompt and appropriate disciplinary action against a student that was determined to have engaged in bullying; or

d. report criminal conduct to the appropriate law enforcement official.

3. Upon finding a reasonable expectation that the individual failed to act, the school governing authority shall suspend the individual without pay.

a. The length of the suspension shall be determined by the school governing authority based on the severity of the bullying inflicted on the victim.

b. The school governing authority shall report each finding of a failure to report bullying or to act on such a report to the LDE no later than August 1 annually, beginning with August 1, 2023.

c. The report shall include the length of suspension issued to each employee who failed to report or to act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:415, R.S. 17:416, and R.S. 17:416.13.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:1000 (April 2022), LR 49:

**Title 28
EDUCATION**

**Part CXLVII. Bulletin 130—Regulations for the
Evaluation and Assessment of School Personnel**

Chapter 3. Personnel Evaluation

**§305. Measures of Growth in Student
Learning—Learning Targets**

A. - B. ...

C. Evaluators shall meet with each evaluatee for the purpose of discussing the student learning targets of each student. Student learning targets not discussed in a meeting between a person and the evaluator shall not be used in the evaluation of the person.

D. Teachers. A minimum of two student-learning targets shall be identified for each teacher. The department shall provide an evaluative tool for evaluators to use in assessing the quality and attainment of student learning targets.

1. State-approved common assessments shall be used as part of the body of evidence measuring students' attainment of learning targets, where available.

2. Where no state-approved common assessments are available, evaluatees and evaluators shall decide upon the appropriate assessment or assessments to measure students' attainment of learning targets.

3. LEAs may define consistent student learning targets across schools and classrooms for teachers with similar assignments, provided that they allow for ample flexibility to address the specific needs of students in each classroom.

4. ...

E. Principals and Administrators. A minimum of two student learning targets shall be identified for each administrator.

1. For principals, the LDE shall provide recommended targets to use in assessing the quality and attainment of both student learning targets, which will be based upon a review of "similar" schools. The LDE will annually publish the methodology for defining "similar" schools.

2. For principals, at least one learning target shall be based on overall school performance improvement in the current school year, as measured by the school performance score.

a. for the 2020-2021 academic year only, overall school performance improvement may be measured by the school performance score or by formative assessment data.

3. For principals, at least one learning target shall be based on growth in a component (e.g., ELA or math improvement) of school performance score.

a. for the 2020-2021 academic year only, overall school performance improvement may be measured by the school performance score or by formative assessment data.

4. Principals at schools with special populations (e.g. alternative schools) or those that do not have grades with standardized testing and available value-added data (e.g., K-2 schools) may define learning targets based on LDE guidance.

F. The department shall provide annual updates to LEAs relating to:

1. the expansion of state-standardized testing and the availability of value-added data, as applicable;

2. the expansion of state-approved common assessments to be used to build to bodies of evidence for student learning where the value-added model is not available; and

3. the revision of state-approved tools to be used in evaluating student learning targets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1216 (May 2012),

amended LR 38:2359 (September 2012), LR 39:1273 (May 2013), LR 41:1267 (July 2015), LR 47:354 (March 2021), LR 49:

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 noon, December 12, 2022, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Revisions to Bulletins Regarding Administration of Educational Programs

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

The proposed rule revisions align BESE policy with legislation enacted during the 2022 Regular Legislative Session.

Revisions to LAC 28:LXXIX.1311, LAC 28:CXXXIX.4305 and 2101, LAC 28:CXLVII.305, and LAC 28:CXV.1303 may require revisions to local policy regarding bullying, credit recovery, and pre-evaluation conferences and could result in additional costs for training or development. Those costs are indeterminable and are predicted to be minimal.

Revisions to LAC 28:XXXV.103 require the reporting of the number of students with dyslexia or characteristics of dyslexia. Schools are already able to report this data through the fall reading data submission process. There are no anticipated costs to state or local governmental units related to the implementation of this requirement.

Revisions to LAC 28:XLV.743 and 745 require that teacher candidates receive three credit hours, or forty-five contact hours for alternate programs that do not award credit hours, regarding teaching students with dyslexia. Further, approved teacher preparation programs may not require more than 120 credit hours unless designated by the Board of Regents as dual degrees or dual certifications. There will be an increase in expenditures for certain postsecondary education institutions to incorporate the required course into teacher certification programs and to train existing faculty to teach the course; however, these costs are indeterminable as implementation will vary by institution and program.

Revisions to LAC 28:XXXIX.700 require that students identified as reading below grade level receive an individual reading improvement plan outlining interventions that will be delivered at school and suggestions for how parents can support learning at home. There are no anticipated costs to state or local governmental units related to the implementation of this requirement.

Revisions to LAC 28: CXV.325 require that school districts work to develop a mixed-provider delivery model to offer pre-kindergarten instruction. There is no anticipated direct material effect on state expenditures as a result of the proposed legislation. There may be costs to local school boards to work to develop a mixed delivery model for pre-kindergarten instruction; however, such costs are indeterminable.

Revisions to LAC 28: CXV.337 require that school districts develop written policies and procedures regarding minors taken into protective custody from schools; check-out procedures; instruction regarding cardiac health; the provision of an opportunity to register to vote for high school seniors; attendance, breastfeeding, and child care for students who are pregnant or parenting; treatment of and training regarding students with a seizure disorder; and storing auto-injectable epinephrine in the classrooms of certain students. Further, technical updates to language describing required training on adverse childhood experiences are also a part of the revisions to this Section. Estimated implementation costs associated with these revisions include:

Increased costs for the LDOE to the extent it contracts with a vendor to develop a sudden cardiac arrest education program; however, there will not be increased state costs if the state utilizes existing, freely available training courses. There may be increased local costs for school boards if these boards pay staff for the time spent taking these courses; however, this is indeterminable.

Increased costs for the LDOE to the extent it contracts with a vendor to develop training courses on treating students with seizure disorders; however, there will not be increased state costs if the state utilizes existing, freely available training courses. There may be increased local costs for school boards if these school boards pay staff for the time spent taking these courses; however, this is indeterminable.

There may be increased statutory dedications expenditures from the LA Early Childhood Education Fund to the extent the LDOE incurs costs to create and implement pilot programs that integrate adverse childhood experience education and family outreach into early childhood education; however, the LDOE anticipates any tasks would be absorbed utilizing existing staff and resources.

Revisions to LAC 28: CXV.517 require that school districts compensate employees returning from military service in accordance with R.S. 17:423.1. The cost of the step increase will depend upon the type of position and the level in the salary schedule at which the employee is placed. There may be an increase in local school district salary costs to increase the salary schedule step of any current teacher whose employment was interrupted by military service subsequent to the Vietnam War and who did not benefit from the protections of the Military Service Relief Act passed in 1991; however, any such increase is indeterminable.

Revisions to LAC 28: CXV.901 require that school counselors advise students and their parents on the option to schedule advanced courses. There are no anticipated costs to state or local governmental units related to the implementation of this requirement.

Revisions to LAC 28: CXV.915 outline procedures by which certain patriotic organizations may schedule the use of school buildings and opportunities for their representatives to speak to and recruit students. There are no anticipated costs to state or local governmental units related to the implementation of this requirement.

Revisions to LAC 28: CXV.2305 require student instruction regarding the observation of Celebrate Freedom Week, adoption awareness, eating disorders, suicide prevention and safety, water safety, and mental health. Estimated implementation costs associated with these revisions include:

The proposed rule revisions may lead to increased workloads and result in nominal costs associated with creating and adapting instructional materials to provide for the observance of "Celebrate Freedom Week"; however, any increased workload is not expected to be significant.

LDOE reports it has identified no-cost and low-cost evidence-based training providers for students regarding student safety, violence and social isolation prevention, and suicide prevention and will post those resources to the LDOE website. The proposed rule revisions may lead to an additional workload for public schools associated with allowing the creation of student-led suicide prevention clubs; however, any costs associated with this are indeterminable.

There may be an additional workload to local school districts to provide required water safety instruction; however, any associated costs are expected to be minimal, as the instruction will be integrated into the existing curriculum.

There may be minor workload increases to public school governing authorities to submit a list of courses that include instruction on child assault awareness and prevention and a link to the authority's webpage containing the toll-free hotline, but any associated expenses will be negligible.

Revisions to LAC 28: CXV.2307 update terminology and require that literacy coaches be available for on-site teacher training for reading teachers in kindergarten through third grade. There will be significant costs to local school districts to provide literacy coaches for onsite teacher training. Partial federal funding has been allocated for the literacy coach program through FY 25; however, this funding does not cover the anticipated total costs, and without additional state funding, these costs will be the responsibility of the local school districts. If no future allocations are made by FY 25, the total cost of the program will be the responsibility of the local school districts.

Revisions to LAC 28: CXV.3305 require that LDOE provide notification of student enrollment in a home study program to the city, parish, or other local school system in which the child was most recently enrolled and, if different, the school system in which the child resides. There are no anticipated costs to state or local governmental units related to the implementation of this requirement.

Revisions to LAC 28: CXV.3503 provide that a student may enroll in a program of choice offered within the assigned school district without regard to attendance zones, contingent upon certain conditions. Local school districts may incur additional costs for transportation of students enrolling in programs of choice at a high school other than the one for which they are zoned.

Revisions to LAC 28: CXV.2319 add geometry to the list of required courses for students pursuing a career diploma.

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

There are no estimated effects on the revenue collections of state or local governmental units as a result of the proposed rule revisions.

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

Teacher preparation programs will need to structure existing course requirements to include the required training on dyslexia and ensure that a faculty member is qualified to provide such instruction. Some preparation providers already employ faculty members with the required training. The cost of providing additional training will vary based on the needs and decisions of the preparation provider. There will be a benefit to vendors if schools opt to enter contracts to develop training courses on treating students with seizure disorders or to develop a sudden cardiac arrest education program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule revisions will have an effect on the employment of literacy coaches and geometry teachers. An estimated 400 literacy coaches will be needed for full implementation across the state.

Beth Scioneaux
Deputy Superintendent
2211#047

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Teacher Preparation Program Entry
(LAC 28:CXXXI.528 and LAC 28:XLV.745)

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 proposes to amend LAC 28:CXXXI in Bulletin 746—*Louisiana Standards for State Certification of School Personnel* and LAC 28:XLV, Bulletin 996—*Standards for Approval of Teacher and/or Educational Leader Preparation Programs*. The aforementioned revisions relate to the availability of a provisional enrollment option for teacher candidates who do not meet the minimum grade point average requirement for entry into alternate preparation programs. Entry would be contingent upon a satisfactory personal interview and mastery of competencies as outlined.

Title 28

EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 5. Teaching Credentials, Licenses, and Certifications

Subchapter B. Nonstandard Teaching Credentials

§528. Pre-Practitioner License

A. The pre-practitioner license is a temporary, non-renewable certificate issued in accordance with provisional admittance into an alternate certification program pursuant to LAC 28:XLV.

1. For certification purposes, non-university providers and colleges or universities will submit signed statements to the LDOE indicating that the student was provisionally admitted into the practitioner teacher, certification-only, or master’s degree program alternative certification path and meets the following requirements:

a. minimum of a non-education baccalaureate degree from a college or university accredited in accordance with 34 CFR 602;

b. 2.50 or higher undergraduate grade point average (GPA) on a 4.00 scale to enter a non-university provider program; or a 2.20 or higher undergraduate GPA on a 4.00 scale to enter a college or university program; or be granted conditional admittance into an alternate teacher preparation program following a satisfactory personal interview by the program admission officer; and

c. passing scores on content area exam(s), or if no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 30 semester hours of coursework specific to the content area for

admission to the program. See §303 of this part for exam requirements.

d. Special education mild/moderate certification candidates must qualify for admission to alternate programs by passing a Praxis specialty area exam, and secondary education candidates (grades 6-12) must pass a Praxis core subject area exam, or if there is no content Praxis exam adopted by the state in the specific secondary core subject area, candidates must demonstrate content mastery by presenting 30 semester credit hours in the core subject area.

2. The approved teacher preparation program provider shall submit the request for the pre-practitioner license directly to the LDOE.

3. Teacher candidates receiving mentoring while on the pre-practitioner license by a certified mentor in accordance with Sections 515, 553, and 1369 of this Part and completing all other certification requirements for issuance of the initial standard level teaching certificate may advance from the pre-practitioner license to the standard level teaching certificate.

4. Teacher candidates not receiving mentoring while on the pre-practitioner license by a certified mentor in accordance with Sections 515, 553, and 1369 of this Part must serve on the practitioner license and be mentored by a certified mentor for a year and meet all other certification requirements prior to advancing to the standard level teaching certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; 17:7(6), and 17:22(6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 49:

Title 28

EDUCATION

Part XLV. Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs

Chapter 7. Louisiana State Standards for Educator Preparation Programs

Subchapter C. Teacher Preparation Programs

§745. Minimum Requirements for Alternate Teacher Preparation Programs

A. - F.3. ...

G. Beginning 6/1/2022, candidates may be provisionally enrolled into an alternate teacher preparation program provided teacher candidates meet the following requirements:

1. possess a non-education baccalaureate degree from a university accredited in accordance with 34 CFR 602;

2. meet minimum GPA requirements:

a. 2.50 or higher undergraduate grade point average (GPA) on a 4.00 scale to enter a non-university program;

b. 2.20 or higher undergraduate GPA on a 4.00 scale to enter a college or university program;

c. an applicant who does not meet the requirements of Subparagraph a or b of this Paragraph may be certified if the applicant meets the following requirements in an alternate teacher preparation program:

i. satisfactory completion of a personal interview by the program admissions officer;

ii. if the program awards credit hours, the applicant shall achieve a minimum grade point average (GPA) of 3.00 in alternate teacher preparation program

courses by the end of the first 12 credit hours and successfully complete the program;

iii. if the program does not award credit hours, the applicant shall demonstrate mastery of competencies as required by the program administrator and by the school system in which the applicant completes required clinical practice;

iv. satisfactory completion of all program requirements as set forth by BESE, including any requirements for clinical practice, at graduation;

3. pass the required content examinations or meet alternate requirements pursuant to Bulletin 746. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 30 semester hours of coursework specific to the content area;

4. preparation provider informs teacher candidate of the risk of provisional enrollment; and

5. provisional admittance rules end at the conclusion of the 2023 legislative session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:1331 (July 2017), amended LR 43:2492 (December 2017), LR 45:1751 (December 2019), LR 46:324 (March 2020), LR: 48:1274 (May 2022), LR 49:

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 noon, December 10, 2022, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Teacher Preparation Program Entry

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

There are no estimated costs or savings to state or local governmental units as a result of the proposed rule revisions.

Act 244 of the 2022 Regular Legislative Session revised requirements for both entry into an educator preparation program and issuance of an educator credential. Flexibility regarding these requirements is required to permit continuation of current coursework, enrollment into programs, and eligibility for certification in order to address the current teacher shortage experienced by school systems statewide. The proposed rule revisions relate to the availability of a provisional enrollment option for teacher candidates who do not meet the minimum

grade point average requirement for entry into alternate preparation programs. The revisions would make entry into an alternate preparation program, and the associated issuance of a pre-practitioner license, without meeting the grade point average requirement contingent upon completion of a satisfactory personal interview and mastery of competencies as follows: if the program awards credit hours, the applicant shall achieve a minimum grade point average (GPA) of 3.00 in alternate teacher preparation program courses by the end of the first 12 credit hours and successfully complete the program; if the program does not award credit hours, the applicant shall demonstrate mastery of competencies as required by the program administrator and by the school system in which the applicant completes required clinical practice; and satisfactory completion of all program requirements as set forth by BESE, including any requirements for clinical practice, at graduation. These provisional admittance rules end at the conclusion of the 2023 legislative session.

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

The proposed rule revisions will not have a significant effect on revenue collections of state or local governmental units. Teacher candidates applying for a pre-practitioner license will need to pay a \$25 application fee. Current estimates indicate that approximately 200 teacher candidates currently enrolled in preparation programs required grade point average flexibility for entry to the program. Whether those candidates will need to apply for a pre-practitioner license depends on the type of program, area of study, and candidate progress in the program. The provisional admittance rules end at the conclusion of the 2023 legislative session, so any anticipated effects will only impact FY 23 and FY 24.

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

Aspiring teachers who lack the required grade point average for entry to teacher preparation programs will have the opportunity to pursue education as a profession.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule revisions will continue the practice of allowing teacher candidates in need of grade point average flexibility to enter teacher preparation programs while maintaining the same standards for program exit.

Beth Scioneaux
Deputy Superintendent
2211#044

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Board of Architectural Examiners**

**Individuals Registered in Other States and
Dependents of Healthcare Professionals
(LAC 46:I.1103 and 1111)**

Notice is hereby given that the Board of Architectural Examiners, in accordance with the provisions of R.S. 49:950 et seq., and through the authority granted in R.S. 37:144(C), proposes to amend LAC 46:I.1103(A) pertaining to individuals registered in other states and adopt LAC 46:I.1111 pertaining to dependents of healthcare professionals.

Act No. 279 of 2021, codified as R.S. 37:1751, pertains to licensure for dependents of healthcare professionals. The board seeks to comply with this Act by amending LAC 46:I.1103(A) and adopting LAC 46:I.1111. The proposed amendment to LAC 46:I.1103(A) will recognize that dependents of healthcare professionals may be exempted from the requirement of submitting an NCARB (blue cover) certificate to the board. The proposed adoption of LAC 46:I.1111 will require the board to issue a license, permit pending normal license, or registration to an applicant who is a dependent of a healthcare professional who has relocated to and established his legal residence in Louisiana, holds a valid license to provide healthcare services in Louisiana, and is providing healthcare services in Louisiana, who satisfies the requirements of Act 279 of 2021.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part I. Architects

Chapter 11. Licenses

§1103. Individuals Registered in Other States

A. The exclusive means for an individual registered in another state(s) seeking to be registered in Louisiana is the submission to the board of an NCARB (blue cover) certificate, except in the cases of:

1. military-trained architect applicants or architect spouses of military personnel who shall satisfy the requirements of R.S. 37:3651 and Rule §1109 below, and
2. dependents of healthcare professionals who shall satisfy the requirements of R.S. 37:1751 and Rule §1111 below.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:563 (April 2003), amended LR 39:2737 (October 2013), LR 49:

§1111. Dependents of Healthcare Professionals

A. Pursuant to R.S. 37:1751, the board shall issue a license, permit pending normal license, or registration to an applicant who is a dependent of a healthcare professional who has relocated to and established his legal residence in Louisiana, holds a valid license to provide healthcare services in Louisiana, and is providing healthcare services in Louisiana in accordance with the following provisions:

1. If the applicant holds an out-of-state license in architecture from another state and licensure by endorsement or reciprocity is provided for by law, the applicant shall submit to the board an NCARB (blue cover) certificate as described in Rule §1103(A) *supra*. Upon finding the NCARB (blue cover) certificate in order and upon payment of a registration fee of \$300, the board shall register and issue a license to said individual to practice architecture in this state.

2. If the applicant holds an out-of-state license in architecture from another state but licensure by endorsement or reciprocity is not provided for by law, licensure to practice architecture in Louisiana shall be granted by the submission to the board of proof of all of the following:

- a. the applicant holds a current and valid occupational license in architecture;

b. the applicant has held the occupational license in the other state for at least one year;

c. the applicant has passed any examinations, or met any education, training, or experience standards as required by the licensing board in the other state;

d. the applicant is held in good standing by the licensing board in the other state;

e. the applicant does not have a disqualifying criminal record as determined by the board;

f. the applicant has not had an occupational license revoked by a licensing board in another state because of negligence or intentional misconduct related to the applicant's work in architecture;

g. the applicant did not surrender an occupational license because of negligence or intentional misconduct related to the person's work in architecture in another state;

h. the applicant does not have a complaint, allegation, or investigation pending before a board in another state 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 to the applicant until the complaint, allegation, or investigation is resolved, or the applicant otherwise satisfies the criteria for licensure in Louisiana to the satisfaction of the board;

i. the applicant pays all applicable fees in this state, and

j. the applicant simultaneously applies for a permanent license; if the applicant fails to qualify for a permanent license once the permanent application is vetted, any temporary permit shall automatically terminate.

3. If the applicant worked in a state that does not use an occupational license or government certification to regulate the practice of architecture, licensure to practice architecture in Louisiana shall be granted by the submission to the board of proof of all of the following:

a. the applicant worked at least three (3) years in architecture, and

b. the applicant satisfies the requirements of paragraphs (A)(2)(e) through (j) of this Section.

4. For purposes of this Rule, "dependent" and "healthcare professional" shall have the meanings set forth in R.S. 37:1751(A), such meanings incorporated herein by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 49:

Family Impact Statement

The proposed rules are not anticipated to have an impact on family formation, stability, or autonomy as described in R.S. 40:972.

Poverty Impact Statement

The proposed rules are not anticipated to have an 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

The proposed rules are not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed rules are not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Interested persons may submit written comments to Tyson J. Ducote, Executive Director, Board of Architectural Examiners, 9625 Fenway Avenue, Suite B, Baton Rouge, LA 70809. All comments must be submitted no later than 4:30 p.m., December 13, 2022.

Tyson J. Ducote
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Individuals Registered in Other States and Dependents of Healthcare Professionals

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

The proposed rules, mandated by Act No. 279 of 2021, establish a path to licensure to practice architecture for dependents of healthcare professionals. The Board of Architectural Examiners (Board) estimates that, at most, a handful of dependents of healthcare professionals may annually seek to obtain a license to practice architecture under the proposed rules. In a typical year, the board issues initial licenses to approximately 210 individual applicants, and it renews the licenses of approximately 3,240 individual applicants. Accordingly, even if the proposed rules increase the number of persons who apply for licensure by using the path contained in the proposed rules, the board estimates that implementing the proposed rules can be handled by existing staff, and the proposed rules will have no impact on costs/savings to the board or other state or local governmental units.

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

The dependent of a healthcare professional who pursues licensure to practice architecture pursuant to the proposed rules will be charged the same registration fee (\$300) as any other out-of-state applicant who pursues licensure to practice architecture in Louisiana. The board estimates that, at most, a handful of dependents of healthcare professionals may annually seek to obtain a license to practice architecture under the proposed rules. In a typical year, the board issues initial licenses to approximately 170 out-of-state architects, and it renews the licenses of approximately 1,970 out-of-state architects. Accordingly, the board estimates that the proposed rules may create a minimal increase in the revenue collections of the board or other state or local governmental units.

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

By providing an alternate path to licensure to practice architecture in Louisiana, the proposed rules may provide an economic benefit to those dependents of healthcare professionals who successfully apply for licensure under this alternate path. Although the board recognizes that those benefits to a particular applicant may be substantial, the board has insufficient information and is unable to quantify those benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

The board estimates that, at most a handful of dependents of healthcare professionals may annually obtain a license to practice architecture under the proposed rules. Currently, and for the last few years, approximately 3,300 architects are and have practiced architecture in Louisiana. Accordingly, the board estimates that the effect, if any, of this handful of new architects upon the marketplace and upon competition and employment will be minimal.

Tyson J. Ducote
Executive Director
2211#026

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Financial Institutions**

Virtual Currency Business Activity
(LAC 10:XV.Chapter 19)

On October 20, 2022, the Office of Financial Institutions (“OFI”) adopted an Emergency Rule, pursuant to R.S. 49:962A(1)(a). OFI’s Declaration of Emergency prevented imminent peril to the public health, safety, or welfare in implementation of licensure and registration to engage in virtual currency business activities in the State of Louisiana, as provided by the Virtual Currency Businesses Act (“VCBA”), R.S. 6:1381, et seq., enacted by Act 341 of the 2020 Regular Session of the Louisiana Legislature, without interruption, limitation or restriction of exchange and transfer of virtual currency during the initial application and renewal application processes. OFI is concurrently proceeding with adoption of this Rule, pursuant to R.S. 49:961A and 962A(5).

This proposed Rule amends LAC 10:I.1901, 1905, 1913, 1917, and 1923; and repeals LAC 10:I.1903, 1907, 1909, 1919, 1921 and 1925, in accordance with provisions of the Administrative Procedure Act, R.S. 49:950, et seq. This proposed Rule is intended to provide clear and concise guidance for implementation and enforcement of provisions of the VCBA, as required by R.S. 6:1394. The proposed amendment of LAC 10:I.1901 addresses industry concerns expressed to OFI. LAC 10:I.1903, 1917 and 1919 are consolidated into the surviving §1917; and LAC 10:I.1907, 1909, 1921 and 1925 are repealed in the interest of streamlining the initial application and renewal processes. LAC 10:I.1931 is amended in consistency with the amendment of §1901.

In considering industry concerns, OFI determined that it would be in the best interest of the industry and persons in Louisiana seeking to engage in the exchange and transfer of virtual currency to revisit the Rule. After further review, OFI determined that it is in the best interest of both the industry and persons wishing to exchange and transfer virtual currency to repeal LAC 10:I.1907, 1909, 1921 and 1925 in the interest of streamlining the initial application and renewal process.

Title 10

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES AND UCC
Part XV. Other Regulated Entities**

Chapter 19. Virtual Currency

§1901. Definitions

A. In addition to the definitions provided in Section 1382 of the Virtual Currency Businesses Act, (“VCBA”), R.S. 6:1381 et seq., as enacted by Act 341 of the 2020 Regular Session of the Louisiana Legislature, the following definitions are applicable to this Chapter.

Acting in Concert—persons knowingly acting together with a common goal of jointly acquiring control of a licensee whether or not pursuant to an express agreement.

Commissioner—the commissioner of the office of financial institutions.

Control—includes, but is not limited to the following:

a. any and all circumstances inherent within the scope of section 1382(2) of the VCBA;

b. power to directly or indirectly vote at least 25 percent of outstanding voting shares or voting interests of any:

i. applicant, licensee or registrant; or

ii. applicant’s, licensee’s or registrant’s responsible individual or responsible individuals, including persons acting in concert;

c. power to directly or indirectly elect, appoint or remove any applicant’s, licensee’s or registrant’s responsible individual or a majority of responsible individuals including persons acting in concert;

d. power to directly or indirectly participate in a licensee’s or registrant’s day-to-day decisions or operations, including persons acting in concert; and

e. any other set of facts or circumstances that may constitute control.

Nationwide Multistate Licensing System and Registry (NMLS)—the multistate system developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators and owned and operated by the State Regulatory Registry, LLC, or any successor or affiliated entity, for the licensing and registration of persons in financial services industries.

Net Worth—the difference between total business assets and total business liabilities, after deducting estimated income taxes on the differences between the estimated current values of business assets and the current amounts of business liabilities and their tax bases.

Tangible Net Worth—includes all business assets minus liabilities minus intangible assets (goodwill and other intangible assets, such as favorable leasehold rights, trademarks, trade names, internet domain names, and non-compete agreements.)

Unfair or Deceptive Act or Practice—failure to provide any disclosure or disclosures described in this Chapter is an unfair or deceptive act or practice by a licensee, registrant, or person that is neither a licensee nor registrant but is engaging in virtual currency business activity or activities, pursuant to R.S. 6:1393(3)(b).

Unsafe or Unsound Act or Practice—inability of any applicant, licensee or registrant to meet its withdrawal requests; violation of the applicant's, licensee's or registrant's articles of incorporation; or violation of any law or any regulation governing the applicant, licensee or registrant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1386, R.S. 6:1387, R.S. 6:1388, R.S. 6:1391, R.S. 6:1392, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2561 (October 2022), amended LR 49:

§1903. Implementation

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1383, R.S. 6:1385, R.S. 6:1386, R.S. 6:1387, R.S. 6:1388, R.S. 6:1391, R.S. 6:1392, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2562 (October 2022), repealed LR 49:

§1905. Application for License or Notice of Registration

A. The department shall begin accepting initial applications for licensure and notices of registration through the NMLS on January 1, 2023.

B. Completed applications for licensure and notices of registration submitted on or before April 1, 2023 will be approved, conditionally approved or denied on or before June 30, 2023.

C. This rule shall become effective on July 1, 2023.

D. Applications for licensure and notices of registration pursuant to this Section shall not be complete until the department:

1. receives all information required by applicable provisions of the VCBA; and

2. completes its investigation pursuant to R.S. 6:1385D.

E. By force of law, no applicant shall have a right of appeal, as provided by R.S. 6:1387, before the 30th day after the effective date of this rule.

F. After July 1, 2023, initial and renewal applications shall be submitted in accordance with the VCBA and this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1383, R.S. 6:1385, R.S. 6:1386, R.S. 6:1387, R.S. 6:1388, R.S. 6:1389, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2562 (October 2022), amended LR 49:

§1907. Approval of Control Person

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1386, R.S. 6:1387, R.S. 6:1388, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2562 (October 2022), repealed LR 49:

§1909. Approval of Change of Control

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1386, R.S. 6:1387, R.S. 6:1388, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2562 (October 2022), repealed LR 49:

§1913. Renewal of License or Notice of Registration

A. Any application for renewal of a license or notice of registration issued pursuant to provisions of the VCBA shall be submitted through the NMLS and satisfy all renewal requirements of the VCBA, including but not limited to those required by R.S. 6:1388.

B. Beginning July 1, 2023, the period for submitting applications for renewal of all licenses and notices of registration to engage in virtual currency business activities shall begin—on the first day of November of each calendar year.

C. A renewal application submitted on or before the thirty-first day of December shall be considered timely and the license or notice of registration seeks to renew shall remain in force and effect, as provided by the VCBA.

D.1. An application for renewal of any license or notice of registration shall be accompanied by both:

- a. the renewal fee; and
- b. the late fee.

2. If a licensee or registrant does not submit an application for renewal on or before the last day of February, the license or notice of registration shall lapse on the first day of March and the licensee or registrant shall cease engaging in virtual currency business in Louisiana, with persons and individuals in Louisiana or on behalf of persons or individuals in Louisiana, as provided by R.S. 6:1384.

3. Any person whose license or notice of registration has lapsed may apply for a new license or notice of registration, in accordance with the VCBA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1386, R.S. 6:1387, R.S. 6:1388, R.S. 6:1389, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2564 (October 2022), amended LR 49:

§1917. Examination

A. The commissioner may:

1. conduct on-site examination or investigation of the books, records, and accounts used in the business of every a licensee or registrant;

2. consider results of an inspection conducted by a comparable official in any in which the books, records, and accounts used in a licensee's or registrant's virtual currency business are located;

3. enter into agreements or relationships with other government officials or state and federal regulatory agencies;

4. consider licensing or examination reports prepared by other governmental agencies or officials, within or outside Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1386, R.S. 6:1387, R.S. 6:1388, R.S. 6:1389, R.S. 6:1391, R.S. 6:1392, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2564 (October 2022), amended LR 49:

§1919. Network Examination

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1386, R.S. 6:1387, R.S. 6:1388, R.S. 6:1389, R.S. 6:1391, R.S. 6:1392, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2564 (October 2022), repealed LR 49:

§1921. Renewal/Quarterly Reports

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1387, R.S. 6:1388, R.S. 6:1389, R.S. 6:1391; and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2565 (October 2022), repealed LR 49:

§1923. Records

A. Licensees engaging in virtual currency business activity in Louisiana shall maintain and preserve such books, records, and accounts of its virtual currency business activities, pursuant to R.S. 6:1391, for a period of five years, or longer, if required by the commissioner to resolve any examination, investigation, or complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1387, R.S. 6:1388, R.S. 6:1389, R.S. 6:1391, R.S. 6:1393, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2561 (October 2022), amended LR 48:

§1925. Policies and Procedures

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1387, R.S. 6:1388, R.S. 6:1389, R.S. 6:1391, R.S. 6:1393, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2565 (October 2022), repealed LR 49:

§1927. Consent Agreements

A. The commissioner may enter into a consent agreement at any time with a person to resolve a matter arising under the VCBA, or a rule adopted, or an agreement entered into, under the VCBA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1386, R.S. 6:1387, R.S. 6:1388, R.S. 6:1389, R.S. 6:1391, R.S. 6:1392, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2561 (October 2022), repromulgated LR 49:

§1929. Civil Penalties

A. The commissioner, in his discretion, may assess a civil penalty against a person that violates the VCBA or any rule promulgated pursuant to the VCBA, or any order issued by the commissioner pursuant thereto, not to exceed \$1,000 for each violation, plus the department’s costs and expenses for the investigation and prosecution of the matter, including reasonable attorney’s fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1387, R.S. 6:1388, R.S. 6:1392, R.S. 6:1393, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2561 (October 2022), repromulgated LR 49:

§1931. Miscellaneous Provisions

A. Failure to comply with this rule, or any other rule, or with any order issued by the department within a reasonable period of time may be considered in determining whether to waive any regulatory fee or to allow the filing of additional information relating to the application process. Noncompliance with any provisions of the VCBA, including but not limited to any provision or provisions pertaining to

ownership, control, security, net worth, registration, or failure to pay any fee may likewise be considered in determining whether to deny issuance or renewal of a license or notice of registration, or the commissioner’s institution of any investigative, administrative, or regulatory action within the scope of his authority.

B. All persons must be properly registered with the Louisiana Secretary of State, if required, prior to engaging in virtual currency business activity in the State of Louisiana.

C. Licensees engaging in virtual currency business activity in Louisiana are to provide proper disclosures to persons wishing to transfer or exchange virtual currency through the licensee or registrant. Disclosures are to be made separately from any other information provided by the licensee to such persons in a clear and conspicuous manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1387, R.S. 6:1388, R.S. 6:1389, R.S. 6:1392, R.S. 6:1393, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2561 (October 2022), amended LR 49:

§1933. Fees

A. Pursuant to the authority granted under R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1387, R.S. 6:1388, R.S. 6:1389, and R.S. 6:1391, the following fee structure is hereby established to cover necessary costs associated with the administration of the VCBA, R.S. 6:1381, et seq., as enacted by Act 341 of the 2020 Regular Session of the Louisiana Legislature.

Description	Fee
1. Initial Application Fee (\$2,500) and Investigation/Review Fee (\$2,500)	\$5,000
2. License Renewal Fee (\$2,000) and Investigation/Review Fee (\$2,000)	\$4,000/\$1,500 late fee
3. Examination Fee	\$50 per/hour for each examiner, plus the actual cost of subsistence, lodging, and transportation for out-of-state exams, not to exceed the amounts provided for in Division of Administration travel regulations in force at the time of such exam
4. Registration Fee	\$750 for initial application
5. Registration Renewal Fee	\$500 for any subsequent annual renewals /\$250 late fee

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1385, R.S. 6:1388, R.S. 6:1389, R.S. 6:1392, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2565 (October 2022), repromulgated LR 49:

§1935. Exceptions

A. Any request for an exception and/or waiver must be submitted in writing and requires the written approval of the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1386, R.S. 6:1387, R.S. 6:1388, R.S. 6:1389, R.S. 6:1392, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2566 (October 2022), repromulgated LR 49:

§1937. Severability

A. If any provision or item of this regulation, or the application thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of the regulation which can be given effect without the invalid provisions, items, or applications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, R.S. 6:121.2, R.S. 6:1385, R.S. 6:1386, R.S. 6:1387, R.S. 6:1388, R.S. 6:1389, R.S. 6:1392, and R.S. 6:1394.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 48:2566 (October 2022), repromulgated LR 49:

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. This proposed Rule has no known impact on family formation, stability, or autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule has no known impact on poverty, pursuant to R.S. 49:973.

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 has no known impact on small businesses, pursuant to R.S. 49:978.4.

Provider Impact Statement

The proposed Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may offer public comment through 5 p.m. CST on December 10, 2022, to Susan Rouprich, General Counsel, Office of Financial Institutions, 8660 United Plaza Boulevard, Second Floor, Baton Rouge, LA 70809.

Stanley M. Dameron
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Virtual Currency Business Activity

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

The proposed rule will increase cost in the Office of Financial Institutions (OFI) by \$144,306 in FY 23, \$330,806 in FY 24 and \$336,758 in FY 25. The OFI is currently responsible for the regulatory oversight of persons engaging in virtual currency business activity in the state of Louisiana pursuant to the Virtual Currency Act (VCBA), R.S. 6:1381 et seq., as enacted by Acts 341 of the 202 Regular Session in virtual currency business activity, or hold themselves out as being able to engage in virtual currency business activity, with or on behalf of a Louisiana resident, pursuant to the VCBA. The proposed rule will not result in any cost or savings to local governmental units.

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

The proposed rule will increase revenue collection by \$265,750 in FY 23, \$286,250 in FY 24, and \$372,250 in FY 25. The proposed rule will not have a material impact on OFI's source of funding, since the revenues generated will exceed the implementation costs. OFI expects revenue collections to

increase in subsequent years as more entities are licensed and/or file registrations in order to conduct virtual currency business activity in the state of Louisiana.

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

OFI anticipates the costs associated with implementation and regulation will be reasonable to directly affected persons, small businesses, or non-governmental groups resulting from the proposed rule. However, the economic benefits to directly affected persons, small business, or non-governmental groups could be substantial through the expansion of virtual currency business activity in the state of Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

OFI anticipates that the proposed rule will have a favorable impact on competition and employment in the private sector through the expansion of virtual currency business activity in the state of Louisiana.

Stanley M. Dameron
commissioner
2211#064

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Emergency Response Network**

LERN Destination Protocol:TRAUMA (LAC 48:I.19123)

Notice is hereby given that the Emergency Response Network Board has exercised the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and intends to codify in LAC 48:I.Chapter 191, Section 19123, a protocol adopted and promulgated on August 18, 2022, by the Emergency Response Network Board for the transport of trauma and time sensitive ill patients, adopted by authorized by R.S. 9:2798.5 (to replace the protocol adopted by December 10, 2015, codified in LAC 42:904 (December 10, 2015)) as LAC 48:I.Chapter 191, Section 19123. The rule will be effective January 1, 2023.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 15. Emergency Response Network

Chapter 191. Trauma Protocols

§19123. LERN Destination Protocol: TRAUMA

A. On August 18, 2022, the Louisiana Emergency Response Network Board [R.S. 40:2842(1) and (3)] adopted and promulgated "LERN Destination Protocol: TRAUMA", and replacing the "LERN Destination Protocol: TRAUMA" adopted and promulgated December 10, 2015, as follows:

1. Call LERN Communication Center at (866) 320-8293 for patients meeting the following criteria.

Assess for Extremis		
<ul style="list-style-type: none"> • Unmanageable airway • Tension pneumothorax • Traumatic cardiac arrest • Burn patient without patent airway • Burn patient > 40 percent BSA without IV or IO Access 	Yes→	Closest ED/Trauma Center

No↓		
Measure vital signs and Mental Status		
<ul style="list-style-type: none"> • Unable to follow commands (Motor GCS < 6) • RR <10 or > 29 breaths per minute (<20 in infant aged <1 year) • Respiratory distress or need for support • Room air pulse oximetry <90% • Age 0-9: SBP <70 mmHG + (2 x age in years) • Age 10-64: SBP <90 mmHG or HR > SBP • Age ≥ 65: SBP <110 mmHG or HR > SBP 	Yes→	<p>Transport to Trauma Center/ Trauma Program</p> <p>These patients should be transported to the highest level of care within the defined trauma system. This is a Level 1 or a Level 2 Trauma Center or Trauma Program.</p> <p><i>* If distance or patient condition impedes transport to Level 1 or 2, consider transport to a Level 3 Trauma Center/Trauma Program or most appropriate resourced hospital.</i></p>
No↓		
Assess Injury Patterns		
<ul style="list-style-type: none"> • All penetrating injuries to head, neck, torso, and extremities proximal to elbow or knee • Chest wall instability or deformity or suspected flail chest • Suspected fracture of two or more proximal long-bones • Crushed, de-gloved, mangled, or pulseless extremity • Amputation proximal to wrist or ankle • Suspected pelvic fracture • Skull deformity or suspected skull fracture • Suspected spinal injury with new motor or sensory loss • Active bleeding requiring a tourniquet or wound packing with continuous pressure 	Yes→	<p>Transport to Trauma Center/ Trauma Program</p> <p>These patients should be transported to the highest level of care within the defined trauma system. This is a Level I or a Level 2 Trauma Center or Trauma Program.</p> <p><i>* If distance or patient condition impedes transport to Level 1 or 2, consider transport to a Level 3 Trauma Center/Trauma Program or most appropriate resourced hospital</i></p>
No↓		
Assess mechanism of injury		
<ul style="list-style-type: none"> • Falls from height >10 feet (all ages) • High-risk auto crash <ul style="list-style-type: none"> -- Intrusion, including roof: <ul style="list-style-type: none"> - 12 inches occupant site; - 18 inches any site; - need for extrication for patient entrapped - Ejection (partial or complete) from automobile - Death in the same passenger compartment - Child (Age 0-9) unrestrained or in unsecured child safety seat - Vehicle telemetry data consistent with a high risk of injury • Auto vs. pedestrian/bicyclist 	Yes→	<p>Transport to Trauma Center/Trauma Program</p> <p>which, depending upon the defined trauma system, need not be the highest level trauma center/program. If no Trauma Center/Trauma Program in the region, LCC may route to the most appropriate resourced hospital.</p>

<ul style="list-style-type: none"> thrown, run over, or with significant (>20 mph) impact • Rider separated from transport vehicle with significant impact (ex: motorcycle, ATV, Horse, etc.) 		
No↓		
Assess special patient or system considerations		
<ul style="list-style-type: none"> • Older Adults <ul style="list-style-type: none"> - Age ≥ 65 with evidence of traumatic injury - Fall from any height with evidence of significant head impact - Use of anticoagulant or antiplatelet drugs • Children <ul style="list-style-type: none"> - Age ≤ 5 with evidence of traumatic injury - Fall from any height with evidence of significant head impact • Burns <ul style="list-style-type: none"> - In conjunction with trauma - High voltage electrical injuries • Pregnancy >20 weeks • Major joint dislocations (hip, knee, ankle, elbow) • EMS provider judgment 	Yes→	<p>Transport to Trauma Center/Trauma Program or hospital capable of timely and thorough evaluation and initial management of potentially serious injuries. Consider consultation with medical control.</p>
No↓		
Multi/Mass Casualty Incident	No→	Transport according to protocol

1. When in doubt, transport to a trauma center.
 AUTHORITY NOTE: Promulgated in accordance with R.S. 9:2798.5 and R.S. 40:2846(A).
 HISTORICAL NOTE: Promulgated by the Department of Health, Emergency Response Network, LR 42:

Family Impact Statement

1. What effect will these rules have on the stability of the family? The proposed Rule will not affect the stability of the family.
2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.
3. What effect will this have on the functioning of the family? This Rule will not affect the functioning of the family.
4. What effect will this have on family earnings and family budget? This Rule will not affect the family earnings or family budget.
5. What effect will this have on the behavior and personal responsibility of children? This Rule will not affect the behavior or personal responsibility of children.
6. Is the family or local government able to perform the function as contained in this proposed Rule? No, the proposed Rule will have no impact.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

The impact of the proposed amendment to Section 9119 of the Rule on small business has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small business as defined in the Regulatory Flexibility Act. 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 business.

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 no increase on direct or indirect cost. The proposed Rule 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 relative to the proposed Rule until 4:30 p.m., Monday, December 10, 2022 to Paige Hargrove, Louisiana Emergency Response Network, 14141 Airline Hwy., Suite B, Building 1, Baton Rouge, LA 70817, or via email to paige.hargrove@la.gov.

Paige Hargrove
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: LERN Destination Protocol:TRAUMA

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

This proposed rule adopts Louisiana Administrative Code (LAC) Title 48 – Public Health General, Part I – General Administration, Subpart 15 – Louisiana Emergency Response Network Board, Chapter 191 – Trauma Protocols, Section 19123 – Destination Protocol: TRAUMA. The Louisiana Emergency Response Network (LERN) Board is authorized to adopt protocols for the transport and time sensitive ill patients.

Since 2009, the LERN Board has previously adopted protocols for trauma patients that were published in the Potpourri Section (announcements and various information that will never become part of the LAC) of the *State Register*. Those became rules on August, 18, 2022. The LERN Board revised and adopted “Destination Protocol: TRAUMA”, to be effective January 1, 2023, which will replace the previous trauma destination protocol adopted and promulgated December 10, 2015. The revised destination protocol aligns closely with the 2021 National Guidelines for the “Field Triage of Injured Patients” and continues to recognize trauma programs as part of the destination for trauma patients. This proposed rule codifies the revised trauma destination protocol in section 19123, which is the latest trauma protocol adopted by the Louisiana Emergency Response Network Board.

Other than the cost to publish in the *State Register*, which is estimated to be \$426 in FY23, it is not anticipated that the proposed rule will result in any material costs or savings to LERN or any state or local governmental unit.

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

There is no anticipated effect on revenue collections of state or local governmental units as a result of this proposed rule change.

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

There are no estimated costs and/or economic benefits to directly affected persons, small businesses, or nongovernmental groups. The proposed rule is simply a codification of protocols authorized by La. R.S. 9:2798.5A.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment.

Paige B. Hargrove
Executive Director
2211#037

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Examiners of Psychologists

Code of Ethics for Licensed Specialists
(LAC 46:LXIII.Chapter 42)

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 adopt Sections 4203, 4205, 4207, 4209, 4211 and amend Section 4201 related to the code of ethics for Licensed Specialists in School Psychology in accordance with the Louisiana Licensing Law for Psychologist R.S. 37:2353.C(1) 37:2357.C(4), 37:2352(7), and the Administrative Procedures Act §968 and 971.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXIII. Psychologists

Subpart 2. Licensed Specialists in School Psychology Chapter 42. Ethical Standards for Licensed Specialists in School Psychology

§4201. Ethical Principles and Code of Conduct

A. Licensed Specialists in School Psychology, hereinafter referred to as LSSP, adhere to the Ethical Standards in this Chapter to ensure the respect dignity, and rights of all persons are maintained; to ensure professional competence and responsibility; to ensure honesty and integrity in professional relationships; and to ensure responsibility to schools, families, communities, the profession, and society.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, 41:2627 (December 2015), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:

§4203. Definitions

A. The following definitions are applicable Chapter 42 and specialists in school psychology only.

Advocacy—LSSPs have a special obligation to speak up for the rights and welfare of students and families, and to provide a voice to clients who cannot or do not wish to speak for themselves. *Advocacy* also occurs when LSSPs use their expertise in psychology and education to promote changes in schools, systems, and laws that will benefit schoolchildren, other students, and families. Nothing in this code of ethics, however, should be construed as requiring LSSPs to engage in insubordination (willful disregard of an employer’s lawful instructions) or to file a complaint about school practices with a federal or state regulatory agency as part of their advocacy efforts.

Assent—refers to a minor’s affirmative agreement to participate in psychological services or research.

Child—as defined in law, generally refers to a minor, a person younger than the age of majority. Although this term may be regarded as demeaning when applied to teenagers, it is used in this document when necessary to denote minor status. The term *student* is used when a less precise term is adequate.

Client—the person or persons with whom the LSSP establishes a professional relationship for the purpose of providing school psychological services. The LSSP–client professional relationship is established by an informed agreement with client(s) about the LSSPs ethical and other duties to each party. While not clients per se, classrooms, schools, and school systems also may be recipients of school psychological services and often are parties with an interest in the actions of LSSPs.

Informed Consent—the person giving consent has the legal authority to make a consent decision, a clear understanding of what it is they are consenting to, and that their consent is freely given and may be withdrawn without prejudice. It is recommended that school distributed parent handbooks and websites advise parents that a student may be seen by school health or mental health professionals (e.g., school nurse, counselor, social worker, LSSP) without parent notice or consent to ensure that the student is safe or is not a danger to others. Parents should also be advised that LSSPs routinely assist teachers in planning classroom instruction and monitoring its effectiveness and do not need to notify parents of, or seek consent for, such involvement in student support.

Parent—may be defined in law or policy, and can include the birth or adoptive parent, an individual acting in the place of a natural or adoptive parent (a grandparent or other relative, stepparent, or domestic partner), and/or an individual who is legally responsible for the child’s welfare.

Private Practice—the LSSP may provide *private practice* under the supervision of a licensed psychologist to provide school psychological services. In *private practice*, billing for the services of the LSSP is the responsibility of the licensed psychologist.

School-Based Practice—refers to the provision of school psychological services under the authority of a state, regional, or local educational agency. *School-based practice* occurs if the LSSP is an employee of the schools or contracted by the schools on a per-case or consultative basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:

§4205. Respecting the Dignity and Rights of All Persons

A. LSSPs engage only in professional practices that maintain the dignity of all with whom they work. In their words and actions, LSSPs demonstrate respect for the autonomy of persons and their right to self-determination, respect for privacy, and a commitment to just and fair treatment of all persons.

1. Autonomy and Self-Determination (Consent and Assent). SSPs respect the right of persons to participate in decisions affecting their own welfare.

a. LSSPs encourage and promote parental participation in school decisions affecting their children (see 4207.A.3. Responsible Assessment and Intervention Practices). However, where LSSPs are members of the school’s educational support staff, not all of their services require informed parent consent. It is ethically permissible to provide school-based consultation services regarding a child or adolescent to a student assistance team or teacher without informed parent consent as long as the resulting interventions are under the authority of the teacher and within the scope of typical classroom interventions. Parent consent is not ethically required for a school based LSSP to review a student’s educational records, conduct classroom observations, assist in within-classroom interventions and progress monitoring, or to participate in educational screenings conducted as part of a regular program of instruction. Parent consent is required if the consultation about a particular child or adolescent is likely to be extensive and ongoing and/or if school actions may result in a significant intrusion on student or family privacy beyond what might be expected in the course of ordinary school activities. Parents must be notified prior to the administration of school- or classroom-wide screenings for mental health problems and given the opportunity to remove their child or adolescent from participation in such screenings.

b. Except for urgent situations or self-referrals by a minor student, LSSPs seek parent consent (or the consent of an adult student) prior to establishing a professional relationship for the purpose of psychological diagnosis, assessment of eligibility for special education or disability accommodations, or to provide ongoing individual or group counseling or other non-classroom therapeutic intervention. It is recommended that school distributed parent handbooks and websites advise parents that a minor student may be seen by school health or mental health professionals (e.g., school nurse, counselor, social worker, LSSP) without parent notice or consent to ensure that the student is safe or is not a danger to others. Parents should also be advised that LSSPs routinely assist teachers in planning classroom instruction and monitoring its effectiveness and do not need to notify parents of, or seek consent for, such involvement in student support.

i. It is ethically permissible to provide psychological assistance without parent notice or consent in emergency situations or if there is reason to believe a student may pose a danger to others; is at risk for self-harm; or is in danger of injury, exploitation, or maltreatment.

ii. When a student who is a minor self-refers for assistance, it is ethically permissible to provide psychological assistance without parent notice or consent for one or several meetings to establish the nature and degree of

the need for services and assure the child is safe and not in danger. It is ethically permissible to provide services to mature minors without parent consent where allowed by state law and school policy. However, if the student is not old enough to receive school psychological assistance independent of parent consent, the LSSP obtains parent consent to provide continuing assistance to the student beyond the preliminary meetings or refers the student to alternative sources of assistance that do not require parent notice or consent.

iii. LSSPs ensure that an individual providing consent for school psychological services is fully informed about the nature and scope of services offered, assessment/intervention goals and procedures, any foreseeable risks, the cost of services to the parent or student (if any), and the benefits that reasonably can be expected. The explanation includes discussion of the limits of confidentiality, who will receive information about assessment or intervention outcomes, and the possible consequences of the assessment/intervention services being offered. Available alternative services are identified, if appropriate. This explanation takes into account language and cultural differences, cognitive capabilities, developmental level, age, and other relevant factors so that it may be understood by the individual providing consent. LSSPs appropriately document written or oral consent. Any service provision by interns, practicum students, or other trainees is explained and agreed to in advance, and the identity and responsibilities of the supervising LSSP are explained prior to the provision of services.

c. LSSPs encourage a student's voluntary participation in decision-making about school psychological services as much as feasible. Ordinarily, LSSPs seek the student's assent to services; however, it is ethically permissible to bypass minor student assent to services if the service is considered to be of direct benefit to the student and/or is required by law. It is recommended that school distributed parent handbooks and websites advise parents that a student may be seen by school health or mental health professionals (e.g., school nurse, counselor, social worker, LSSP) without parent notice or consent to ensure that the student is safe or is not a danger to others. Parents should also be advised that LSSPs routinely assist teachers in planning classroom instruction and monitoring its effectiveness and do not need to notify parents of, or seek consent for, such involvement in student support.

i. If a student's assent for services is not solicited, LSSPs nevertheless honor the student's right to be informed about the services provided.

ii. When a student is given a choice regarding whether to accept or refuse services, the LSSP ensures the student understands what is being offered, honors the student's stated choice, and guards against overwhelming the student with choices the student does not wish or is not able to make.

d. LSSPs respect the wishes of parents who object to school psychological services and attempt to guide parents to alternative resources.

2. Privacy and Confidentiality. LSSPs respect the right of persons to choose for themselves whether to disclose their private thoughts, feelings, beliefs, and behaviors.

a. LSSPs respect the right of persons to self-determine whether to disclose private information.

b. LSSPs minimize intrusions on privacy. They do not seek or store private information about clients that is not needed in the provision of services. LSSPs recognize that client-LSSP communications are privileged in most jurisdictions and do not disclose information that would put the student or family at legal, social, or other risk if shared with third parties, except as permitted by the mental health provider-client privilege laws in their state.

c. LSSPs inform students and other clients of the boundaries of confidentiality at the outset of establishing a professional relationship. They seek a shared understanding with clients regarding the types of information that will and will not be shared with third parties. However, if a child or adolescent is in immediate need of assistance, it is permissible to delay the discussion of confidentiality until the immediate crisis is resolved. LSSPs recognize that it may be necessary to discuss confidentiality at multiple points in a professional relationship to ensure client understanding and agreement regarding how sensitive disclosures will be handled.

d. LSSPs respect the confidentiality of information obtained during their professional work. Information is not revealed to third parties without the agreement of a minor child's parent or legal guardian (or an adult student), except in those situations in which failure to release information would result in danger to the student or others, or where otherwise required by law. Whenever feasible, student assent is obtained prior to disclosure of their confidences to third parties, including disclosures to the student's parents.

e. LSSPs discuss and/or release confidential information only for professional purposes and only with persons who have a legitimate need to know. They do so within the strict boundaries of relevant privacy statutes.

f. LSSPs respect the right of privacy of students, parents, and colleagues with regard to sexual orientation, gender identity, or transgender status. They do not share information about the sexual orientation, gender identity, or transgender status of a student (including minors), parent, or school employee with anyone without that individual's permission.

g. LSSPs respect the right of privacy of students, their parents and other family members, and colleagues with regard to sensitive health information (e.g., presence of a communicable disease). They do not share sensitive health information about a student, parent, or school employee with others without that individual's permission (or the permission of a parent or guardian in the case of a minor). LSSPs consult their state laws and department of public health for guidance if they believe a client poses a health risk to others.

3. Fairness and Justice. In their words and actions, LSSPs promote fairness and justice. They use their expertise to cultivate school climates that are safe and welcoming to all persons regardless of actual or perceived characteristics, including race, ethnicity, color, religion, ancestry, national origin, immigration status, socioeconomic status, primary language, gender, sexual orientation, gender identity, gender expression, disability, or any other distinguishing characteristics.

a. LSSPs do not engage in or condone actions or policies that discriminate against persons, including students and their families, other recipients of service, supervisees, and colleagues based on actual or perceived characteristics including race; ethnicity; color; religion; ancestry; national origin; immigration status; socioeconomic status; primary language; gender; sexual orientation, gender identity, or gender expression; mental, physical, or sensory disability; or any other distinguishing characteristics.

b. LSSPs pursue awareness and knowledge of how diversity factors may influence child development, behavior, and school learning. In conducting psychological, educational, or behavioral evaluations or in providing interventions, therapy, counseling, or consultation services, the LSSP takes into account individual characteristics, including race, ethnicity, color, religion, ancestry, national origin, immigration status, socioeconomic status, primary language, gender, sexual orientation, gender identity, gender expression, disability, or any other distinguishing characteristics so as to provide effective services.

c. LSSPs work to correct school practices that are unjustly discriminatory or that deny students, parents, or others their legal rights. They take steps to foster a school climate that is safe, accepting, and respectful of all persons.

d. LSSPs strive to ensure that all children have equal opportunity to participate in and benefit from school programs and that all students and families have access to and can benefit from school psychological services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:

§4207. Professional Competence and Responsibility

A. Beneficence, or responsible caring, means that the LSSP acts to benefit others. To do this, LSSPs must practice within the boundaries of their competence, use scientific knowledge from psychology and education to help clients and others make informed choices, and accept responsibility for their work.

1. To benefit clients, LSSPs engage only in practices for which they are qualified and competent.

a. LSSPs recognize the strengths and limitations of their training and experience, engaging only in practices for which they are qualified. They enlist the assistance of other professionals in supervisory, consultative, or referral roles as appropriate in providing effective services.

b. Practitioners are obligated to pursue knowledge and understanding of the diverse cultural, linguistic, and experiential backgrounds of students, families, and other clients. When knowledge and understanding of diversity characteristics are essential to ensure competent assessment, intervention, or consultation, LSSPs have or obtain the training or supervision necessary to provide effective services, or they make appropriate referrals.

c. LSSPs refrain from any activity in which their personal problems may interfere with professional effectiveness. They seek assistance when personal problems threaten to compromise their professional effectiveness (also see §4209.A.4. Multiple Relationships and Conflicts of Interest).

d. LSSPs engage in continuing professional development. They remain current regarding developments in research, training, and professional practices that benefit

children, families, and schools. They also understand that professional skill development beyond that of the novice practitioner requires well-planned continuing professional development and professional supervision.

2. Accepting Responsibility for Actions. LSSPs accept responsibility for their professional work, monitor the effectiveness of their services, and work to correct ineffective recommendations.

a. LSSPs review all of their written documents for accuracy, signing them only when correct. They may add an addendum, dated and signed, to a previously submitted report if information is found to be inaccurate or incomplete.

b. LSSPs actively monitor the impact of their recommendations and intervention plans. They revise a recommendation, or modify or terminate an intervention plan, when data indicate the desired outcomes are not being attained. LSSPs seek the assistance of others in supervisory, consultative, or referral roles when progress monitoring indicates that their recommendations and interventions are not effective in assisting a client.

c. LSSPs accept responsibility for the appropriateness of their professional practices, decisions, and recommendations. They correct misunderstandings resulting from their recommendations, advice, or information and take affirmative steps to offset any harmful consequences of ineffective or inappropriate recommendations.

d. When supervising graduate students' field experiences or internships, LSSPs are responsible for the work of their supervisees.

3. Responsible Assessment and Intervention Practices. LSSPs maintain the highest standard for responsible professional practices in educational and psychological assessment and direct and indirect interventions.

a. Prior to the consideration of a disability label or category, the effects of current behavior management and/or instructional practices on the student's school performance are considered.

b. LSSPs use assessment techniques and practices that the profession considers to be responsible, research-based practice.

i. LSSPs use assessment instruments whose validity and reliability have been established for use with members of the population tested. When such validity or reliability has not been established, psychologists describe the strengths and limitations of test results and interpretation.

ii. LSSPs use assessment methods that are appropriate to an individual's language preference and competence, unless the use of an alternative language is relevant to the assessment issues.

iii. When using standardized measures, LSSPs adhere to the procedures for administration of the instrument that is provided by the author or publisher of the instrument. If modifications are made in the administration procedures for standardized tests or other instruments, such modifications are identified and discussed in the interpretation of the results.

iv. If using norm-referenced measures, LSSPs choose instruments with up-to-date normative data.

v. When using computer-administered assessments, computer-assisted scoring, and/or interpretation programs, LSSPs choose programs that meet professional

standards for accuracy and validity. LSSPs use professional judgment in evaluating the accuracy of computer-assisted assessment findings for the examinee.

c. A psychological or psychoeducational assessment is based on a variety of different types of information from different sources.

d. Consistent with education law and sound professional practice, children with suspected disabilities are assessed in all areas related to the suspected disability.

e. LSSPs conduct valid and fair assessments. They actively pursue knowledge of the student's disabilities and developmental, cultural, linguistic, and experiential background and then select, administer, and interpret assessment instruments and procedures in light of those characteristics (see also §4205.A.3.a and §4205.A.3.b).

f. When interpreters are used to facilitate the provision of assessment and intervention services, LSSPs take steps to ensure that the interpreters are appropriately trained and are acceptable to clients.

g. It is permissible for LSSPs to make recommendations based solely on a review of existing records. However, they should utilize a representative sample of records and explain the basis for, and the limitations of, their recommendations.

h. LSSPs adequately interpret findings and present results in clear, understandable terms so that the recipient can make informed choices.

i. LSSPs use intervention, counseling and therapy procedures, consultation techniques, and other direct and indirect service methods that the profession considers to be responsible, research-based practice:

i. LSSPs use a problem-solving process to develop interventions appropriate to the presenting problems and that are consistent with data collected.

ii. Preference is given to interventions described in the peer-reviewed professional research literature and LSSPs encourage and promote parental participation in designing interventions for their children. When appropriate, this includes linking interventions between the school and the home, tailoring parental involvement to the skills of the family, and helping parents gain the skills needed to help their children.

j. LSSPs discuss with parents the recommendations and plans for assisting their children.

i. This discussion takes into account the ethnic/cultural values of the family and includes alternatives that may be available. Subsequent recommendations for program changes or additional services are discussed with parents, including any alternatives that may be available.

ii. Parents are informed of sources of support available at school and in the community.

k. LSSPs discuss with students the recommendations and plans for assisting them. To the maximum extent appropriate, students are invited to participate in selecting and planning interventions.

4. Responsible School-Based Record Keeping. LSSPs safeguard the privacy of school psychological records and ensure parent access to the records of their own children.

a. LSSPs ensure that parents and adult students are informed of their rights regarding creation, modification, storage, and disposal of psychological and educational records that result from the provision of services. Parents

and adult students are notified of the electronic storage and transmission of personally identifiable school psychological records and the associated risks to privacy.

b. LSSPs ensure that documentation of their work is maintained with sufficient detail to be useful in decision making by another professional and with sufficient detail to withstand scrutiny if challenged in a due process or other legal procedure.

c. LSSPs include only documented and relevant information from reliable sources in school psychological records.

d. LSSPs ensure that parents have appropriate access to the psychological and educational records of their child.

i. Parents have a right to access any and all information that is used to make educational decisions about their child.

ii. LSSPs respect the right of parents to inspect, but not necessarily to copy, their child's answers to school psychological test questions, even if those answers are recorded on a test protocol (also see §4207.A.5.a).

e. LSSPs take steps to ensure that information in school psychological records is not released to persons or agencies outside of the school without the consent of the parent except as required and permitted by law.

f. To the extent that school psychological records are under their control, LSSPs ensure that only those school personnel who have a legitimate educational interest in a student are given access to the student's school psychological records without prior parent permission or the permission of an adult student.

g. To the extent that school psychological records are under their control, LSSPs protect electronic files from unauthorized release or modification (e.g., by using passwords and encryption), and they take reasonable steps to ensure that school psychological records are not lost due to equipment failure.

h. It is ethically permissible for LSSPs to keep private notes to use as a memory aid that are not made accessible to others. However, as noted in §4207.A.4.d, any and all information that is used to make educational decisions about a student must be accessible to parents and adult students.

i. LSSPs, in collaboration with administrators and other school staff, work to establish policies regarding the storage and disposal of school psychological records that are consistent with law and sound professional practice. They advocate for school policies and practices that:

i. safeguard the security of school psychological records while facilitating appropriate parent access to those records;

ii. identify timelines for the periodic review and disposal of outdated school psychological records that are consistent with law and sound professional practice;

iii. seek parent or other appropriate permission prior to the destruction of obsolete school psychological records of current students;

iv. ensure that obsolete school psychology records are destroyed in a way that the information cannot be recovered.

5. Responsible Use of Materials. LSSPs respect the intellectual property rights of those who produce tests, intervention materials, scholarly works, and other materials.

a. LSSPs maintain test security, preventing the release of underlying principles and specific content that would undermine or invalidate the use of the instrument. Unless otherwise required by law or policy, LSSPs provide parents with the opportunity to inspect and review their child's test answers rather than providing them with copies of their child's test protocols.

b. LSSPs do not promote or condone the use of restricted psychological and educational tests or other assessment tools or procedures by individuals who are not qualified to use them.

c. LSSPs recognize the effort and expense involved in the development and publication of psychological and educational tests, intervention materials, and scholarly works. They respect the intellectual property rights and copyright interests of the producers of such materials, whether the materials are published in print or digital formats. They do not duplicate copyright-protected test manuals, testing materials, or unused test protocols without the permission of the producer. However, LSSPs understand that, at times, parents' rights to examine their child's test answers may supersede the interests of test publishers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:

§4209. Honesty and Integrity in Professional Relationships

A. To foster and maintain trust, LSSPs must be committed to the truth and adhere to their professional agreements. They are forthright about their qualifications, competencies, and roles; work in full cooperation with other professional disciplines to meet the needs of students and families; and avoid multiple relationships that diminish their professional effectiveness.

1. Accurate Presentation of Professional Qualifications. LSSPs accurately identify their professional qualifications to others.

a. Competency levels, education, training, experience, and certification and licensing credentials are accurately represented to clients, recipients of services, and others. LSSPs correct any misperceptions of their qualifications. LSSPs do not represent themselves as specialists in a particular domain without verifiable training and supervised experience in the specialty.

b. LSSPs do not use affiliations with persons, associations, or institutions to imply a level of professional competence that exceeds that which has actually been achieved.

2. Forthright Explanation of Professional Services, Roles, and Priorities. LSSPs are candid about the nature and scope of their services.

a. LSSPs explain their professional competencies, roles, assignments, and working relationships to recipients of services and others in their work setting in a forthright and understandable manner. School psychologists explain all professional services to clients in a clear, understandable manner (see §4205.A.1.b).

b. LSSPs make reasonable efforts to become integral members of the client service systems to which they are assigned. They establish clear roles for themselves within those systems while respecting the various roles of colleagues in other professions.

c. LSSPs communicate to school administration and staff their commitment to protecting the rights and welfare of clients is communicated to the school administration, staff, and others as the highest priority in determining services.

d. LSSPs who provide services to several different groups (e.g., families, teachers, classrooms) may encounter situations in which loyalties are conflicted. As much as possible, LSSPs make known their priorities and commitments in advance to all parties to prevent misunderstandings.

e. LSSPs ensure that announcements and advertisements of the availability of their publications, products, and services for sale are factual and professional. They do not misrepresent their degree of responsibility for the development and distribution of publications, products, and services.

3. Respecting Other Professionals. To best meet the needs of children, LSSPs cooperate with other professionals in relationships based on mutual respect.

a. To meet the needs of children and other clients most effectively, LSSPs cooperate with other psychologists and professionals from other disciplines in relationships based on mutual respect. They encourage and support the use of all resources to serve the interests of students. If a child or other client is receiving similar services from another professional, LSSPs promote coordination of services.

b. If a child or other client is referred to another professional for services, LSSPs ensure that all relevant and appropriate individuals, including the client, are notified of the change and reasons for the change. When referring clients to other professionals, LSSPs provide clients with lists of suitable practitioners from whom the client may seek services.

c. Except when supervising graduate students, LSSPs do not alter reports completed by another professional without their permission to do so.

4. Multiple Relationships and Conflicts of Interest. LSSPs avoid multiple relationships and conflicts of interest that diminish their professional effectiveness.

a. This Chapter provides standards for professional conduct. LSSPs, in their private lives, are free to pursue their personal interests, except to the degree that those interests compromise professional effectiveness.

b. LSSPs refrain from any activity in which conflicts of interest or multiple relationships with a client or a client's family may interfere with professional effectiveness. LSSPs attempt to resolve such situations in a manner that provides greatest benefit to the client. LSSPs whose personal or religious beliefs or commitments may influence the nature of their professional services or their willingness to provide certain services inform clients and responsible parties of this fact. When personal beliefs, conflicts of interests, or multiple relationships threaten to diminish professional effectiveness or would be viewed by

the public as inappropriate, LSSPs ask their supervisor for reassignment of responsibilities, or they direct the client to alternative services.

c. LSSPs do not exploit clients, supervisees, or graduate students through professional relationships or condone these actions by their colleagues. They do not participate in or condone sexual harassment of children, parents, other clients, colleagues, employees, trainees, supervisees, or research participants. LSSPs do not engage in sexual relationships with individuals over whom they have evaluation authority, including college students in their classes or program, or any other trainees, or supervisees. LSSPs do not engage in sexual relationships with their current or former pupil-clients; the parents, siblings, or other close family members of current pupil-clients; or current consultees.

d. LSSPs are cautious about business and other relationships with clients that could interfere with professional judgment and effectiveness or potentially result in exploitation of a client.

e. The LSSPs financial interests in a product (e.g., tests, computer software, professional materials) or service can influence their objectivity or the perception of their objectivity regarding that product or service. For this reason, LSSPs are obligated to disclose any significant financial interest in the products or services they discuss in their presentations or writings if that interest is not obvious in the authorship/ownership citations provided.

f. LSSPs neither give nor receive any remuneration for referring children and other clients for professional services.

g. LSSPs do not accept any remuneration in exchange for data from their client database without the permission of their employer and a determination of whether the data release ethically requires informed client consent.

h. LSSPs who provide school-based services and also engage in the provision of private practice services (dual setting practitioners) recognize the potential for conflicts of interests between their two roles and take steps to avoid such conflicts. Dual setting practitioners:

i. are obligated to inform parents or other potential clients of any psychological and educational services available at no cost from the schools prior to offering such services for remuneration;

ii. may not offer or provide private practice services to a student of a school or special school program where the practitioner is currently assigned;

iii. may not offer or provide private practice services to the parents or family members of a student eligible to attend a school or special school program where the practitioner is currently assigned;

iv. may not offer or provide an independent evaluation as defined in special education law for a student who attends a local or cooperative school where the practitioner is employed;

v. do not use tests, materials, equipment, facilities, secretarial assistance, or other services belonging to the public sector employer unless approved in advance by the employer;

vi. conduct all private practice outside of the hours of contracted public employment;

vii. hold appropriate credentials for practice in both the public and private sectors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:

§4211. Responsibility to Schools, Families,

Communities, the Profession, and Society

A. LSSPs promote healthy school, family, and community environments. They assume a proactive role in identifying social injustices that affect children and schools and strive to reform systems-level patterns of injustice. They maintain the public trust in LSSPs by respecting law and encouraging ethical conduct. LSSPs advance professional excellence by mentoring less experienced practitioners and contributing to the school psychology knowledge base.

1. Promoting Healthy School, Family, and Community Environments. LSSPs use their expertise in psychology and education to promote school, family, and community environments that are safe and healthy for children.

a. To provide effective services and systems consultation, LSSPs are knowledgeable about the organization, philosophy, goals, objectives, culture, and methodologies of the settings in which they provide services. In addition, LSSPs develop partnerships and networks with community service providers and agencies to provide seamless services to children and families.

b. LSSPs use their professional expertise to promote changes in schools and community service systems that will benefit children and other clients. They advocate for school policies and practices that are in the best interests of children and that respect and protect the legal rights of students and parents.

2. Respect for Law and the Relationship of Law and Ethics. LSSPs are knowledgeable of and respect laws pertinent to the practice of school psychology. In choosing an appropriate course of action, they consider the relationship between law and their professional ethics herein.

a. LSSPs recognize that an understanding of the goals, procedures, and legal requirements of their particular workplace is essential for effective functioning within that setting.

b. LSSPs respect the law and the civil and legal rights of students and other clients. The Ethical Standards for LSSPs promulgated under this Chapter may require a more stringent standard of conduct than law, and in those situations LSSPs are expected to adhere to this Chapter.

c. When conflicts between ethics and law occur, LSSPs take steps to resolve the conflict through positive, respected, and legal channels. If not able to resolve the conflict in this manner, they may abide by the law, as long as the resulting actions do not violate basic human rights.

d. LSSPs may act as individual citizens to bring about change in a lawful manner. They identify when they are speaking as private citizens rather than as employees. They also identify when they speak as individual professionals rather than as representatives of a professional association.

e. Maintaining Public Trust by Self-Monitoring and Peer Monitoring. LSSPs accept responsibility to monitor their own conduct and the conduct of other LSSPs to ensure it conforms to ethical standards.

f. LSSPs know the Ethical Standards for LSSPs and thoughtfully apply them to situations within their employment context. In difficult situations, LSSPs consult experienced licensed psychologists, LSSPs or the Licensed Specialist in School Psychology Advisory Committee to the Louisiana State Board of Examiners of Psychologists.

g. When an LSSP suspects that another LSSP or another professional has engaged in unethical practices, the LSSP attempts to resolve the suspected problem through a collegial problem-solving process, if feasible.

h. If a collegial problem-solving process is not possible or productive, LSSPs take further action appropriate to the situation, including discussing the situation with a supervisor in the employment setting, consulting state association ethics committees, and, if necessary, filing a formal ethical violation complaint with the Louisiana State Board of Examiners of Psychologists and/or other appropriate regulatory agency in accordance with their procedures.

3. Contributing to the Profession by Mentoring, Teaching, and Supervision. As part of their obligation to students, schools, society, and their profession, LSSPs mentor less experienced practitioners and graduate students to assure high quality services, and they serve as role models for sound ethical and professional practices and decision making.

a. LSSPs who serve as directors of graduate education programs provide current and prospective graduate students with accurate information regarding program accreditation, goals and objectives, graduate program policies and requirements, and likely outcomes and benefits.

b. LSSPs who supervise practicum students and interns are responsible for all professional practices of the supervisees. They ensure that practicum students and interns are adequately supervised as outlined in the NASP Graduate Preparation Standards for School Psychologists. Interns and graduate students are identified as such, and their work is cosigned by the supervising LSSP.

c. LSSPs who employ, supervise, or train professionals provide appropriate working conditions, fair and timely evaluation, constructive supervision, and continuing professional development opportunities.

d. LSSPs who are faculty members at universities or who supervise graduate education field experiences apply these ethical principles in all work with school psychology graduate students. In addition, they promote the ethical practice of graduate students by providing specific and comprehensive instruction, feedback, and mentoring.

4. Contributing to the School Psychology Knowledge Base. To improve services to children, families, and schools, and to promote the welfare of children, LSSPs are encouraged to contribute to the school psychology knowledge base by participating in, assisting in, or conducting and disseminating research.

a. When designing and conducting research in schools, LSSPs choose topics and employ research methodology, research participant selection procedures,

data-gathering methods, and analysis and reporting techniques that are grounded in sound research practice. LSSPs identify their level of training and graduate degree to potential research participants.

b. LSSPs respect the rights, and protect the well-being, of research participants. LSSPs obtain appropriate review and approval of proposed research prior to beginning their data collection.

i. Prior to initiating research, LSSPs and graduate students affiliated with a university, hospital, or other agency subject to the U.S. Department of Health and Human Services (DHHS) regulation of research first obtain approval for their research from their Institutional Review Board for Research Involving Human Subjects (IRB) as well as the school or other agency in which the research will be conducted. Research proposals that have not been subject to IRB approval should be reviewed by individuals knowledgeable about research methodology and ethics and approved by the school administration or other appropriate authority.

ii. In planning research, LSSPs are ethically obligated to consider carefully whether the informed consent of research participants is needed for their study, recognizing that research involving more than minimum risk requires informed consent, and that research with students involving activities that are not part of ordinary, typical schooling requires informed consent. Consent and assent protocols provide the information necessary for potential research participants to make an informed and voluntary choice about participation. LSSPs evaluate the potential risks (including risks of physical or psychological harm, intrusions on privacy, breach of confidentiality) and benefits of their research and only conduct studies in which the risks to participants are minimized and acceptable.

c. LSSPs who use their assessment, intervention, or consultation cases in lectures, presentations, or publications obtain written prior client consent or they remove or disguise identifying client information.

d. LSSPs do not publish or present fabricated or falsified data or results in their publications and presentations.

e. LSSPs make available their data or other information that provided the basis for findings and conclusions reported in publications and presentations, if such data are needed to address a legitimate concern or need and under the condition that the confidentiality and other rights of research participants are protected.

f. If errors are discovered after the publication or presentation of research or other information, LSSPs make efforts to correct errors by publishing errata, retractions, or corrections.

g. LSSPs only publish data or other information that make original contributions to the professional literature. They do not report the same study in a second publication without acknowledging previous publication of the same data. They do not duplicate significant portions of their own or others' previous publications without permission of copyright holders.

h. When publishing or presenting research or other work, LSSPs do not plagiarize the works or ideas of others. They appropriately cite and reference all sources, print or digital, and assign credit to those whose ideas are reflected.

In in-service or conference presentations, LSSPs give credit to others whose ideas have been used or adapted.

i. LSSPs accurately reflect the contributions of authors and other individuals who contributed to presentations and publications. Authorship credit is given only to individuals who have made a substantial professional contribution to the research, publication, or presentation. Authors discuss and resolve issues related to publication credit as early as feasible in the research and publication process.

j. LSSPs who participate in reviews of manuscripts, proposals, and other materials respect the confidentiality and proprietary rights of the authors. They limit their use of the materials to the activities relevant to the purposes of the professional review. LSSPs who review professional materials do not communicate the identity of the author, quote from the materials, or duplicate or circulate copies of the materials without the author's permission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:

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. The proposed rules may positively impact the facilitation of qualified professionals who may work with families and families of school aged children.

Poverty Impact Statement

The proposed modifications impact psychologists, provisionally licensed psychologists, and specialist in school psychology in the interest of the health, safety and the welfare of the public. 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: 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.

Provider Impact Statement

The proposed rule changes will impact only LSBEP Licensed Psychologists who utilize ATAP's in the provision of psychological services to clients, as they create a requirement for registration and renewal of ATAP's. The proposed rules align with statewide, and most nationally

accepted standards for healthcare professions by requiring minimum standards, including criminal background checks, on assistants engaged in direct client contact with vulnerable populations. Licensed Psychologists are responsible for ensuring their ATAP's are properly registered. Other than initial registration and annual renewals, Licensed Psychologists currently using ATAP's in accordance with current regulations are not anticipated to experience new workload adjustments or paperwork.

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 noon on December 12, 2022.

Public Hearing

LSBEP will conduct a public hearing at noon on December 16, 2022, at the board office located at 4334 S. Sherwood Forest Blvd., Suite C-150, Baton Rouge, LA 70816. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Jaime T. Monic
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Code of Ethics for Licensed Specialists

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

Other than the publication fee associated with the proposed rule changes, which are estimated to cost the LA Board of Examiners of Psychologists \$4,836 in FY 23, it is not anticipated that state or local governmental units will incur any other costs or savings as a result of promulgation of the proposed rule change. The proposed rule change codifies the code of ethics for Licensed Specialists in School Psychology into the LAC 46:LXIII, Psychologists. The standards are derived from the National Association of School Psychologists Principles for Professional Ethics (2010) model ethics code, which is currently being practiced.

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

The proposed rule change will not affect state or local governmental revenue collections.

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

The proposed rule change is not anticipated to result in costs and/or economic benefits to any person or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change does not affect competition and/or employment.

Jaime T. Monic
Executive Director
2211#014

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Examiners of Psychologists**

Continuing Education, Exemptions and Fees
(LAC 46:XXIII. 601, 603, 803, 805, 806, 811, 905, 3402,
3403, and 4001)

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 adopt Sections 806 and 905 and amend Sections 601, 603, 803, 805, 811, 3402, 3403, and 4001 related to the continuing education, exemptions and fees in accordance with the Louisiana Licensing Law for Psychologist R.S. 37:2353.C(1) 37:2357.C(4), 37:2352(7), and the Administrative Procedures Act §968 and 971.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXIII. Psychologists

Subpart 1. General Provisions

Chapter 6. Fees

§601. Licensing Fees

A. 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
Initial Application and Renewal of Emeritus Status (Retired)	\$100
Reinstatement of Lapsed License	Current Application Fee plus Current Renewal Fee
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 33:647 (April 2007), amended LR 39:311 (February 2013), LR 41:2618 (December 2015), amended the Department of Health, Board of Examiners of Psychologists, LR 43:1173 (June 2017), LR 47:1111 (August 2021), amended LR 49:

§603. Administrative/Other Fees

A. Administrative/Other Fees

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

Administrative/Other Fees	Amount
Miscellaneous Copy Fee (other records)	\$1 page one, \$0.25 each page thereafter
Convenience Fee for Online Payments	2.9 percent plus .30/transaction
Sponsor Application for Pre-approval of Continuing Professional Development Workshop/Conference	\$100
Sponsor Application for Renewal of Continuing Professional Development Workshop/Conference	\$25
Psychologist Application for Pre-approval of Continuing Professional Development Workshop/Conference	\$25
Continuing Professional Development Activities (OPTIONAL) Board Sponsored	TBD not to exceed \$200 per offering

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), LR 41:2618 (December 2015), amended by the Department of Health, Board of Examiners of Psychologists, LR 43:1173 (June 2017), LR 49 (November 2022).

§803. Requirements

A. Each psychologist is required to complete 40 hours or credits of continuing professional development within the biennial reporting period, which begins on July 1 and ends on June 30.

B. Within each reporting period, two of the required hours or credits of continuing professional development must be within the area of ethics or law in accordance with the limitations specified in §807.

C. Within each reporting period, two of the required hours or credits of continuing professional development must be within the area of multiculturalism or diversity in accordance with the limitations specified in §807.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:770 (September 1990), amended LR 19:46 (January 1993), LR 32:1228 (July 2006), LR 39:2754 (October 2013), amended by the Department of Health, Board of Examiners of Psychologists, LR 42:1662 (October 2016), amended LR 49:

§805. Acceptable Sponsorship, Offerings and Activities

A. Only those CPD offerings and activities approved by the Board shall satisfy the requirements for licensure set forth in §803.

B. Acceptable CPD activities offered for credit by approved sponsors defined in this section and that meet the content criteria described in §801 of this Chapter are automatically approved by the Board.

C. The board will recognize the following as acceptable sponsors of the continuing education requirements:

1. accredited institutions of higher education;
2. hospitals and medical centers which have approved regional medical continuing education centers;
3. hospitals which have APA approved doctoral internship training programs;
4. international, national, regional, or state professional associations, or divisions of such

associations, which specifically offer or approve graduate or post-doctoral continuing education training;

5. American Psychological Association (APA) approved sponsors and activities offered by APA (including home study courses);

6. activities sponsored by the Board of Examiners of Psychologists; and

7. activities sponsored by the Louisiana Department of Health or its subordinate units;

D. The board will recognize the following activities offered by acceptable sponsors in Part C.1 above.

1. Workshops—live workshops offered for credit. Live workshops may be presented in-person or by video conference/virtual format.

2. Conference Workshops/Training Activities—Conferences are trainings lasting longer than one day (eight hours). Conference training may be presented in-person or by video conference/virtual format.

E. Sponsors of CPD approved under Part B of this Section may not advertise a CPD as board-approved or endorsed or purport that the CPD satisfies the licensure requirements set forth in §803.

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 16:770 (September 1990), amended LR 19:46 (January 1993), LR 22:1131 (November 1996), LR 25:1098 (June 1999), LR 32:1228 (July 2006), LR 36:1007 (May 2010), amended by the Department of Health, Board of Examiners of Psychologists, LR 42:1663 (October 2016), amended LR 49:

§806. Board Approval of Proposed CPD Offerings and Activities; CPD promotion and Advertisement

A. Any individual or entity may apply for board approval of a proposed CPD offering or activity as follows.

1. The individual or entity providing the proposed CPD offering or activity files a completed CPD Approval Application on the form provide by the board.

2. The individual or entity providing the proposed CPD offering or activity provides information sufficient to the board that the CPD meets requirements set forth under §801; and

3. Payment of the required application fee.

B. Board approval of a proposed CPD pursuant to Subsection E of this Section shall permit the individual or entity to offer the program one time. Subsequent offerings of the same activity shall require the individual or entity offering the CPD to submit an application for renewal of the approval on the form provided by the board with required renewal fee.

1. Upon receipt of written documentation of board CPD approval, the individual or entity providing the proposed CPD offering or activity may advertise as approved or endorsed by the Louisiana State Board of Examiners of Psychologists.

2. Course and activities approved by the board shall be posted on the board website and shall indicate the maximum number of credits which may be earned and the classification of the course.

C. CPD offerings and activities not approved by the board under Subsections B or E of this Section may generate acceptable CPD credits for licensees under the following circumstances:

1. The licensee submits a complete application for preapproval of the course or activity using the form provided by the board and payment of an application fee required under Chapter 6.

2. The course or activity submitted for approval shall only be considered for the licensee who submits the approval.

3. A licensee may not request approval of an activity after June 30 of their reporting year for the renewal of their license.

a. A provisionally licensed psychologist that fails to meet the CPD requirements by June 30 of their reporting year, including acceptable sponsorship, offerings and activities, shall be subject to the provisions of R.S. 37:2356.2.

b. A licensed psychologist that fails to meet the CPD requirements by June 30 of their reporting year, including acceptable sponsorship, offerings and activities, shall be subject to the provisions of R.S. 37:2357.A(2).

D. The licensee may choose to apply for preapproval of the following unsponsored activities. These activities shall be limited to 10 credits:

1. workshops/conferences without approved sponsor;

2. peer consultation and supervision. Acceptable consultation is regularly scheduled interactions with colleagues, licensed in a health care profession or other general applied psychology profession, in a structured and organized format. Examples include case consultation groups, journal clubs, research groups, and shadowing a colleague. Acceptable supervision is one-to-one general professional, specific case discussion, or skill training that is provided under Chapter 7 of this Part by a qualified supervisor. One hour of acceptable consultation or supervision equals one hour of credit. Documentation required to earn credit shall be a verification form providing evidence that it is a structured program of consultation with regularly scheduled meetings and showing the nature of the consultation, or in the case of supervision the supervised practice plan approved by the board; and The person providing the consultation, or facilitating the case consultation group, must attest, by signature, to the description of the program, number of hours met and that the verification form has been completed;

3. *practice outcome monitoring*—assessing patient/client outcomes via questionnaire(s) that is appropriate to the practice endeavor. One client equals one credit per reporting period. If requested, documentation required to earn credit shall be a verification form and a de-identified copy of the patient/client questionnaire;

4. *professional activities*—serving on an international, national, regional, or state psychological association board or committee; or board member of regulatory body related to the field of psychology. Professional activities shall not include lobbying activities. One year equals 10 credits;

5. *registered attendance at conferences/conventions*—attendance at a conference related to the field of psychology

or a conference, that aids in the licensee's professional development. One conference day equals one credit. This credit is separate from traditional continuing education units that may be awarded by an approved sponsor at said conference. A certificate of attendance is required;

6. *academic courses*—a graduate-level course related to the psychologist's discipline and practice, taken for credit from a regionally accredited university or one pre-approved by the board. One three-hour course or equivalent equals 20 credits; or, one registered audit, documented by the university, equals five credits;

7. *instruction*—preparation and teaching of a semester-long graduate or undergraduate course, related to psychology, in a regionally accredited institution; or continuing education workshop presentation. Credit can only be received the first time teaching or presenting the material:

a. credit hours for preparing and teaching a workshop shall be calculated at four times the credit granted attendees, divided by the number of presenters;

b. credit hours for teaching a university course shall be calculated at 10 times the number of credit hours awarded the students. Documentation required to earn credit shall be the course syllabus or brochure;

8. *publications*—author of an article for peer-reviewed publications or author, editor or co-editor of a book/book chapter related to the field of psychology. One article equals 10 hours; one book/book chapter equals 10 credit hours. Documentation required to earn credit shall include a copy of journal abstract or a copy of the publication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:

§811. Extensions/Exemptions

A. - C. ...

D. Licensees who meet the requirements for a reduced fee under R.S. 37:2354.E during the applicable reporting period and who are fully retired from the practice of psychology may be granted an exemption from continuing professional development requirements.

1. A licensee granted an exemption under this provision will be classified with the status "emeritus" and may use the title "psychologist emeritus: retired".

2. A licensee granted emeritus status under this provision shall be prohibited from engaging in the practice of psychology; rendering psychological services in any form; and/or engaging in any activity that might be construed as the practice of psychology within the state of Louisiana.

3. A psychologist emeritus: retired, is subject to license renewal in accordance with the provisions of Chapter 9 of this Part.

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 19:47 (January 1993), amended LR 32:1229 (July 2006), LR39:2755 (October 2013), LR 41:2617 (December 2015),

amended by the Department of Health, Board of Examiners of Psychologists, LR 42:1664 (October 2016), amended LR 49:

Chapter 9. Licensees

§905. Psychologists Emeritus: Retired

A. A psychologist emeritus: retired is eligible to renew their emeritus status license provided they submit such renewal application along with the annual renewal fee at the reduced rate established under Chapter 6 of this Part; and are fully retired from the practice of psychology, not rendering psychological services in any form, and are not engaging in any activity that might be construed as the practice of psychology within the state of Louisiana.

B. A psychologist emeritus is eligible to renew their current license until July 31 of each year upon submission of the required renewal fee and renewal application form and on showing that the licensee:

1. has been a licensed psychologist for a minimum of 20 years;

2. has no outstanding complaints or ethical violations;

3. is subject to the LSBEP ethics code;

4. is retired from the practice of psychology;

5. is only able to use the title psychologist emeritus: retired;

6. is not required to complete CPD unless they want to reinstate as specified in Subsection C below.

C. A psychologist emeritus: retired is eligible to reinstate their status to Licensed Psychologist and resume the independent practice of psychology in Louisiana upon submission of a reinstatement application for licensure including the required reinstatement fee and fulfillment of all continuing professional development requirements as defined under this Chapter, provided they are not in violation of any of the provisions of the Louisiana Revised Statutes, Title 37 Chapter 28. Psychologists.

D. A psychologist emeritus returning to full practice after five or more years shall be subject to an oral examination prior to reinstatement to the status of licensed psychologist.

E. A licensee who renews their emeritus status shall be exempt from continuing professional development requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:

Subpart 2. Licensed Specialists in School Psychology **Chapter 34. Specialist Programs in School Psychology** **§3402. Program Requirements—Supervised Practicum Prior to Internship**

A. - A.4. ...

5. close supervision of students by program faculty and qualified practicum supervisors, including appropriate performance-based evaluation, to ensure that students are developing professional work characteristics and designated competencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2623 (December 2015), amended by the Department of Health, Board of Examiners of Psychologists LR 49:

§3403. Program Requirements—Internship

A. - A.2. ...

3. completion of activities and attainment of school psychology competencies that are consistent with the goals and objectives of the program and emphasize human diversity, and provision of school psychology services that result in direct, measurable, and children, families, schools, and/or other consumers;

4. inclusion of both formative and summative performance-based evaluations of interns that are completed by both program faculty and field-based supervisors, are systematic and comprehensive, and insure that interns demonstrate professional work characteristics and attain competencies needed for effective practice as school psychologists;

A.5. - A.10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2623 (December 2015), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:

Chapter 40. Continuing Education Requirements of Licensed Specialist in School Psychology

§4001. General Requirements

A. Pursuant to R.S. 37:2357 each licensed specialist in school psychology is required to complete continuing education hours within biennial reporting periods. Continuing education is an ongoing process consisting of learning activities that increase professional development.

B. Each licensed specialist in school psychology is required to complete 40 hours of credit of continuing education within a biennial reporting period beginning in July 1 and ending June 30.

1. Two of the above 40 hours of credit of continuing education must be in the areas of ethics or law.

2. Within each reporting period, LSSPs must earn credits in at least two of the nine categories listed under §4002.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2625 (December 2015), amended by the Department of Health, LR 49:

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. The proposed rules may positively impact the facilitation of qualified professionals who may work with families and families of school aged children.

Poverty Impact Statement

The proposed modifications impact psychologists, provisionally licensed psychologists, and specialist in school psychology in the interest of the health, safety and the welfare of the public. 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: 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.

Provider Impact Statement

The proposed rule changes will impact only LSBEP licensed psychologists who utilize ATAP's in the provision of psychological services to clients, as they create a requirement for registration and renewal of ATAP's. The proposed rules align with statewide, and most nationally accepted standards for healthcare professions by requiring minimum standards, including criminal background checks, on assistants engaged in direct client contact with vulnerable populations. Licensed psychologists are responsible for ensuring their ATAP's are properly registered. Other than initial registration and annual renewals, licensed psychologists currently using ATAP's in accordance with current regulations are not anticipated to experience new workload adjustments or paperwork.

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 noon on December 12, 2022.

Public Hearing

LSBEP will conduct a public hearing at noon on December 16, 2022, at the board office located at 4334 S. Sherwood Forest Blvd., Suite C-150, Baton Rouge, LA 70816. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Jaime T. Monic
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Continuing Education, Exemptions and Fees

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

The proposed rule changes will result in a one-time publication expense of \$1,428 for the LA State Board of Examiners of Psychologists (LSBEP) in FY 23. The proposed rule changes may result in a nominal expenditure increase for the LSBEP, as they include a new, optional process of reviewing and approving continuing professional development workshops and conferences, however these costs are expected to be mitigated through the use of electronic communications; further, such expenditures will be absorbed and/or defrayed by new fees included in the proposed rule changes (see Part II). The proposed rule changes clarify continuing education

requirements for licensed psychologists and specialists in school psychology; provide a framework for the aforementioned option review and approval of continuing education workshops/conferences; and create an emeritus license status for licensees of the LSBEP. The proposed rule changes also add a convenience fee for optional online payments.

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

The proposed rule changes will have an indeterminable net effect on SGR collections for the LSBEP. Included in the proposed rule changes are new fees for an emeritus status license (\$100 annually) for LSBEP licensees, as well as new fees for the optional pre-approval of Continuing Professional Development (CPD) (\$25). Additionally, companies and individuals who sponsor and offer CPD workshops and conferences are also offered the option to seek pre-approval (\$100) and renewal (\$25) of workshops and conferences offered to licensees. The aggregate net effect of the aforementioned fees is dependent upon the number of entities seeking approval of their workshops/conferences, as well as the individual activity of persons licensed by the LSBEP (see below). The revenue increase associated with the new fees for workshop/conference reviews and approvals is indeterminable because the number of entities that will seek such approval is unknown. However, any revenues raised from entities seeking workshop/conference approval will be used to defray any costs associated with reviewing the workshop/conference (see Part I). Furthermore, the net effect on revenues associated with the new emeritus license status is dependent upon retired licensees either maintaining an active license at a reduced cost of \$200 annually with the ability to practice part-time, or lapse their license should they wish to fully retire. In the case that a retired licensee allows their license to lapse, the LSBEP would realize reduced revenues of \$200 per license. In the case that a fully retired licensee maintains an emeritus status license, the LSBEP would realize reduced revenues of \$100 per licensee but would also maintain a revenue flow of \$100 per fully retired licensee that would otherwise be lost. The net effect on revenues, as a result of adding the emeritus license status fee, is therefore indeterminable because it is dependent upon the behavior of each individual licensee, which cannot be predicted. Finally, the proposed convenience fee will mitigate costs to the LSBEP for offering and maintaining the software and technology required to process payments by credit card.

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

The proposed rule changes benefit LSBEP licensees, as they clarify requirements and qualifying courses for continuing education requirements. The proposed rule changes create a new emeritus status for licensees, which may benefit retired licensees to the extent they maintain an active license but do not practice. Persons holding an emeritus license would realize a savings of \$300 annually in the aforementioned case, and would be able to revert to an active license if desired after meeting continuing education requirements and paying all associated fees. The proposed rule changes may benefit entities that host continuing professional development events, as they may now submit their materials for an optional LSBEP review and endorsement as a qualifying continuing education event for LSBEP licensees to be used in advertisements. However, entities seeking such endorsement must submit a \$100 fee for initial review and a \$25 fee for subsequent course reviews. The proposed convenience fee will be assessed to any individual who opts to pay via credit card for fees assessed by the LSBEP. No additional fees are required for payment by check or money order.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Entities who seek and receive optional approval of their workshop/conference from the LSBEP may gain competitiveness over those that do not seek such approval. However, the aggregate effect on competition is unknown and dependent upon LSBEP licensees seeking approved courses in lieu of those that are not approved. The proposed rule changes are not anticipated to affect employment.

Jaime T. Monic
Executive Director
2211#013

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Examiners of Psychologists**

Registration of Assistant to a Psychologist
(LAC 46:LXIII. 601, 1100, 1101,
1103, 1105, 1107, and 1109)

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 adopt Section 1100, 1105, 1107 and 1109 and amend Sections 601, 1101 and 1103 related to the registration of assistants to psychologists in accordance with the Louisiana Licensing Law for Psychologist R.S. 37:2353.C(1) 37:2357.C(4), 37:2352(7), and the Administrative Procedures Act §968 and 971.

**Title 46
OCCUPATIONAL AND PROFESSIONAL
STANDARDS**

**Part LXIII. Psychologists
Subpart 1. General Provisions**

Chapter 6. Fees

§601. Licensing Fees

A. 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
Application for Registration of Assistant to Psychologist	\$50
Application for Renewal of Assistant to Psychologist	\$40
Reinstatement of Lapsed License	\$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 33:647 (April 2007), amended LR 39:311 (February 2013), LR 41:2618 (December 2015), amended the Department of Health, Board of Examiners of Psychologists, LR 43:1173 (June 2017), amended LR 49:

Chapter 11. Supervision of Assistants to Psychologists
§1100. Scope and Definitions

A. Psychologists may use an assistant to a psychologist (ATAP) to aid them in the provision of psychological services to clients as defined under this Chapter. The rules of this Chapter govern the registration, utilization, and supervision of an assistant to a psychologist in conformity with RS 37:2365.C.(3). Nothing in this Chapter shall be construed as creating a property interest or right to a hearing of the ATAP.

B. The following terms are defined for the purpose of this Chapter.

1. *Assistant to a Psychologist (ATAP)*—a non-licensed individual who aids a Licensed Psychologist in the provision of psychological services to patients and clients. ATAP's do not evaluate, interpret or make other judgments related to psychological tests. ATAP's may be responsible for implementing, not designing, interventions or protocols.

2. *General Professional Supervision*—the direct supervisory contact with the ATAP. Supervision in this context may include activities such as individual supervision, group supervision, case management, professional development, and review of the work completed by the ATAP.

3. *Continuous Professional Supervision*—ongoing training and oversight for the procedure furnished under the psychologist's overall direction and control, including maintenance of the necessary equipment and supplies. Under Continuous Professional Supervision the psychologist's presence is not required during the performance of the procedure. However, the supervisor shall be available to the ATAP in person, during the time when the ATAP is rendering professional services, or arrange the availability of a qualified supervisor who is authorized to intervene with a client. Exceptions to this provision must have prior approval by the board.

4. *Supervisor or Supervising Psychologist*—a psychologist licensed under the provisions of Title 37 Chapter 28 of the Louisiana Revised Statutes who shall have competence in the specific area of practice in which supervision is being given.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:

§1101. Conditions for Utilization of Assistants

A. Upon employment of an ATAP, but prior to assisting in psychological duties, the Supervising Psychologist shall submit a complete application for initial registration, required registration fee, and documentation on such form and in such manner as may be prescribed by the board to demonstrate that the registrant meets all of the following criteria:

1. is 18 years of age or older;
2. possesses a minimum of a high school diploma or its equivalent;

3. is of good moral character as determined by a criminal background check conducted under the authority of R.S. 37:2356.1 and the provisions of this Part;

4. is not in violation of any of the provisions of the La. Revised Statutes Title 37, Chapter 28. Psychologists; or the *Louisiana Administrative Code*, Title 46, Part LXIII; or any provision governing the practice of psychology under the jurisdiction of the board;

5. is qualified, or will receive supervised training commensurate with the services to be performed and is under the direct and continuous supervision of the Supervising Psychologist as defined in this Chapter.

B. Prior to the approval of any registration, the registrant shall initiate a criminal background check from the Louisiana State Police, Bureau of Criminal Identification and Information in accordance with this Part, and the criminal history records information report must be received and cleared by the board.

C. Upon review of the application, the board shall notify the licensed psychologist of record that the application and evidence submitted for registration is satisfactory and the registration has been approved; or that the application or evidence is unsatisfactory and rejected; or other pending status. If the application is rejected, a notice from the board shall include the reasons for the rejection.

D. An assistant to a psychologist may be dually registered and provide services under the direction of more than one supervising psychologist. A single application and fee shall be required if services are provided under a single employer or organization.

E. An approved registration shall be subject to annual renewal, during the month of July, and beginning in the year immediately subsequent to the initial registration of the ATAP.

a. The registration of an ATAP may be renewed if the psychologist of record submits to the board a renewal application and associated fee as prescribed by the board. The renewal fee shall be determined annually by the board and shall not exceed \$50.

b. The registration of any ATAP that has not been renewed by the supervising psychologist during the month of July immediately following the initial issuance of the registration, shall be considered lapsed.

c. The registration of any ATAP that has lapsed due to failure to renew, may be reinstated in accordance with the provisions of section 1107 of this Chapter.

F. An assistant registered under the provisions of this Chapter shall utilize the title "assistant to a psychologist" also referred to as "ATAP" only within the context of their employment with a licensed psychologist or their employment within an agency or hospital while under the direct supervision of a licensed psychologist; other titles an assistant to a psychologist may use include psychological technician, psychometrician, and other titles as approved by board.

G. An ATAP providing psychological services must be under the general and continuing professional supervision of a licensed psychologist. In order to maintain ultimate legal and professional responsibility for the welfare of every client, the supervisor must be vested with

functional authority over the psychological services provided by an ATAP.

H. Supervisors shall have sufficient contact with clients, and must be empowered to contact any client in order to plan effective and appropriate services and to define procedures. The supervisor shall be present at the point of service, for emergency consultation and intervention.

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

J. The supervisory contact with the ATAP shall occur in the service delivery setting, unless otherwise approved by the board of examiners.

K. Public announcement of fees and services and contact with lay or professional public shall only be offered in the name of the supervising psychologist; in all advertisements and descriptions of services ATAPs shall be clearly identified as being under the supervising authority of a psychologist.

L. Billing for psychological services shall not be in the name of an ATAP.

M. A provisional licensed psychologist may not supervise unlicensed assistants.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:250 (August 1979), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 36:1246 (June 2010), LR 41:2620 (December 2015), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:

§1103. Responsibilities of Supervisors

A. The Supervising Psychologist:

1. is responsible for the registration and renewal of an assistant to a psychologist in conformity with this Chapter on such form and in such manner as prescribed by the board;

2. directs the provision of psychological services to clients;

3. is administratively, clinically, ethically, functionally, and legally responsible for all activities of the Assistant to a Psychologist;

4. is accountable for the planning, course and outcome of the work. The conduct of supervision shall ensure the welfare of the client, and the ethical and legal protection of the assistant;

5. is responsible for general communication regarding the needs of the clients and services rendered;

6. is responsible for continuing professional supervision of the ATAP;

7. provides general professional supervision of the ATAP that shall include one cumulative hour per week as a minimum for direct supervisory contact:

a. exceptions to this requirement must have prior approval of the board;

b. it is likely that more than one hour per week would be required for assistants of lesser experience;

8. shall limit the number of assistants supervised so as to ensure adequate ability to monitor services and protect the public;

9. shall be available for emergency consultation and intervention;

10. shall have competence in the specific area of practice in which supervision is being given;

11. shall maintain a record of supervision which details the types of activities in which the assistant is engaged and the level of competence in each. This record shall be kept in such form as may be prescribed by the board;

12. shall ensure the following is disclosed to the client prior to the provision of any psychological service:

a. the psychologist of record's full name and contact information;

b. the extent and limits of their interaction with the client;

c. the client's right to meet with or communicate with the supervising psychologist or psychologist of record prior to or during the course of services rendered by an ATAP.

B. Neglect in maintaining the above standards of practice may result in disciplinary action against the supervisor's license to practice, including suspension or revocation.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:250 (August 1979), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 36:1008 (May 2010), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:

§1105. Special Considerations Related to an Assistant to a Psychologist

A. A registration is not the property right of the assistant to a psychologist.

B. Nothing in this Chapter shall be construed to allow an assistant to a psychologist to:

1. independently engage in any activity or service defined as the practice of psychology in R.S. 37:2352(7) et al;

2. independently engage in psychological services outside the supervisory relationship approved through registration by the board;

3. render any diagnosis;

4. sign any evaluations or reports as the provider of record; however should be notated as having engaged in the service within the report;

5. violate any of the provisions of this Chapter or the rules and regulations adopted by the board;

6. use any title or description to represent themselves as a psychologist or imply that they are qualified to practice psychology;

7. independently advertise psychological services;

8. assign or delegate psychological duties or otherwise engage in the independent practice of psychology.

C. With regard to psychological testing, services of the ATAP shall be limited to the administration and/or scoring of standardized objective (non-projective) psychological or neuropsychological tests defined in this Part, which have specific predetermined and manualized administrative

procedures, and which entail behavioral observations, and/or recording test responses.

D. An ATAP is prohibited from evaluating, interpreting, or rendering any judgment related to psychological tests, and/or implementation of interventions or protocols unless designated and delegated by the licensed psychologist of record.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:

§1107. Denial, Revocation, or Lapse of a Registration for an Assistant to a Psychologist

A. The board has the authority to conduct investigations and take such actions permitted under RS 37:2351-2378, et al in matters involving the ATAP and/or their supervisor.

B. The board may deny or revoke the registration of an assistant to a psychologist (ATAP) that is in the best interest of public health, safety, and welfare for any unethical, unlawful, or other unprofessional conduct under the jurisdiction of the board.

C. Immediate action may be taken to administratively suspend an ATAP's registration in the event information is received that the action(s) of an ATAP is causing harm to clients, is otherwise likely to cause harm to future clients or patients, or the action(s) is unethical or unlawful. Such action may be taken in instances including but not limited to falsifying information in an application; and/or receipt of information involving an arrest, warrant for an arrest, or conviction of the ATAP.

1. The supervising psychologist(s) of record shall be immediately notified of an administrative action.

2. The de-identified administrative action shall be reported to the board at their next regularly scheduled meeting.

3. The board shall have the final determination on the denial or revocation of a registration.

4. The supervising psychologist(s) of record shall be notified of the final action of the Board.

D. The registration of an assistant to a psychologist shall immediately lapse upon the occurrence of any one of the following:

1. If the supervisory relationship between a psychologist of record and the assistant to a psychologist terminates, the licensed psychologist shall notify the board in writing upon such form and in such manner as prescribed by the board. The notice shall be submitted within 10 calendar days of the termination.

2. Suspension, revocation, or other action that restricts, limits, or prohibits the utilization of ATAP's by a psychologist, taken against the license of the psychologist of record in any jurisdiction.

3. Evidence that the assistant to a psychologist has violated any of the provisions of this Chapter or the rules and regulations of the Board.

4. Loss of license of the psychologist of record due to lapse or failure to renew.

5. Failure to renew the registration of an ATAP.

a. A psychologist of record who fails to renew the registration of an assistant to a psychologist in accordance with the provisions herein may obtain reinstatement of the lapsed registration provided the following: if the following conditions are met:

i. the assistant to a psychologist is not in violation of any of the provisions of this Chapter, or any other applicable laws;

ii. the psychologist of record submits to the Board a renewal application as prescribed by the Board; along with a late renewal fee which shall be the sum of the current ATAP application fee, plus the ATAP renewal fee.

E. It shall be considered the unlawful and unauthorized practice of psychology for an ATAP to continue to provide services without a current, valid, and unrestricted registration issued under this Chapter.

F. Nothing in this section shall be construed as creating a property interest or right to a hearing of the ATAP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.C.(1)

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:

§1109. Exceptions to the Registration of an Assistant to a Psychologist

A. The provisions of this Section shall not apply to the following:

1. a medical psychologist utilizing assistants under the provisions of RS 37:1360.61 under the jurisdiction of the Louisiana State Board of Medical Examiners.

2. an individual licensed under this part as a licensed specialist in school psychology who is providing services defined under RS 37:2356.3.

3. a matriculated graduate student whose activities constitute a part of the course of study for a graduate degree in psychology at a school or college.

4. an individual who is an applicant for licensure under this Chapter and who is pursuing post-doctoral training or experience in psychology, including persons seeking to fulfill the requirements for licensure under this Chapter.

5. an individual engaged in academic or research activities that are not defined as the practice of psychology under RS 37:2352.7.

6. members of other professions who are working in association or collaboration with a licensed psychologist, and who are licensed or certified under the laws of this state to independently render and bill for services that are consistent with their scope of practice under the jurisdiction of their respective license or certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:2353.C.(1)

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 49:

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. The proposed rules may positively impact the facilitation of qualified professionals who may work with families and families of school aged children.

Poverty Impact Statement

The proposed modifications impact psychologists, provisionally licensed psychologists, and specialist in school psychology in the interest of the health, safety and the welfare of the public. 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: 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.

Provider Impact Statement

The proposed rule changes will impact only LSBEP Licensed Psychologists who utilize ATAP's in the provision of psychological services to clients, as they create a requirement for registration and renewal of ATAP's. The proposed rules align with statewide, and most nationally accepted standards for healthcare professions by requiring minimum standards, including criminal background checks, on assistants engaged in direct client contact with vulnerable populations. Licensed Psychologists are responsible for ensuring their ATAP's are properly registered. Other than initial registration and annual renewals, Licensed Psychologists currently using ATAP's in accordance with current regulations are not anticipated to experience new workload adjustments or paperwork.

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 December 12, 2022.

Public Hearing

LSBEP will conduct a Public Hearing at Noon on December 16, 2022, at the board office located at 4334 S. Sherwood Forest Blvd., Suite C-150, Baton Rouge, LA 70816. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Jaime T. Monic
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Registration of Assistant to a Psychologist

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

The proposed rule changes will result in a one-time publication expense of approximately \$2,280 for the LA State Board of Examiners of Psychologists ("LSBEP" or "Board") in FY 23. The proposed rule changes are not anticipated to require implementation costs to other state or local governmental units. The proposed rule changes comply with statutorily mandated rulemaking requirements implemented by Act No. 238 of the 2021 Regular Session and require that an Assistant to a Psychologist ("ATAP") be registered with the Board. ATAP's may be employed by a Licensed Psychologist and used in the

direct provision of services to clients/patients, therefore must meet minimum requisite standards for registration, including a criminal background check. The proposed rule changes were written in consideration of establishing the least restrictive requirements for registration in the interest of public protection.

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

The proposed rule changes will affect self-generated revenue (SGR) collections for the LSBEP estimated to be \$21,000 for FY 23 including the initial registration of approximately 420 ATAP's at \$50/registration; and \$18,050 in FY 24 and FY 25 anticipated to include the renewal of 420 ATAP's at \$40/renewal plus approximately 25 new registrations a year at \$50.

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

The proposed rule changes will impact LSBEP Licensed Psychologists and their ATAP's who are engaged in the provision of psychological services to clients, as they create a requirement for registration and renewal of ATAP's with related fees. The proposed rule changes align with statewide, and most nationally accepted standards by requiring minimum standards, including criminal background checks, on assistants engaged in direct client contact with the most vulnerable populations. The proposed rule changes will benefit Licensed Psychologists by reducing their risks associated with hiring unqualified individuals to work with vulnerable populations, through registration and minimum requirements evaluated by the Board.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes are anticipated to have a positive effect on competition and employment. Licensed Psychologists who utilize ATAP's are able to serve a larger client base than if working independently. It is anticipated that by providing minimum requisite standards for registration will legitimize the role of the ATAP, thereby increasing awareness for economic opportunity, employment and growth within the profession of psychology.

Jaime T. Monic
Executive Director
2211#012

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Examiners of Psychologists

Training, Credentials and Scope of Practice
for Neuropsychology Specialty Designation
and Provisional Licensure

(LAC 46:LXIII.100, 102, 103, 108, 201, 303, 305, 307, 701,
702, 705, 709, 1002, 1201, 1205, 1213, 1401, 1403, 1405,
1407, 1409, 1701, 1702, 1705, 1903, 1905, 3402 and 3403)

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 adopt §§100, 108, 702, 1401, 1403, 1405, 1407, 1409, and 1905 and amend §§102, 103, 201, 303, 305, 307, 701, 705, 709, 1002, 1201, 1205, 1213, 1701, 1702, 1705, 1903, 3402 and 3403. These changes are related to training and credentials for provisional licensure and for the practice of psychology and neuropsychology amendments are included to correct grammar and technical corrections to outdated

statutory references in accordance with the Louisiana Licensing Law for Psychologist R.S. 37:2353.C(1) 37:2357.C(4), 37:2352(7), and the Administrative Procedures Act §968 and 971.

Title 46

OCCUPATIONAL AND PROFESSIONAL STANDARDS

Part LXIII. Psychologists

Subpart 1. General Provisions

Chapter 1. Definitions

§100. General Definitions

Advisory Workgroup—two or more individuals selected by the Board to provide research or recommendations on matters requested by the board.

Board—the Louisiana State Board of Examiners of Psychologists. The term “Board” or “board” is synonymous with agency.

Board of Directors—the board members appointed by the governor to serve on the board.

Chairperson—the chief executive officer and member of the board of directors. The chairperson provides leadership and direction to standing committees; ensures the organization is managed effectively; provides support and supervision to the chief administrative officer; represents the board as its figurehead and in its mission of public protection.

Examiner—an examining board member who is a current board member.

Executive Committee—a standing committee of the board established to facilitate the proper functioning of the agency, with authority to execute tasks and duties of the board, including but not limited to summary suspension authority, and utilized to facilitate the proper functioning of the agency. This committee shall consist of two or more board members and may include other personnel.

Executive Director—the chief administrative officer responsible for the daily operations of the board; authorized to take action and make decisions not inconsistent with the statutory and regulatory requirements, but within the boundaries delegated by the board for the proper management of all aspects of daily board operations including but not limited to subpoena signing authority.

Licensing Examiner—a former board member that is currently licensed and approved by the board to conduct licensing examinations.

Standing Committee—a working committee established by the chairperson to facilitate the proper functioning of the board. Standing committees consist of appointed members of the board.

Vice-Chairperson—an officer and member of the board of directors. The vice-chairperson provides support to the chairperson and may act in the absence or recusal of the chairperson.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:

§102. Definition of Applicant for Provisional Licensure

A. - A.4. ...

5. has completed a minimum of one year of experience practicing psychology under the supervision of a licensed psychologist or medical psychologist licensed in accordance with R.S. 37:1360.51 et seq., or has completed

an approved predoctoral internship as defined in the rules and regulations of the board and required as part of the doctoral degree in psychology as defined by the board;

6 - 7. ...

8. submits such number of full sets of fingerprints and fees and costs as may be incurred by the board in requesting or obtaining criminal history record information as authorized by R.S. 37:2356.1, and in the form and manner prescribed by the board's rules and regulations. The results of the criminal history record information search to be obtained, reviewed and considered acceptable by the board prior to admission to candidacy status.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2617 (December 2015), amended Department of Health, Board of Examiners of Psychologists, LR 49:

§103. Definition of Applicant for Licensure

A. - A.6. ...

7. submits such number of full sets of fingerprints and fees and costs as may be incurred by the board in requesting or obtaining criminal history record information as authorized by R.S. 37:2356.1, and in the form and manner prescribed by the board's rules and regulations. The results of the criminal history record information search to be obtained, reviewed and considered acceptable by the board prior to admission to candidacy status.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:248 (August 1979), amended LR 34:1406 (July 2008), amended Department of Health, Board of Examiners of Psychologists, LR 49:

§107. Definition of Provisional Licensed Psychologist

A. A *provisional licensed psychologist* is a person who has been issued a provisional license under the provision of R.S.37:2356.2.

B. A provisionally licensed psychologist may practice psychology as defined under R.S. 37:2352(7) while under the continuing professional supervision of a licensed psychologist.

C. A provisional license is required for a Candidate's early admittance to the written examination for licensure, while completing the final year of postdoctoral supervision.

D. A provisional license may be renewed no more than three times. A provisional license that is not renewed in accordance with the provisions of this Part shall lapse.

E. Provisional licensed psychologists may not:

1. contract directly with individuals, couples, families, agencies or institutions for clinical services, consultation, supervision or educational services; or

2. claim to be independently licensed, in private practice or otherwise advertise as such.

F. Provisional licensed psychologists:

1. must practice psychology under the continuing professional supervision of a licensed psychologist and in accordance with the requirements of Chapter 7 of this Part;

2. shall use the title “provisional licensed psychologist” in representing themselves, their work or their services;

3. shall disclose their supervisory relationships to clients/patients in the provision of psychological services and to third parties in engaged in professional activities related to the field of psychology;

4. shall not supervise other mental health professionals or independently evaluate persons;

G. The supervising licensed psychologist, or the agency, hospital, or corporation that employs the supervising licensed psychologist, may bill for psychological services performed by the provisional licensed psychologist.

H. The termination of the supervisory relationship must be immediately reported to the board in accordance with the requirements of Chapter 7 of this Part. Following termination, the provisional license shall be considered lapsed, and the provisional licensed psychologist may not practice under these provisions until an approved supervisory relationship with a licensed psychologist has been approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353 and R.S. 37:2356.2.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:

Chapter 2. Reciprocity

§201. Licensure of Psychologists through Reciprocity

A. - B. ...

C. Applicants for reciprocal licensing must submit such number of full sets of fingerprints, or other identifiable information, and fees and costs as may be incurred by the board in requesting or obtaining criminal history record information as authorized by R.S. 37:2356.1, and in the form and manner prescribed by the boards rules and regulations. The results of the criminal history record information search to be obtained, reviewed and considered acceptable by the board prior to admission to candidacy status.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 23:861 (July 1997), amended LR 27:723 (May 2001), LR 29:207 (October 2003), LR 34:1406 (July 2008), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:

Chapter 3. Training and Credentials

§303. Doctoral Programs in Psychology

A. A graduate whose of a doctoral program, at the time of graduation, that is either accredited by the American Psychological Association, or listed by the Association of State and Provincial Psychology Boards (ASPPB) and the National Register of Health Service Providers in Psychology's former yearly joint publication of the Doctoral Psychology Programs Meeting Designation Criteria is recognized as holding a doctoral degree with a major in psychology from a university offering a full-time graduate course of study in psychology.

B. A graduate of a doctoral program that is neither listed in Designate Doctoral Programs in Psychology nor accredited by the American Psychological Association must meet the criteria in Paragraphs B.1-B.11 below.

1. Training in professional psychology is doctoral training offered in a regionally accredited institution of higher education.

2. The program, wherever it may be administratively housed, must be clearly identified and labeled as a

psychology program. Such a program must specify in pertinent institutional catalogs and brochures its intent to educate and train professional psychologists in an applied area of psychology recognized by the board.

3. The psychology program must stand as a recognizable, coherent organizational entity within the institution.

4. There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines.

5. The program must be an integrated, organized sequence of study.

6. There must be an identifiable psychology faculty and a psychologist responsible for the program.

7. The program must have an identifiable body of students who are matriculated in that program for a degree.

8. The program must include supervised practicum, internship, field or laboratory training appropriate to the practice of psychology, in an applied area of specialization recognized by the board.

9. The program shall be an internal degree program (as opposed to an external degree program unless it is either designated by the Association of State and Provincial Psychology Boards (ASPPB) and the National Register or it is accredited by the American Psychological Association.)

10. The doctoral program shall involve at least one continuous academic year of full-time residency on the campus of the institution at which the degree is granted.

11. For individuals who were trained prior to 2015, the curriculum shall encompass a minimum of three academic years of full-time graduate study. The program of study shall typically include graduate coursework with a minimum of three semester hours (five quarter hours) in each of the following three areas: scientific and professional ethics and standards, research design and methodology, and statistics and methodology. In cases where the material from one of these areas was incorporated into other courses, the program director shall submit material to the board indicating the educational equivalence of this requirement. Additionally, the core program shall require each student to demonstrate competence in each of the following substantive areas. This requirement typically will be met by including a minimum of three or more graduate semester hours (five or more graduate quarter hours) in each of the four substantive content areas. Graduates who cannot document competence in all substantive content areas (§303.C.11.a-d below), may demonstrate competence by taking additional course work or examination, not to exceed one substantive content area:

a. biological bases of behavior—physiological psychology, comparative psychology, neuropsychology, sensation and perception, psychopharmacology;

b. cognitive-affective bases of behavior—learning, thinking, motivation, emotion;

c. social bases of behavior—social psychology, group processes, organizational and systems theory;

d. individual difference—personality theory, human development, abnormal psychology. In addition, all professional doctoral programs in psychology will include course requirements in specialty areas.

C. For individuals whose training began after 2015, the curriculum shall encompass training in the nine profession-wide competencies, which include certain competencies

required for all students who graduate from programs accredited in health service psychology. Programs must provide opportunities for all of their students to achieve and demonstrate each required profession-wide competency. Although in general, the competencies appearing at or near the top of the following list serve as foundations upon which later competencies are built, each competency is considered critical for graduates in programs accredited in health service psychology. The specific requirements for each competency are articulated in APA Commission on Accreditation Implementing Regulations. Because science is at the core of health service psychology, programs must demonstrate that they rely on the current evidence-base when training students in the following competency areas. At a minimum, students must demonstrate competence in the following.

1. Research. For example, individuals demonstrate knowledge, skills, and competence sufficient to produce new knowledge; to critically evaluate and use existing knowledge to solve problems; substantial knowledge of scientific methods, procedures, and practices; and ability to disseminate research.

2. Ethical and Legal Standards. For example, individuals demonstrate knowledge of ethical principles and state law; recognize ethical dilemmas as they arise; apply ethical decision-making processes; and conduct oneself in an ethical manner in all professional activities.

3. Individual and Cultural Diversity. For example, individuals are sensitive to cultural and individual diversity of clients and committed to providing culturally sensitive services. Individuals are aware of how one's background impacts clinical work and are committed to continuing to explore their own cultural identity issues and how they relate to clinical practice.

4. Professional Values, Attitudes, and Behaviors. For example, individuals behave in ways that reflect the values and attitudes of psychology; engage in self-reflection regarding their personal and professional functioning; and actively seek and demonstrate openness to feedback.

5. Communication and Interpersonal Skills. For example, individuals can establish and maintain effective interrelationships as well as produce and comprehend oral, nonverbal, and written communications that are informative and well-integrated.

6. Assessment. For example, individuals demonstrate competence in choosing, administering, interpreting and providing results from evidenced-based assessments. Individuals also demonstrate knowledge of current diagnostic classification systems.

7. Intervention. For example, individuals demonstrate competence in utilizing evidenced-based interventions which have been chosen to meet the unique needs of the individual or group; demonstrate the ability to establish effective working relationships with clients and are able to evaluate the effectiveness of their interventions.

8. Supervision. For example, individuals demonstrate knowledge of supervision models and have applied this knowledge to the practical application of supervision principles.

9. Consultation and interprofessional/interdisciplinary skills, for example, individuals demonstrate the ability to intentionally collaborate with other professionals to address

a problem; have knowledge of consultation models; and have applied practice serving in the role of consultant.

D. - D.2.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353 and R.S. 37:2356.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:489 (August 1980), amended LR 13:180 (March 1987), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 15:87 (February 1989), LR 27:1895 (November 2001), LR 36:1005 (May 2010), amended Department of Health, Board of Examiners of Psychologists, LR 49:

§305. Specialty Areas

A. Health Service Psychology. The provision of direct health and/or behavioral health services requires training in an applied health service area such as clinical psychology, counseling psychology, clinical neuropsychology, school psychology, or other developed health service areas that are offered under training programs that are accredited by the American Psychological Association (APA) in a health service area. Training programs may also combine two or more of the recognized practice areas listed above. In addition to didactic courses, training in health service psychology shall include early and continuing involvement of students in applied healthcare settings. Such experiences shall occur at two levels: practicum and internship.

1. - 2.e. ...

f. At least 25 percent of trainee's time was in direct client contact (minimum 375 hours).

g. - l. ...

B. General Applied Psychology. The provision of psychological services in applied non-healthcare areas include services outside health and behavioral health fields; direct services to individuals and/or groups for assessment and/or evaluation of personal abilities and characteristics for individual development, behavior change, and/or for making decisions about the individual; and may also include services to organizations that are provided for the benefit of the organization. Training areas recognized by the board in general applied psychology include those specialty programs designated as educational psychology, developmental psychology, experimental psychology, social psychology, or industrial-organizational psychology. Internship training for non-health service psychology areas may take the form of post-doctoral supervised experience as defined in the regulations of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353 and R.S. 37:2356.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:1323 (October 1993), LR 36:1005 (May 2010), amended Department of Health, Board of Examiners of Psychologists, LR 49:

§307. Clinical Neuropsychology

A. - B.4. ...

5. These regulations recognize the overlapping roles in certain aspects of clinical neuropsychological assessment and intervention of other professionals, such as behavioral neurologists, speech pathologists, and learning disability specialists, and are not meant to constrain or limit the practice of those individuals as affirmatively set forth in

their relevant enabling statutes. These regulations are not meant to constrain or limit the practice of licensed psychologists who through education, training, and experience have acquired competence in the use of psychological assessment instruments that measure various aspects of function to include but not limited to general intelligence, complex attention, executive function, learning and memory, language, perceptual motor and social cognition.

C. - C.1.c. ...

d. specialty internship in clinical neuropsychology (one year minimum), followed by the completion of one year of post-doctoral supervised experience in clinical neuropsychology; or, the equivalent of two full years (4,000 hours) of post-doctoral experience in clinical neuropsychology under the supervision of a qualified clinical neuropsychologist (as defined here and in LAC 46:LXIII.307.C.2, 3, and 4). The majority of these hours must involve clinical neuropsychological assessment, and some portion of the remaining hours should be related to rehabilitation of neuropsychological deficits. The supervision, as defined above, should involve a minimum of one hour of face-to-face supervision a week, though additional supervisory contact may be required during training phases and case discussions;

1.e. - 3.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353 and R.S. 37:2356.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:1323 (October 1993), amended LR 36:1006 (May 2010), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:

Chapter 7. Supervised Practice Leading toward Licensure

§701. Preface

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

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:249 (August 1979), amended LR 7:187 (April 1981), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2618 (December 2015), repromulgated by the Department of Health, Board of Examiners of Psychologists, LR 42:1089 (July 2016), amended LR 49:

§702. Definitions

Continuing Professional Supervision—the ongoing training and oversight for the procedure furnished under the psychologist's overall direction and control, including maintenance of the necessary equipment and supplies. Supervision in this context does not require the supervisor's presence during the performance of the procedure. However, the supervisor shall be available to the supervisee in person during the time when the supervisee is rendering

professional services, or arrange the availability of a qualified supervisor who is authorized to intervene with a client. Exceptions to this provision must have prior approval by the board.

General Professional Supervision—direct supervisory contact with the supervisee. Supervision in this context includes activities such as individual supervision, group supervision, specific case discussion and management, skill training, and professional development and review of the work completed by the supervisee.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:

§705. Qualifications of Supervisors

A. Responsibility for the overall supervision of the supervisee's professional growth resides in the licensed psychologist or medical psychologist. Supervising psychologists shall be licensed to practice psychology at the doctoral level by the regulatory body that is vested with jurisdictional authority over the practice of psychology in the respective jurisdiction.

B. Have training in the specific area of practice to render competently any psychological service undertaken by their supervisee in which they are offering supervision. Specific skill training may be assigned to other specialists, under the authority of the supervising psychologist. The non-psychologist specialist shall have clearly established practice and teaching skills demonstrable to the satisfaction of both the supervising psychologist and the supervisee.

C. The supervisor shall limit the number of persons supervised so as to be certain to maintain a level of supervision and practice consistent with professional standards ensuring the welfare of the supervisee and the client.

D. The supervisor may not supervise any more than two candidates for licensure at the same time.

E. The supervisor shall not be a member of the supervisee's immediate family.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:249 (August 1979), amended LR 7:187 (April 1981), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2619 (December 2015), repromulgated by the Department of Health, Board of Examiners of Psychologists, LR 42:1089 (July 2016), amended LR 49:

§709. Conduct of Supervision

A. - C.2. ...

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

C.4. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of

Psychologists, LR 5:249 (August 1979), amended LR 7:187 (April 1981), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2619 (December 2015), Department of Health, Board of Examiners of Psychologists, LR 49:

Chapter 10. Temporary Registration
§1002. Emergency Temporary Registration for Psychologists

A. Pursuant to R.S. 29:769(E), licensed psychologists from other jurisdictions of the United States may respond to a declared public health emergency and be granted a temporary registration to engage in the practice of psychology as defined in R.S. 37:2352(7).

B. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:769(E).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:459 (March 2007), amended LR 36:1007 (May 2010), LR 39:2757 (October 2013), amended Department of Health, Board of Examiners of Psychologists, LR 49:

Chapter 12. Criminal History Records Information
§1201. Scope of Chapter

A. The rules of this Chapter govern the collection and use of criminal history records information in connection with applications for an initial license, renewal, or reinstatement of a license of a psychologist in conformity with R.S. 37:2356.1

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2372.1. Repromulgated in accordance with R.S. 37:2356.1

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 34:1406 (July 2008), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:

§1205. Criminal History Record Information Requirement

A. ...

B. The board will use the fingerprints to request and obtain criminal history record information relative to the applicant as provided in R.S. 37:2372.1.2356.1

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2372.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 34:1406 (July 2008), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:

§1213. Confidentiality of Criminal History Record Information

A. Criminal history record information obtained by the board pursuant to R.S. 37:2356.1 and the rules of this Chapter, which is not already a matter of public record or to which the privilege of confidentiality has not otherwise been waived or abandoned, shall be deemed confidential information, restricted to and utilized exclusively by the board, its officers, members, investigators, employees, agents, and attorneys in evaluating the applicant's eligibility or disqualification for licensure. Criminal history record information shall not, except with the written consent of the applicant or by the order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency, provided, however, that any such information or documents which are admitted into evidence and made part of the administrative record in any

adjudicatory proceeding before the board shall become public records upon the filing of a petition for judicial review of the board's final decision therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2372.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychology, LR 34:1407 (July 2008), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:

Chapter 14. Telepsychology and Telesupervision
§1401. Purpose and Scope

A. To facilitate the process for a Louisiana Licensed Psychologist to provide psychological services via telecommunications.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:2353.C.(1) and R.S. 40:1223.4

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:

§1403. Definitions

Distant Site—the location of the Louisiana Licensed Psychologist at the time of service.

Licensed Psychologist—a person licensed by this board under Title 37, Chapter 28 of the Louisiana Revised Statutes.

Originating Site—the location of the client at the time of service.

Telecommunication—the preparation, transmission, communication, or related processing of information by electrical, electromagnetic, electromechanical, electro-optical, or electronic means (Committee on National Security Systems, 2010).

Telepsychology—the practice of psychology which includes assessment, diagnosis, intervention, consultation or information by psychologists using interactive telecommunication technology that enables a psychologist and a client, at two different locations separated by distance to interact via two-way video and audio transmissions simultaneously. Telepsychology is not a separate specialty. If the use of technology is for purely administrative purposes, it would not constitute telepsychology under this Chapter.

Telesupervision—a method of providing supervision to psychology trainees via two-way video and audio transmissions simultaneously or other telecommunication technologies.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:2353.C.(1) and R.S. 40:1223.4

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:

§1405. Use of Telepsychology by a Louisiana Licensed Psychologist

A. The use of telecommunications is not appropriate for all problems. The specific process of providing professional services varies across situation, setting and time, and decisions regarding the appropriate delivery of telepsychology services are made on a case-by-case basis.

B. Any service that would require the psychologist to personally interact with, touch, and/or examine the client may not be suitable for telepsychology. (Examples include but are not be limited to the sensory-perceptual examinations of some neuropsychological assessments; and examination of the client for signs of movement) disorders like the AIMS and Simpson-Angus exams. Psychologists must ensure that the integrity of the examination procedure is not compromised through the use of telepsychology.

C. A Psychologist using Telepsychology must:

1. reflect on multicultural issues when delivering telepsychology services to diverse clients;
2. obtain the necessary professional and technical training, experience, and skills to adequately conduct the telepsychology services that they provide;
3. maintain their competence in this area via appropriate continuing education. Competence includes knowledge of ethics and law applicable to the use of telepsychology;
4. assess whether involved participants have the necessary knowledge and skills to benefit from those services.

D. If the psychologist determines that telepsychology is not appropriate, they inform those involved of appropriate alternatives

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:2353.C.(1) and R.S. 40:1223.4

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:

§1407. Responsibilities of the Louisiana Licensed Psychologist utilizing Telecommunications

A. Psychologist and Client Identity and Location

1. At the beginning of a Telepsychology service with a client, the following essential information shall be verified by the psychologist.

a. Psychologist and Client Identity Verification. The name and credentials of the psychologist and the name of the client shall be verified. The originating site of the client shall be verified as within Louisiana.

b. Psychologist and Client Location Documentation. The location where the client will be receiving services shall be confirmed and documented by the psychologist. Documentation should at least include the date, location, duration and type of service.

B. Secure Communications/Electronic Transfer of Client

1. Psychologists use secure Health Insurance Portability and Accountability Act (HIPAA)/Health Information Technology for Economic and Clinical Health (HITECH) Act compliant communications.

C. Non-Secured Communications

1. Obtain consent for use of non-secured communications.

2. In cases of emergency, non-secured communications may be used with the consent of the patient and/or at the discretion of the psychologist based on clinical judgment

D. Informed Consent

1. A thorough informed consent at the start of all services shall be performed.

2. The consent should be conducted in real-time.

3. Local, regional and national laws regarding verbal or written consent shall be followed.

4. The consent should include all information contained in the consent process for care including confidentiality and the limits to confidentiality in electronic communication:

a. an agreed upon emergency plan, particularly in settings without clinical staff immediately available;

b. the potential for technical failure, process by which patient information will be documented and stored;

c. a protocol for contact between sessions; and conditions under which telepsychology services may be terminated and/or a referral made.

E. Privacy

1. Efforts shall be made to ensure privacy so clinical discussion cannot be overheard by others either inside or outside of the room where the service is provided.

2. Psychologists review with clients their policy and procedure to ensure privacy of communications via physical, technical, and administrative safeguards.

F. Emergency Management

1. Psychologists shall have an Emergency Management plan in case of emergency in a telepsychology session.

2. The psychologist's plan should include but not be limited to: patient safety, information for patient support person, uncooperative patients and identifying local emergency personnel.

3. In an emergency situation with a patient, psychologists will follow the normal clinical emergency protocols.

4. In an emergency situation where a patient refuses to consent, emergency procedures will be followed using the pre-identified resources available at the remote site and permitted by prior consent/agreement of the client.

G. Recordkeeping

1. Psychologists ensure that documentation of service delivery via telepsychology is appropriately included in the clinical record (paper or electronic).

2. Psychologists ensure the secure destruction of any documents maintained in any media of telepsychology sessions and in accordance with APA guidelines, and all federal, state, and local laws and regulations.

H. Service Delivery

1. Psychologists are responsible for ensuring that any services provided via telecommunications are appropriate to be delivered through such media without affecting the relevant professional standards under which those services would be provided if delivered in person.

2. It is recommended that the initial interview/assessment occur in person. However, if conducted via telepsychology then the psychologist is responsible for meeting the same standard of care. This also includes but is not limited to reliability and validity of psychometric tests and other assessment methods; and consideration of normative data for such psychometric/assessment tools; maintaining conditions of administration.

3. When providing therapeutic interventions, psychologists ensure that the modality being used is appropriate for delivery through electronic media and is appropriate for delivery to individuals, groups, and/or families/couples as indicated.

4. Psychologists reassess appropriateness of the use of telepsychology throughout the course of contact with the client.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:2353.C.(1) and R.S. 40:1223.4

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:

§1409. Supervision via Telepsychology (“Telesupervision”)

A. In-person, face-to-face supervision remains the most appropriate and beneficial format for supervisees to learn effectively from their supervisors as well as the most appropriate format to ensure full professional responsibility for the welfare of the client.

B. Prior to conducting telesupervision, the supervising psychologist shall request pre-approval from the board by completing an application for Authorization to Provide Telesupervision and application fee.

1. The supervising psychologist shall provide an explicit rationale as to why this is an appropriate and effective form of supervision for this supervisee in this particular work setting.

2. The board may deny a request for telesupervision that is found to be inadequate or inappropriate.

C. Telesupervision shall:

1. not be the sole means of communication with a supervisee;

2. only be utilized when in-person supervision in the service delivery setting is not feasible or under other extenuating circumstances (e.g. the supervisor has taken planned medical leave and will be off-site for a month);

3. not account for more than 50 percent of the required supervisory contact for that supervisees’ level of training, except under extending circumstances which have been approved by the board;

4. not be permitted for a graduate student completing their first practicum experience.

D. Individuals who are considered assistants to psychologists ATAPs or individuals completing a post-doctoral fellowship require a minimum of one hour a week of individual supervision.

1. For an assistant with lesser experience, they may require more than the minimum of one hour a week of supervision.

2. For individuals currently in training completing a pre-doctoral psychology internship, a minimum of two hours of individual supervision is required. Therefore, if a supervisee engages in telesupervision, telesupervision shall not account for more than 26 hours of the minimum requirement for individual supervision for ATAPS or post-doctoral fellows and 52 hours of the minimum requirement for individual supervision for pre-doctoral interns over the course of a year.

E. It shall be the supervising psychologist’s responsibility in providing telesupervision, to:

1. maintain a license to practice psychology in the state of Louisiana;

2. maintain full legal functioning authority and professional responsibility for the welfare of the client and have functional authority over the psychological services provided by the supervisee.

3. establish a clear protocol for managing emergency consultation and be available to the supervisee as needed in the event of an emergency with a client;

4. ensure telesupervision is conducted via two-way video and audio transmissions simultaneously;

5. take into account the training needs of the supervisee and the service needs of the clients, protecting them from harm;

6. inform the supervisee of the risks and limitations specific to telepsychology supervision, including limits to confidentiality, security and privacy;

7. identify at the onset of each contact the identity of the supervisee, as well as the identity of all individuals who can access any electronically transmitted communication;

8. inform supervisees of procedures to manage technological difficulties or interruptions in service;

9. obtain and maintain competence in the chosen telecommunication technology;

10. ensure that telesupervision is provided in compliance with the supervision requirements of Chapter 7. Supervised Practice Leading towards Licensure of *Louisiana Administrative Code*, Title 46, Part LXIII as well as those outlined in Chapter 11. Supervision of Assistants to Psychologists.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:2353.C.(1) and R.S. 40:1223.4

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:

Chapter 17. Specialty Titles

§1701. Definition of Practice of Psychology

A. The definition of the practice of psychology, as contained in R.S. 37:2352(7), is a generic description, individuals certified under the provisions of R.S. 37:2351-2367 are licensed to practice psychology in accordance with that statute and the rules and regulations of the board adopted under the provisions of state statute.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:602 (October 1980), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:

§1702. Definition of Psychological Testing, Evaluation and Assessment

A. As contained in R.S. 37:2352(7), the practice of psychology includes, but is not limited to, psychological testing and evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning. The Board of Examiners of Psychologists finds it necessary to formally define psychological testing in order to protect the people of this state from the unlawful, unqualified and improper use of psychological tests. The intent of this rule is to provide a definition of psychological testing sufficient to allow this board to effectively regulate this aspect of psychological practice. The Board of Examiners of Psychologists recognizes that, except as otherwise provided by law, psychological testing may only be administered and interpreted by a person duly licensed as a psychologist by this board under R.S. 37:2351 et seq., or by a person under the direct supervision of a psychologist, provided that such supervision is in compliance with the regulations of this board.

B. Nothing in these regulations should be interpreted or construed as to limit or restrict the practice of physicians duly licensed to practice medicine by the Board of Medical

Examiners. Also, nothing in this rule should be construed as having application to any persons licensed or certified under other laws of this state when acting within the legal scope of such licensure or certification in rendering services as expressly set forth under those relevant statutes.

C. - F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:496 (April 1993), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:

§1705. Use of Specialty Title

A. ...

B. The term *specialty* refers to an area within the profession of psychology which can be identified on the basis of a history and tradition of service, research, and scholarship to have a body of knowledge and a set of skills related to that knowledge base, and which is distinguishable from other such specialties.

C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:602 (October 1980), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:

§1707. List of Specialties

A. ...

B. Those specialties which are currently recognized by the board are: clinical psychology, clinical neuropsychology, counseling psychology, school psychology, educational psychology, developmental psychology, experimental psychology, industrial-organizational psychology, and social psychology. The board may recognize other developed practice areas under training programs that are accredited by the American Psychological Association. Training programs may also combine two or three of the acceptable practice areas listed above.

C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:602 (October 1980), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:1423 (November 1993), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:

Chapter 19. Public Information

§1903. Public Display of Board's Address

A. There shall at all times be prominently displayed in the place(s) of business of each licensee regulated under this law the official sign provided by the board containing the name, mailing address, and telephone number of the board along with the following statement:

“BE IT KNOWN THAT THE LOUISIANA STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS RECEIVES QUESTIONS REGARDING THE PRACTICE OF PSYCHOLOGY.”

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 15:87 (February 1989), amended LR 22:980 (October 1996),

amended by the Department of Health, Board of Examiners of Psychologists, LR 49:

§1905. Petitions to the Board

A. In accordance with the provisions of Title 49 Section 953C (1), any interested person may petition an agency to request the adoption, amendment, or repeal of a rule. This section sets forth the board's procedure for their submission, considerations, and disposition.

1. Procedures for Submission. The board shall consider any petition that is signed, dated, and received by the board via USPS certified mail on the form specified by the board.

2. The form shall require the name and contact information of the petitioner; reference to the specific statutory or regulatory provision the petitioner is seeking to change; reason(s) for the request; the petitioner's personal interest in the requested change; and/or the petitioner's professional interest in the requested change.

B. Disposition

1. Upon receiving a petition, the agency shall acknowledge its receipt and docket the petition for review at the next regularly scheduled board meeting.

2. The board shall provide a response to the petition within 90 days of submission. The board's response will include its determination to either deny the petition, stating reasons in writing for the denial, or notify the petitioner of its intent to initiate rulemaking proceedings.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:

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 psychologists, provisionally licensed psychologists, and specialist in school psychology in the interest of the health, safety and the welfare of the public. 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: 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.

Provider Impact Statement

The proposed rules do not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Specifically, there is no known or foreseeable effect on: the staffing level requirements or

qualifications required to provide the same level of service; the total direct or indirect cost to the providers 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 noon on November 11, 2022.

Public Hearing

LSBEP will conduct a public hearing at noon on November 18, 2022, at the board office located at 4334 S. Sherwood Forest Blvd., Suite C-150, Baton Rouge, LA 70816. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Jaime T. Monic
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Training, Credentials and Scope of Practice for Neuropsychology Specialty Designation and Provisional Licensure

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

The proposed rule changes will result in a one-time publication expense of approximately \$3,984 for the LA State Board of Examiners of Psychologists (LSBEP) in FY 23. The proposed rule changes will not affect expenditures of other state or local governmental units. The proposed rule changes ensure that the requirements for supervision, training, and credentials of Licensed Psychologists align with current statutory requirements, practices, and nationally recognized standards. The proposed rules are considered vital to public protection, remove obstacles to licensure and practice, replace ambiguous language and grammar, correct outdated statutory references, and comply with statutorily mandated rulemaking requirements regarding telepsychology and procedures for petitioning the LSBEP.

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

The proposed rule changes will affect revenue collections for the Louisiana Register as a result of the one-time publication expense of approximately \$3,984 by the LSBEP in FY 23.

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

The proposed rule changes will benefit LSBEP applicants for licensure, as they clarify training and education requirements currently offered by doctoral training programs thereby removing unnecessary and outdated obstacles to licensure and practice that would stifle economic opportunity and growth. The proposed rule changes will benefit Licensed Psychologists by aligning with nationally accepted standards and creating mobility and ease of individuals moving to Louisiana. The proposed rule changes may result in costs to Licensed Psychologists who elect to engage in the provision of services via telecommunications to ensure HIPPA/HITECH compliant services, these costs are not unlike expenses incurred when establishing a secure practice in a physical location.

Furthermore, such costs may be offset by eliminating expenses for travel, real estate, and an opportunity to reach a larger client base. Additionally, consumers of psychological services will benefit from greater accessibility to services, especially individuals living in rural areas with limited access to care.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes are anticipated to have a positive effect on competition and employment by eliminating obstacles to licensure and practice that would stifle economic opportunity and growth and allowing for mobility and ease of individuals moving to Louisiana.

Jaime T. Monic
Executive Director
2211#011

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis and Treatment
Personal Care Services—Personal Care Workers Wage
Enhancement (LAC 50:XV.7321)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XV.7321 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 proposes to amend the provisions governing reimbursement for personal care services (PCS) provided to beneficiaries in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program in order to remove outdated language regarding a wage enhancement that is not applicable to the current EPSDT-PCS program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

Chapter 73. Personal Care Services

§7321. Reimbursement

A. - A.2. ...

B. - B.1.b. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:179 (February 2003), amended LR 33:2202 (October 2007), repromulgated LR 33:2425 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2561 (November 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 45:908 (July 2019), LR 49:

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 the Small Business Protection Act, 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.

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. 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 December 30, 2022.

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 December 12, 2022. 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 December 29, 2022 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 December 12, 2022. 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: Early and Periodic Screening, Diagnosis and Treatment—Personal Care Services—Personal Care Workers Wage Enhancement

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

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 22-23. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 22-23 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 22-23. It is anticipated that \$216 will be collected in FY 22-23 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed rule amends the provisions governing reimbursement for personal care services (PCS) provided to beneficiaries in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program in order to remove outdated language regarding a wage enhancement that is not applicable to the current EPSDT-PCS program. It is anticipated that implementation of this proposed rule will not result in costs to EPSDT-PCS providers in FY 22-23, FY 23-24, and FY 24-25, but will be beneficial by ensuring that language that is no longer relevant and is not a part of the current EPSDT-PCS program is removed from the Louisiana Administrative Code.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2211#055

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Healthcare Services Provider Fees
Hospital Fee Assessments
(LAC 48:I.4001 and 4007)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.4001 and §4007 as authorized by R.S. 36:254. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Pursuant to article VII, section 10.13 of the Constitution of Louisiana, the Louisiana Legislature establishes an annual hospital stabilization formula via concurrent resolution which directs the Department of Health, Bureau of Health Services Financing to calculate, levy, and collect an

assessment for each assessed hospital. In compliance with article VII, section 10.13 of the Louisiana Constitution and the Louisiana Legislature concurrent resolution, the Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing healthcare services provider fees in order to revise the assessment methodology for hospital services providers (*Louisiana Register*, Volume 48, Number 10). This proposed Rule is being promulgated to continue the provisions of the September 21, 2022 Emergency Rule.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 1. General

Chapter 40. Provider Fees

§4001. Specific Fees

A. - E.3.a. ...

F. Hospital Services

1. Effective July 1, 2022, a hospital stabilization assessment fee shall be levied and collected in accordance with article VII, section 10.13 of the Constitution of Louisiana, any legislation setting forth the hospital stabilization formula, and departmental requirements relative to directed payments.

a. -Subject to written approval by the Centers for Medicare and Medicaid Services (CMS) of a directed payment arrangement pursuant to 42 C.F.R. 438.6, the Department of Health shall levy and collect an assessment from those hospitals subject to the approved directed payment arrangement. Each approved directed payment arrangement is effective for one Healthy Louisiana Medicaid managed care contract rating period.

i. Prior to the levy of any assessment pursuant to this Subsection, the Department of Health shall submit a Medicaid assessment report to the Joint Legislative Committee on the Budget. The Medicaid assessment report shall include a description of the proposed assessment, the basis for the calculation of the assessment, and a listing of each hospital included in the proposed assessment. The hospital assessment shall be calculated in accordance with the annual hospital stabilization formula set forth by the Legislature of Louisiana and enacted pursuant to article VII, section 10.13 of the Constitution of Louisiana.

ii. An assessment levied pursuant to this Subsection shall be levied only for the quarters that directed payments are actually paid to qualified hospitals pursuant to 42 C.F.R. 438.6 directed payment arrangements approved by CMS.

2. Individual hospitals subject to an assessment under this Subsection shall be obligated to pay such assessment regardless of whether a directed payment is actually paid to the hospital for the quarter for which the assessment is levied.

3. The assessment will be levied and collected on a quarterly basis and at the beginning of each quarter that the assessment is due.

4. - 5. Repealed.

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and P.L. 102-234, R.S. 36:254, and Article VII, Section 10.13 of the Constitution of Louisiana.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 20:51 (January 1994), LR 26:1478 (July 2000), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:100 (January 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1887, 1888 (November 2016), LR 43:73 (January 2017), repromulgated LR 43:323 (February 2017), amended LR 44:1015 (June 2018), LR 44:1894 (October 2018), LR 45:1597 (November 2019), LR 49:

§4007. Delinquent and/or Unpaid Fees

A. - C. ...

D. In accordance with departmental requirements relative to directed payments, hospitals that fail to pay the assessment due, or any portion thereof, may be subject to one or more of the following:

1. exclusion from participation in any directed payment arrangement approved by the Centers for Medicare and Medicaid Services pursuant to 42 C.F.R. 438.6;

2. revocation of the hospital's license; or

3. termination of the hospital's enrollment in the Medical Assistance Program (Medicaid).

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and PL 102-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 20:1114 (October 1994), LR 26:1479 (July 2000), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1887 (November 2016), LR 44:1017 (June 2018), LR 49:

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 the Small Business Protection Act, 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.

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 December 30, 2022.

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 December 12, 2022. 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 December 29, 2022 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 December 12, 2022. 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: Healthcare Services Provider Fees
Hospital Fee Assessments**

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

It is anticipated that implementation of this proposed rule will have state programmatic fiscal costs of approximately \$257,146,706 for FY 22-23 and \$0 for FY 23-24 and FY 24-25. The hospital fee assessment revenue generated by the proposed rule will be used in the Medicaid budget to fund rate increases and the hospital directed payment model. It is anticipated that \$756 (\$378 SGF and \$378 FED) will be expended in FY 22-23 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)**

Article VII, Section 10.13 of the Constitution of Louisiana, requires that a House Concurrent Resolution be adopted in each legislative session setting forth the hospital stabilization formula for the subsequent fiscal years. It is anticipated that implementation of this proposed rule will increase statutory dedicated revenue collections by approximately \$257,146,328 for FY 22-23 and \$0 for FY 23-24 and FY 24-25 and will increase federal revenue collections by approximately \$932,558,561 for FY 22-23 and \$0 for FY 23-24 and FY 24-25. It is anticipated that \$378 will be collected in FY 22-23 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed rule continues the provisions of the September 21, 2022 Emergency Rule, which amended the provisions governing healthcare services provider fees in order to revise the assessment methodology for hospital services providers, in compliance with the Louisiana Legislature concurrent resolution and pursuant to Article VII, Section 10.13 of the Constitution of Louisiana. In addition, the proposed rule adds requirements relative to hospital directed payments to the criteria for the levy and collection of the annual hospital stabilization assessment and to the provisions governing delinquent and/or unpaid fees. Implementation of this proposed rule is anticipated to increase federal and statutory dedicated revenue collections by approximately \$1,189,704,511 for FY 22-23 and \$0 for FY 23-24 and FY 24-25, as a result of the hospital stabilization assessment fee.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2211#066

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Health Care Facility Sanctions (LAC 48:I.Chapter 46)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 46 as authorized by R.S. 36:254, 40:2009.11, 40:2009.23, 40:2199, and 40:2199.1. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 461 of the 2022 Regular Session of the Louisiana Legislature requires the Department of Health to promulgate rules for licensed healthcare facilities to establish duties and requirements addressing and preventing workplace violence. In compliance with Act 461, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing health care facility sanctions in order to establish duties and requirements addressing workplace violence and to add and update definitions.

Title 48

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Licensing and Certification

Chapter 46. Health Care Facility Sanctions

Subchapter A. General Provisions

§4601. Introduction

A. The purpose of this Chapter is to:

1. provide for the development, establishment and enforcement of statewide standards for the imposition of sanctions pursuant to state statutes against health care facilities in the state of Louisiana that have violations of federal or state law or statutes, licensure standards and requirements, certification requirements, or Medicaid requirements;

2. - 6. ...

B. This Chapter shall not apply to any individual health care provider who is licensed or certified by one of the boards under the LDH. These boards include, but are not limited to:

1. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3077 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

§4603. Definitions

Administrative Reconsideration—for purposes of this Chapter, also known as an informal reconsideration.

Class A Violation—a violation of a rule or regulation that creates a condition or occurrence relating to the maintenance and/or operation of a facility which results in death or serious harm to a client or employee. Examples of class A violations include, but are not limited to:

1. acts or omissions by an employee or employees of a facility that either knowingly or negligently resulted in the death of a client or employee; or

2. acts or omissions by an employee or employees of a facility that either knowingly or negligently resulted in serious harm to a client or employee.

Class B Violation—a violation of a rule or regulation in which a condition or occurrence relating to the maintenance and/or operation of a facility is created which results in the substantial probability of death or serious physical or mental harm to a client or employee. Examples of class B violations include, but are not limited to:

1. - 3. ...

4. failure to employ a sufficient number of adequately trained staff to care for clients;

5. failure to implement adequate infection control measures; or

6. failure to implement workplace violence prevention policies and procedures, resulting in death or serious physical or mental harm to an employee.

Class C Violation—a violation of a rule or regulation in which a condition or occurrence relating to the maintenance and/or operation of a facility creates a potential for harm by directly threatening the health, safety, rights, or welfare of a client or the safety of an employee(s) through workplace violence. Examples of class C violations include, but are not limited to:

1. - 5. ...

6. lack of adequately trained staff necessary to meet a patient's or client's needs;

7. failure to have sufficient staff, including staffing patterns that may contribute to, or be insufficient to address, the risk of violence; or

8. failure to protect patients or clients from personal exploitation including, but not limited to, sexual conduct involving facility staff and a patient or client.

Class D Violation—a violation of a rule or regulation related to administrative and reporting requirements that do not directly threaten the health, safety, rights, or welfare of a client, or the safety of an employee(s) through workplace violence. Examples of class D violations include, but are not limited to:

1. - 2. ...

3. falsification of a record;

4. failure to maintain a patient's or client's financial records as required by rules and regulations; or

5. failure to maintain and make available to its employees a written safety and security plan.

Department or LDH—the Louisiana Department of Health.

Employee—for purposes of this Chapter, a person who performs a job or task for the healthcare provider. An employed person may be permanent, temporary, contracted, or a volunteer.

Health Care Facility or Facility—any health care provider or entity licensed or certified by LDH. In other laws, statutes and regulations, this entity may be referred to as a provider, agency, clinic, residential unit, or home. A health care facility shall include, but not be limited to a/an:

1. - 11 ...

12. free-standing birth center;

13. supplier of portable x-ray services;

14. home and community-based services (HCBS) provider;

15. home health agency;

16. hospice agency;

17. hospital;

18. intermediate care facility for persons with developmental disabilities (ICF-DD);

19. mental health clinic;

20. mental health center;

21. mental health rehabilitation agency;

22. non-emergency medical transportation agency;

23. nursing facility;

24. nurse staffing agency;

25. rural health clinic;

26. pain management clinic;

27. pediatric day health care (PDHC) facility;

28. psychiatric rehabilitation treatment facility (PRTF);

29. substance abuse/addiction treatment facility;

30. therapeutic group home (TGH); and

31. any other program licensed or certified by LDH.

HSS—the LDH Health Standards Section.

Secretary—the secretary of LDH or his/her designee.

Work Place Violence—violent acts, including battery or the intentional placing of another person in reasonable apprehension of sustaining battery, directed toward persons at work or on duty with their employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3077 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

Subchapter B. Sanctions and Standards for the Imposition of Sanctions

§4611. General Provisions

A. - B.12.c. ...

C. Considerations. When determining whether to impose a sanction, the department may consider some or all of the following factors:

1. whether the violations pose an immediate threat to the health or safety of the client(s) or to the safety of an employee(s);

C.2. - E. ...

F. Any facility sanctioned under this Rule and found to have a violation that poses a threat to the health, safety, rights, or welfare of a client or the safety of an employee may have additional actions, such as criminal charges, brought against it under another applicable law, statute or regulation.

G. Unless otherwise provided for in state law or statute, if the secretary determines that the violations committed by the facility pose an imminent or immediate threat to the health, welfare or safety of any client or the safety of an employee, the imposition of the sanction may be immediate and may be enforced during the pendency of the administrative appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3078 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

§4613. Civil Fines

A. - B.2. ...

C. Class C Violations

1. ...

2. A facility may elect to pay 50 percent of the civil fine imposed for a class C violation in exchange for waiving its right to an administrative reconsideration and appeal if it submits, and HSS receives, the following within 30 days of the facility's receipt of the civil fine notice:

a. ...

b. the facility's written waiver of the right to an administrative reconsideration and appeal on the form provided by LDH.

D. - E.1. ...

F. Determination of the Amount of Civil Fines

1. - 1.a.iii. ...

iv. the extent of actual or potential harm to clients or employees; and

1.b. - 2....

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3079 (November 2013); amended by the Department of Health, Bureau of Health Services Financing, LR 49:

§4619. Removal from the Freedom of Choice List

A. The department may impose the sanction of removal from the freedom of choice list to a facility placed on a freedom of choice list. LDH may impose this sanction for any violation including, but not limited to:

A.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3080 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

§4621. Transfer of Clients Receiving Services

A. The department may impose the sanction of transfer of clients receiving services provided by a facility. This sanction may be imposed for any violation of statute, rule or regulation including but not limited to:

A.1. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3080 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

§4623. License Suspension

A. Unless otherwise provided by federal or state law, the department may impose a suspension of a license if the department determines that the violations committed by the facility pose an imminent or immediate threat to the health, welfare or safety of its clients or safety of its employees.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3081 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

§4627. Special Staffing Requirements

A. - B.5. ...

C. The department may impose the sanction of special staffing for any violation of statute, rule or regulation including, but not limited to:

1. a violation of a rule or regulation that creates a condition or occurrence relating to the maintenance and/or operation of a facility which results in death or serious harm to a resident, patient, client, or employee;

2. a violation of a rule or regulation in which a condition or occurrence relating to the maintenance and/or operation of a facility is created and results in the substantial probability of death or serious physical or mental harm to a resident, patient, client, or employee will result from the violation;

3. a repeat violation of a rule or regulation in which a condition or occurrence relating to the maintenance and/or operation of a facility creates a potential for harm by directly threatening the health, safety, rights, or welfare of a client or safety of an employee;

4. ...

5. when there is an imminent threat to the health, safety and welfare of the facility's clients or safety of employees.

D. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3081 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

§4629. Temporary Management

A. The department may require the immediate appointment of a temporary manager, at the facility's expense, to:

1. ...

2. assure the health and safety of the facility's clients and safety of employees.

B. Temporary management may be imposed for any violation of statute, rule or regulation including, but not limited to:

1. a violation of a rule or regulation that creates a condition or occurrence relating to the maintenance and/or operation of a facility which results in death or serious harm to a resident, patient, client, or employee;

2. a violation of a rule or regulation in which a condition or occurrence relating to the maintenance and/or operation of a facility is created and results in the substantial probability of death, serious physical harm or mental harm to a resident, patient, client, or employee;

3. a repeat violation of a rule or regulation in which a condition or occurrence relating to the maintenance and/or operation of a facility creates a potential for harm by directly threatening the health, safety, rights, or welfare of a client or safety of an employee;

B.4. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3082 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

Subchapter C. Notice and Appeals

§4643. Administrative Appeal Process

A. - C.5. ...

D. Hearings

1. ...

2. Evidence. The taking of evidence shall be controlled in a manner best suited to ascertain the facts and safeguard the rights of the parties. Prior to taking evidence, the issues shall be explained, and the order in which the evidence will be received shall be explained.

a. - b.v. ...

c. The administrative law judge (ALJ) may question any party or witness and may admit any relevant and material evidence.

2.d. - 7. ...

8. The ALJ does not have the authority to:

a. rescind or amend any violation of federal law, statute or regulation found by LDH on behalf of CMS; or

D.8.b. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3083 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

Subchapter D. Enforcement of Sanctions

§4651. Enforcement of Sanctions/Collection of Fines

A. - D.2. ...

E. The facility is prohibited from:

1. ...

2. increasing charges to clients as a result of civil fines and/or interest imposed by LDH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3085 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

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 the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule may have an indeterminable impact on small businesses that fail to comply with the requirements for addressing workplace violence and may be sanctioned.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on December 30, 2022.

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 December 12, 2022. 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 December 29, 2022 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 December 12, 2022. 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: Health Care Facility Sanctions

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

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 22-23. It is anticipated that \$1,836 will be expended in FY 22-23 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)

The effect on revenue collections as a result of implementation of this proposed rule is indeterminable, because it is not possible to know how many health care facilities may fail to comply with the requirements for addressing workplace violence and the amount of any sanctions that may be imposed as a result of this non-compliance.

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

This proposed rule amends the provisions governing health care facility sanctions in order to establish duties and requirements addressing workplace violence and to add and update definitions, in compliance with Act 461 of the 2022 Regular Session of the Louisiana Legislature. Employees of health care facilities will benefit from the protection against workplace violence resulting from this proposed rule. It is anticipated that implementation of this proposed rule may result in costs to health care facilities in FY 22-23, FY 23-24, and FY 24-25, if they are sanctioned due to non-compliance with the regulations; however, there is no way to determine the number of facilities that may be impacted nor the potential costs to them.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2211#056

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

**Inpatient Hospital Services—Urban Metropolitan
Statistical Area Facility—New Orleans Area
(LAC 50:V.Chapter 21)**

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:V.Chapter 21 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 to establish the criteria for an acute care hospital to qualify as an urban metropolitan statistical area (MSA) facility-New Orleans area and the reimbursement methodology for the provision of inpatient services

(Louisiana Register, Volume 48, Number 10). This proposed Rule is being promulgated to continue the provisions of the October 5, 2022 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals Services

**Chapter 21. Urban Metropolitan Statistical Area
(MSA) Facility—New Orleans Area**

§2101. Qualifying Criteria

A. In order to qualify as an urban metropolitan statistical area (MSA) facility—New Orleans area, effective as of October 5, 2022, the hospital must:

1. be designated a non-rural hospital service district located in LDH region 1, with a facility type code of acute, Medicaid enrolled, with an original hospital license date before July 13, 2014, but after July 1, 2014, located in zip code 70127;

2. be a hospital that is located an urban MSA as defined by United States Office of Management and Budget;

3. have an operational emergency room; and

4. not add additional locations under this license, without prior written approval of the department.

a. The addition of any off-site campus, beyond an outpatient primary care clinic, to the license of this hospital will invalidate the provisions of this reimbursement methodology.

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 49:

§2103. Reimbursement Methodology

A. The inpatient hospital per diem rate paid for acute care services to qualifying urban MSA hospitals-New Orleans area who meet all of the criteria in §2101 shall be increased by indexing annually to 95 percent of the small rural hospital acute per diem rate in effect.

B. The inpatient hospital per diem rate paid for psychiatric services to qualifying urban MSA hospitals-New Orleans area who meet all of the criteria in §2101 shall be increased by indexing annually to 95 percent of the small rural hospital psychiatric per diem rate in effect.

C. These rates are conditional on the hospital continuing to meet all qualifying criterial included in §2101. If the hospital no longer qualifies, payments will revert back to appropriate non-rural, non-state hospital assigned rates effective on the date that the qualification(s) in §2101 are no longer met.

D. The department may review all above provisions every three years, at a minimum to evaluate continuation of these enhanced reimbursements.

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 49:

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 the Small Business Protection Act, 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.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to 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 December 30, 2022.

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 December 12, 2022. 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 December 29, 2022 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 December 12, 2022. 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: Inpatient Hospital Services Urban Metropolitan Statistical Area Facility New Orleans Area

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 \$1,116,247 for FY 22-23, \$1,639,568 for FY 23-24, and \$1,639,568 for FY 24-25. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 22-23 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 \$2,676,187 for FY 22-23, \$3,416,146 for FY 23-24, and \$3,416,146 for FY 24-25. It is anticipated that \$324 will be collected in FY 22-23 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed rule continues the provisions of the October 5, 2022 Emergency Rule which adopted provisions to establish the criteria for an acute care hospital to qualify as an urban metropolitan statistical area (MSA) facility—New Orleans area and the reimbursement methodology for the provision of inpatient services. This proposed rule will benefit Medicaid beneficiaries by ensuring continued access to a New Orleans area urban MSA facility. Implementation of this proposed rule is anticipated to increase Medicaid payments to a qualifying hospital by approximately \$3,791,786 for FY 22-23, \$5,055,714 for FY 23-24, and \$5,055,714 for FY 24-25, which will assist the hospital in achieving financial viability and continuing operations so vital healthcare services remain available.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2211#057

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Managed Care for Physical and Behavioral Health
Hospital Directed Payments (LAC 50:I.3113)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:I.3113 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 directed payments to qualifying hospitals that participate in the Healthy Louisiana Program and contract with the Medicaid managed care organizations (MCOs) to provide inpatient and outpatient services to MCO enrollees (*Louisiana Register*, Volume 48, Number 10). This proposed Rule continues the provisions of the September 21, 2022 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Managed Care for Physical and Behavioral Health

Chapter 31. General Provisions

§3113. Directed Payments

A. Hospital Directed Payments

1. Subject to written approval by the Centers for Medicare and Medicaid Services (CMS), the Department of Health (hereafter referred to as “the department” and/or “LDH”) shall provide directed payments to qualifying hospitals that participate in the Healthy Louisiana Medicaid managed care program, in accordance with the applicable section 438.6(c) preprint(s) approved by CMS, federal regulations, and departmental requirements. Each CMS approved directed payment arrangement is effective for one Healthy Louisiana Medicaid managed care contract rating period.

2. Qualifying Hospital—either of the following:

a. an in-state provider of inpatient and outpatient hospital services (excluding freestanding psychiatric hospitals, freestanding rehabilitation hospitals, and long-term acute care hospitals) that meets the criteria specified in the applicable section 438.6(c) preprint approved by CMS and departmental requirements; or

b. an in-state hospital provider of long-term acute care, psychiatric services, and rehabilitation services for both inpatient and outpatient hospital services that meet the criteria specified in the applicable section 438.6(c) preprint approved by CMS and departmental requirements.

3. The department shall assign qualifying hospitals to provider classes based upon criteria specified in the applicable section 438.6(c) preprint(s) approved by CMS, in accordance with departmental requirements.

a. Qualifying hospitals shall have no right to an administrative appeal regarding any issue related to provider classification, including, but not limited to, provider class assignment, the effective date of provider class assignment, or qualifying determinations.

4. The department shall utilize an interim payment process, whereby interim directed payments will be calculated based on provider class assignment utilizing the data and methodology specified in the applicable section 438.6(c) preprint(s) approved by CMS, in accordance with departmental requirements.

a. Qualifying hospitals shall have no right to an administrative appeal regarding calculation of interim directed payments.

5. The department shall cause interim directed payments to be paid on a quarterly basis to the Healthy Louisiana Medicaid managed care organizations (MCOs), in accordance with departmental requirements.

a. The MCOs shall pay interim directed payments to qualified hospitals within 10 business days of receipt of quarterly interim directed payment information from LDH. If a barrier exists that will not allow the MCO to pay the interim directed payments within 10 business days of receipt, the MCO shall immediately notify LDH. LDH at its sole discretion will determine if penalties for late payment may be waived.

b. The qualifying hospital may request that the MCOs deposit their interim directed payments into a separate bank account owned/held by the qualifying hospital. Interim directed payments shall not be deposited into a bank account that is owned/held by more than one qualifying hospital.

6. In accordance with the applicable section 438.6(c) preprint(s) approved by CMS, federal regulations, and departmental requirements, directed payments must be based on actual utilization and delivery of services during the applicable contract period.

a. Within 12 months of the end of each state fiscal year (SFY), LDH shall perform a reconciliation as specified in the applicable section 438.6(c) preprint approved by CMS and departmental requirements.

i. Qualifying hospitals shall have no right to an administrative appeal regarding any issue related to reconciliation, including, but not limited to, the timing and process.

b. Qualified hospitals are strongly encouraged to submit claims as quickly as possible after SFY end.

7. If a qualifying hospital that is subject to a reconciliation will not be participating in a directed payment arrangement in the future, the qualified hospital shall pay all amounts owed to LDH, if any, within 30 calendar days’ notice of the amount owed, in accordance with departmental requirements.

a. In addition to all other available remedies, LDH has the authority to offset all amounts owed by a qualifying hospital due to a reconciliation against any payment owed to the qualifying hospital, including, but not limited to, any payment owed by the MCOs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:245 and Title XIX of the Social Security Act

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by ensuring continued provider participation in the Medicaid Program.

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 the Small Business Protection Act, 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.

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 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 December 30, 2022.

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 December 12, 2022. 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 December 29, 2022 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 December 12, 2022. 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: Managed Care for Physical and Behavioral Health—Hospital Directed Payments

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

It is anticipated that implementation of this proposed rule will increase state costs by approximately \$818,724,148 for FY 22-23 and \$0 for FY 23-24 and FY 24-25, since the directed

payment models must be approved by the Centers for Medicare and Medicaid Services (CMS) every year. It is anticipated that \$864 (\$432 SGF and \$432 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that implementation of this proposed rule will increase revenue collections from fees and self-generated revenue by approximately \$210,832,631, interagency transfers by approximately \$88,923,665, and statutory dedicated revenue from the Hospital Stabilization Fund and Medical Assistance Trust Fund by approximately \$283,071,165 for FY 22-23 and \$0 for FY 23-24 and FY 24-25. In addition, this proposed rule will increase federal revenue collections by approximately \$1,824,026,923 for FY 22-23 and \$0 for FY 23-24 and FY 24-25. It is anticipated that \$432 will be collected in FY 22-23 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed rule continues the provisions of the September 21, 2022 Emergency Rule, which adopted provisions governing directed payments to qualifying hospitals that participate in the Healthy Louisiana Program and contract with the Medicaid managed care organizations (MCOs) to provide inpatient and outpatient services to MCO enrollees. Implementation of this proposed rule will be beneficial to qualifying hospitals, as it is anticipated to increase payments for hospital services by approximately \$2,642,750,639 for FY 22-23 and \$0 for FY 23-24 and FY 24-25. Since the directed payment models must be approved by CMS every year, at this time, the Department is only authorized to make these payments through June 2023.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2211#058

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Outpatient Hospital Services—Urban Metropolitan
Statistical Area Facility—New Orleans Area
(LAC 50:V.Chapter 75)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:V.Chapter 75 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions to establish the criteria for an acute care hospital to qualify as an urban metropolitan statistical area (MSA) facility—New Orleans area and the reimbursement methodology for the provision of outpatient services (*Louisiana Register*, Volume 48, Number 10). This proposed

Rule is being promulgated to continue the provisions of the October 5, 2022 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospital Services

Chapter 75. Urban Metropolitan Statistical Area (MSA) Facility—New Orleans Area

§7501. Qualifying Criteria

A. In order to qualify as an urban metropolitan statistical area (MSA) facility—New Orleans area, effective October 5, 2022, a hospital must:

1. be designated a non-rural hospital service district located in LDH region 1, with a facility type code of acute, Medicaid enrolled, with an original hospital license date before July 13, 2014, but after July 1, 2014, located in zip code 70127;

2. be a hospital that is located in an MSA as defined by United States Office of Management and Budget;

3. have an operational emergency room; and

4. not add additional locations under this license, without prior written approval of the department.

a. The addition of any off-site campus, beyond an outpatient primary care clinic, to the license of this hospital will invalidate the provisions of this reimbursement methodology.

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 49:

§7503. Reimbursement Methodology

A. Payments for outpatient services to qualifying urban MSA hospitals—New Orleans area who meet all of the criteria in §7501 shall be made as follows:

1. Outpatient Surgery. The reimbursement amount for outpatient hospital surgery services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

2. Clinic Services. The reimbursement amount for outpatient clinic services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

3. Laboratory Services. The reimbursement amount for outpatient clinical diagnostic laboratory services shall be the Medicaid fee schedule amount on file for each service.

4. Rehabilitation Services. The reimbursement amount for outpatient rehabilitation services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

5. Other Outpatient Hospital Services. The reimbursement amount for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services, and outpatient hospital facility fees shall be an interim payment equal to 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

B. The department may review all above provisions every three years, at a minimum, to evaluate continuation of these enhanced reimbursements.

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 49:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by ensuring continued provider participation in the Medicaid Program.

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 the Small Business Protection Act, 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.

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 Emergency Rule has been considered. It is anticipated that this Emergency Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to 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 December 30, 2022.

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 December 12, 2022. 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 December 29, 2022 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 December 12, 2022. 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: Outpatient Hospital Services
Urban Metropolitan Statistical Area Facility
New Orleans Area**

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

It is anticipated that implementation of this proposed rule will result in estimated programmatic costs of approximately \$1,411,843 for FY 22-23, \$2,073,793 for FY 23-24, and \$2,073,793 for FY 24-25. It is anticipated that \$756 (\$378 SGF and \$378 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed and final rule.

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

It is anticipated that implementation of this proposed rule will increase federal revenue collections by approximately \$3,384,920 for FY 22-23, \$4,320,883 for FY 23-24, and \$4,320,883 for FY 24-25. It is anticipated that \$378 will be collected for the federal share of the expense for promulgation of the proposed and final rule.

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

This proposed rule continues the provisions of the October 5, 2022 Emergency Rule, which adopted provisions to establish the criteria for an acute care hospital to qualify as an urban metropolitan statistical area (MSA) facility-New Orleans area and the reimbursement methodology for the provision of outpatient services. This proposed rule will benefit Medicaid beneficiaries by ensuring continued access to a New Orleans area urban MSA facility. This proposed rule is anticipated to increase Medicaid payments to a qualifying hospital by approximately \$4,796,007 for FY 22-23, \$6,394,676 for FY 23-24, and \$6,394,676 for FY 24-25, which will assist the hospital in achieving financial viability and continuing operations so vital healthcare services remain available.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2211#059

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

**Regulation 125—Insure Louisiana Incentive Program
(LAC 37:XIII.Chapter 189)**

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 promulgate Regulation 125 regarding the Insure Louisiana Incentive Program.

Louisiana is currently experiencing a crisis in the availability and affordability of insurance for residential and commercial properties. Louisiana property owners and their insurers sustained catastrophic losses in 2020 and 2021 from hurricanes Laura, Delta, Zeta, and Ida. As the result of their losses and their assessment of the risk of loss from future storms, many property insurers have substantially reduced their participation in the voluntary market for residential and commercial property insurance. With fewer property insurers in the voluntary market, competitive pressure on premium rates is reduced. Current underwriting practices have resulted in a substantial increase in the number of Louisiana property owners forced to obtain their property insurance coverage or their coverage for wind peril from Louisiana Citizens Property Insurance Corporation, the state insurer of last resort.

The Insure Louisiana Incentive Program was enacted through the passage of Act 754 of the 2022 Regular Session of the Louisiana Legislature for the purpose of cooperative economic development and stability in Louisiana by encouraging additional property insurers to participate in the voluntary property insurance market to increase the availability of property insurance, increase competitive pressure on insurance rates, and reduce the volume of business written by the Louisiana Citizens Property Insurance Corporation.

Regulation 125 sets forth standards and procedures relative to a property insurer's participation in the Insure Louisiana Incentive Program. Through cooperative endeavor agreements, property insurers participating in the program may be awarded matching grant funds in order to achieve the requirements of Act 754. Regulation 125 further specifies these requirements and conditions thereof for qualified property insurers.

Title 37

INSURANCE

Part XIII. Regulations

**Chapter 189. Regulation Number 125—Insure
Louisiana Incentive Program**

§18901. Purpose

A. The purpose and intent of Regulation 125 is to exercise the authority and carry out the duties and responsibilities of the commissioner for implementation and regulation of the Insure Louisiana Incentive Program, hereinafter referred to as the "Incentive Program."

Regulation 125 sets forth rules and procedural requirements which the commissioner deems necessary for participation in the Incentive Program by qualified property insurers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:2361 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:

§18903. Authority

A. Regulation 125 is promulgated pursuant to the authority and responsibility delegated to the commissioner under R.S. 22:2361 through 2371 and pursuant to the general powers granted by law to the commissioner and the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:2361 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:

§18905. Applicability and Scope

A. Regulation 125 applies to all property insurers with respect to their qualification and participation in the Incentive Program.

B. Regulation 125 governs all aspects of the Incentive Program including, but not limited to, the invitation and application process for grants, the qualifications of grantees, the award of grants, the use of grant funds, the reporting requirements for grantees, the requirements for matching capital funds, the requirements for minimum capital and surplus, the requirements for earned capital, the requirements for default, and other regulation and administration of the Incentive Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:2361 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:

§18907. Definitions

A. For the purposes of Regulation 125, the following terms are defined as follows:

Authorized Insurer—an insurer with a certificate of authority in Louisiana.

Commissioner—the Commissioner of Insurance of the state of Louisiana.

Department—the Department of Insurance of the state of Louisiana.

Domestic Insurer—an insurer formed under the laws of the state of Louisiana that has been authorized by the department to sell insurance products in the state of Louisiana.

Earning Period—the timeframe, including any extension granted by the commissioner, in which the grantee can earn 20 percent or the pro rata share of the grant award.

Grantee—a property insurer to whom a grant is made from the Incentive Program Fund.

Incentive Program (where capitalized)—the Insure Louisiana Incentive Program as created, authorized and administered pursuant to R.S. 22:2361 et seq., and Regulation 125.

Incentive Program Fund (where capitalized)—the Insure Louisiana Incentive Fund established and created pursuant to R.S. 22:2371 and Regulation 125.

Legal Interest—interest at the rate fixed in R.S. 13:4202.

Net Written Premiums—the total premiums, exclusive of assessments and other charges, paid by policyholders to an insurer for policies that comply with Regulation 125, minus any return premiums or other premium credits due policyholders, as defined in R.S. 22:2369(A). Premium received from participation in the depopulation or take-out program of Louisiana Citizens Property Insurance Corporation shall be included in net premiums written.

Newly Allocated Insurer Capital—capital committed by an insurer to match any grant funds received from the Incentive Program Fund.

Reporting Period—the financial statement reporting date of March 31, June 30, September 30, and December 31 of each respective year in the Incentive Program.

Surplus Lines Insurer—an insurer without a certificate of authority that meets the eligibility criteria of R.S. 22:435(A)(2) and (B) and from which a licensed surplus lines broker may procure insurance under the provisions of R.S. 22:432.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:2361 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:

§18909. Matching Capital Grants

A. From funds appropriated by the legislature for the Incentive Program Fund established and created in the state treasury under R.S. 22:2371, the commissioner may grant matching capital funds to qualified property insurers in accordance with the requirements of R.S. 22:2361 through 2371 and Regulation 125.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:2361 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:

§18911. Public Invitation for Grant Applications

A. Pursuant to R.S. 22:2361 et seq., and Regulation 125, the commissioner shall issue an initial public invitation to property insurers to submit applications for grants under the Incentive Program.

B. The invitation shall be published for at least a 30-day period on the department's web site and in state and national insurance journals and publications as the commissioner deems appropriate.

C. The invitation shall describe the Incentive Program and provide general information about the grant application process.

D. The invitation shall set a deadline for receipt of grant applications. All grant applications should be submitted to the department either by certified mail, return receipt requested, actual delivery by a commercial interstate courier, or electronic mail. Failure to timely submit a grant application may render the property insurer ineligible to participate in the Incentive Program. However, for good cause shown, the commissioner may extend the deadline and consider applications received after the deadline or give a property insurer the opportunity to cure a non-substantive deficiency in the application.

E. In the event that all monies in the Incentive Program Fund are not allocated in response to the first invitation, the commissioner may issue a second invitation for grant applications in the form and pursuant to the procedures utilized for the first invitation.

F. In the event that all monies in the Incentive Program Fund are not allocated in response to the second invitation, the commissioner may issue a third invitation for grant applications in the form and pursuant to the procedures utilized for the first and second invitations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:2361 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:

§18913. Applications

A. The department shall provide an application form to be fully completed by grant applicants. The application form may be revised by the department as it deems appropriate.

B. The grant application shall require the property insurer to designate a point of contact with a telephone number, email address and physical address to represent the property insurer on all matters pertaining to the grant process and the Incentive Program.

C. The grant application shall be filed contemporaneously with the application for licensure with the department by a surplus lines insurer. The application for licensure expresses the applicant's intent to become licensed in this state as an authorized insurer and, if specifically requested in writing by the grant applicant in the application for licensure, will be processed contingent upon approval of the allocation of a grant award.

D. Only fully completed grant applications or those deemed acceptable by the commissioner shall be considered for a grant award.

E. The grant application shall be submitted to the department's Office of Financial Solvency, as outlined in the invitations issued under §18911.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:2361 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:

§18915. Qualifications for Awarding Grants

A. Minimum Solvency Requirements. Grants shall be made only to property insurers who initially satisfy and thereafter maintain the following minimum solvency requirements:

1. capital and surplus in an amount not less than \$10,000,000;
2. a property insurer with a financial strength rating that meets the following requirements:
 - a. AM Best Company "B" or better; or
 - b. Demotech, Inc. "A" or better; or
 - c. Kroll Bond Rating Agency "BBB" or better; or
 - d. S&P Global "BBB" or better.

Property insurers rated by more than one rating company need only meet one of the rating requirements.

3. risk-based capital ratio of 400 percent at the initial grant award, which shall be maintained during the property insurer's participation in the Incentive Program; and

4. sufficient reinsurance to demonstrate that its reinsurance program is sufficient for the amount of business to be written pursuant to the Incentive Program.

B. Certificate of Authority

1. A property insurer must have an existing certificate of authority in Louisiana for the line or lines of insurance that the property insurer applicant will write pursuant to the Incentive Program or documentation that an application for such licensure has been filed with the Company Licensing Division of the department contemporaneous with the filing of the grant application.

C. Satisfactory Prior Experience

1. Grants shall be made only to property insurers with satisfactory prior experience in writing property insurance or to new property insurers whose management has satisfactory experience in property insurance. The grant application shall accurately disclose the prior experience of property insurers and their management. The commissioner may request additional information from the applicant property insurer and conduct such investigation of prior experience as the commissioner deems appropriate.

2. The commissioner shall determine whether an applicant property insurer has adequate or satisfactory prior experience.

D. Other Requirements

1. Applicant shall maintain premium to surplus ratio, net of reinsurance, no greater than 3 to 1.

2. Applicant shall not insure more than 10 percent of its surplus in any one risk pursuant to R.S. 22:573.

3. Applicant shall maintain gross premium to surplus ratio no greater than 8 to 1.

4. Without prior approval of the commissioner, applicant shall not write more than 15 percent of the net written premiums in any one parish.

5. Applicant shall make a commitment of capital of not less than two million dollars to write property insurance in this state that complies with the requirements of R.S. 22:2369 and §18923 of Regulation 125. Grants from the Incentive Program Fund shall match the newly allocated property insurer capital funds at a ratio of one dollar of allocated property insurer capital funds for each dollar of state capital grant funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:2361 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:

§18917. Award and Allocation of Grants

A. Subject to the requirements of this Section, to carry out the purpose and intent of the Incentive Program, the commissioner shall award and allocate grants as the commissioner deems appropriate among qualified property insurers who have applied for grants. The commissioner has the discretion to create an advisory committee to assist in the analysis of grant applications. If created, the advisory committee will be composed of up to five members, designated to serve thereon by the commissioner.

B. The factors considered in awarding grants shall include, but are not limited to, the following:

1. the financial strength and satisfactory prior experience of the applicant;

2. the ability of the applicant to invest new capital and to comply with the other requirements of the grant;

3. the potential of the applicant for providing property insurance as required by the Incentive Program at reasonable and competitive rates, particularly for property owners in the following Louisiana parishes: Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, West Baton Rouge, and West Feliciana;

4. the marketing and claims handling capability and experience of the applicant, and particularly its ability to market property insurance in the parishes listed in §18917.B.3 and to handle future claims that may arise;

5. the applicant's longevity in the Incentive Program, including a statement or plan of operation by the applicant demonstrating its intent to remain in this state following the completion of the Incentive Program;

6. the current licensure of the applicant where preference and priority will be given to those admitted property insurers that are currently licensed to do business in this state for the line or lines of business that are the subject of the grant; and

7. any other factors that the commissioner deems applicable, relevant and appropriate in carrying out the purpose and intent of the Incentive Program.

C. For grant applications in response to the initial invitation, the commissioner shall not allocate individual grants of less than \$2,000,000 nor in excess of \$10,000,000.

D. For the initial allocation of grants only, the commissioner shall allocate at least 20 percent of the total amount available for grants to domestic property insurers unless the commissioner has not received sufficient applications from qualified domestic property insurers to allocate such sum.

E. If the commissioner issues a second invitation for grant application, the commissioner shall not allocate individual grants of less than \$2,000,000 nor in excess of \$10,000,000. Property insurers who have been allocated a grant in response to the first invitation may apply for and receive an additional grant, provided the total of the grants to a property insurer does not exceed \$10,000,000.

F. If the commissioner issues a third invitation for grant application, the commissioner shall not allocate individual grants of less than \$2,000,000 nor in excess of \$10,000,000. Property insurers who have been allocated a grant in response to the first or second invitations may apply for and receive an additional grant, provided the total of the grants to a property insurer does not exceed \$10,000,000.

1. Grants made pursuant to a third invitation may be made to property insurers providing coverage against damage to an existing dwelling. Such grant shall be made only as to those policies transferred from an existing dwelling to a new dwelling, provided the risk of catastrophe associated with the new dwelling is the same as or no greater than the level of risk of catastrophe associated with the existing dwelling.

2. Grants shall also be made under the provisions of this Subsection to any property insurer that was forced to reduce coverage, or drop coverage entirely, on existing dwellings in order that the property insurer maintain its financial stability or solvency. A grant made pursuant to this Paragraph shall be contingent on the property insurer reinstating such former coverage or better coverage on the existing dwellings.

G. In no event shall the total amount of the grant to a property insurer exceed 20 percent of that property insurer's capital and surplus as reported to and verified by the department.

H. Prior to the award of any grant pursuant to the provisions of this Chapter, the grant shall be subject to the review and approval of the Joint Legislative Committee on the Budget. The commissioner shall provide written notice to the committee of the grant awards that have been approved. Upon written approval by the committee, the commissioner will be authorized to award the grant and deliver the amount of the grant to the grantee from monies in the Incentive Program Fund.

I. In the event that monies remain in the Incentive Program Fund after allocations pursuant to the third invitation, the commissioner shall cause all remaining monies to be returned to the state general fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:2361 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:

§18919. Authorized Insurers

A. A surplus lines insurer may apply for a grant, provided that the surplus lines insurer shall, contemporaneously with the grant application, file an application for licensure with the department for the line or lines of insurance for which it must be authorized and licensed to write for a grant award. If specifically requested in writing by the grant applicant in the application for licensure, such application will be processed contingent upon approval of a grant award.

B. A surplus lines insurer must obtain a certificate of authority to do business in Louisiana as an authorized insurer before it may actually receive grant funding.

C. If the surplus lines insurer does not apply timely to be admitted or subsequently is not approved for a certificate of authority, the surplus lines insurer shall not be entitled to receive a grant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:2361 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:

§18921. Certification of Deposit

A. Within 10 days of receipt of any Incentive Program Funds, the grantee shall provide to the commissioner written certification signed by two principal officers of the grantee that the Incentive Program Funds have been deposited in an account held in the name of the grantee and pledged to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:2361 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:

§18923. Property Insurance Requirements

A. The grantee shall write new property insurance in Louisiana of the types described in R.S. 22:2369 and this Section of Regulation 125 with net written premiums of at least a ratio of \$2 of premium for each \$1 of the total of newly allocated property insurer capital combined with the grant from the Incentive Program Fund. Thus, if the grantee allocates \$2,000,000 in capital and receives a matching state grant of \$2,000,000, the grantee must write property insurance in Louisiana with net premiums of at least \$8,000,000.

B. To comply with the requirements of the grant, new property insurance written by the grantee shall be residential, commercial, mono-line, or package property insurance policies in this state and shall include coverage for wind and hail with limits equal to the limits provided for other perils insured under such policies.

C. The net written premium requirements of this Section shall be satisfied only by new property insurance coverages reported on the Annual Statement State Page filed with the department under lines 1 (Fire), 2.1 (Allied Lines), 3 (Farmowners), 4 (Homeowners), or 5.1 (Commercial Multi-peril Non-liability).

D. Grantees shall also comply with the following.

1. In the first 24 months after receipt of matching capital fund grants, the grantee shall write at least 50 percent of the net written premiums for policyholders whose insured property is located in the parishes listed in §18917.B.3. The grantee shall maintain this net written premium ratio over five years to fully earn the matching capital fund grant in accordance with R.S. 22:2370 unless an extension has been granted by the commissioner under R.S. 22:2370.B or §18929.C of Regulation 125.

2. The net written premium ratio of §18923.D.1 applies only to the net minimum premium required under §18923.A. Thus, the grantee may write additional Louisiana property coverage without regard to the ratio required by §18923.D.1.

E. The requirements of the grant that must be satisfied by the grantee are illustrated by the following example assuming a grant of \$2,000,000.

1. Example

a. The grantee is awarded a \$2,000,000 grant. Within 10 days of receipt of the grant of Incentive Program Funds, the grantee must match the grant with newly allocated capital funds of at least \$2,000,000 and provide written certification of compliance to the department. In the first 24 months after receipt of the grant, the grantee must write property insurance in Louisiana with net written premiums of at least \$8,000,000. In the first 24 months after receipt of the grant, the grantee must write at least \$4,000,000 of the net written premiums for policyholders whose insured property is located in the parishes listed in §18917.B.3. Grantees shall maintain this net written premium ratio over five years to fully earn the matching capital fund grant in accordance with R.S. 22:2370. Compliance with the requirements for the second year and for each succeeding year must be demonstrated on the grantee's annual reports.

F. Grantees shall also satisfy the requirements for licensing, form filings, rate filings, and any other applicable provisions contained in Title 22.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:2361 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:

§18925. Funding Schedule

A. Unless expedited funding is requested by the grantee and authorized by the commissioner, a grant that has been fully approved shall be funded on the next regular quarterly period thereafter, i.e., January 1, April 1, July 1, or October 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:2361 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:

§18927. Reporting Requirements

A. Grantee shall segregate and report any grants received on the line titled "Aggregate Write-In for Special Surplus Funds" in the NAIC Annual and Quarterly Statement Blanks.

B. Grantee shall report annually by March 1 and quarterly by May 15, August 15, and November 15 of each year on a form acceptable to the commissioner the following information for the preceding year and quarter ends:

1. the amount of premium written by parish under the Incentive Program;

2. the amount of premium by parish associated with properties located in the parishes listed in §18917.B.3.

3. the amount of premium by parish taken-out from the Louisiana Citizens Property Insurance Corporation.

4. the amount of premium by parish, including and in addition to that written under the Incentive Program.

C. Grantee shall report annually by June 1, detail on the catastrophe reinsurance program maintained, including retentions, limits, reinstatements, as well as the current ratings of each reinsurer. In addition, the report shall contain the modeled Probable Maximum Loss for a 1 in 50, 1 in 100, 1 in 150, 1 in 200 and 1 in 250 event, including the models and versions utilized.

D. Grantee shall report quarterly by May 15, August 15, and November 15 risk-based capital for the preceding quarter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:2361 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:

§18929. Compliance

A. The commissioner shall conduct an examination under R.S. 22:1981, financial analysis under R.S. 22:1984 and/or investigation annually, or more often as the commissioner deems necessary to determine the grantee's compliance with the requirements of the grant, as per R.S. 22:2361 et seq., and Regulation 125. In addition to the requirements of R.S. 22:2361 et seq., the department may require such reports and/or conduct such examinations, financial analysis or investigations as the commissioner

deems necessary to verify compliance with the property insurance requirements set forth in the Incentive Program and Regulation 125.

B. If the commissioner determines that a grantee has complied with the terms of the grant, the commissioner shall notify the grantee in writing that the grantee has earned the 20 percent portion of the grant pursuant to R.S. 22:2370.

C. If the commissioner determines that the grantee shows promise of future compliance, the commissioner may grant an extension of not more than one year to a grantee who has failed to satisfy all requirements of the grant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:2361 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:

§18931. Earned Capital

A. A grantee who has received a grant is entitled to earn the grant at the rate of 20 percent per earning period for the last 12 months of that earning period in which the grantee is in compliance with the requirements of R.S. 22:2361 et seq., and Regulation 125, such that the grantee may earn the entire grant after five years of full compliance with the requirements.

B. The grantee may begin to earn the grant from the reporting period in which the grantee first demonstrates that its net written premiums have reached compliance with all requirements of §18923.D.1. The grantee will earn 20 percent of the grant in each 12-month period thereafter in which the grantee demonstrates that it has maintained compliance with all requirements for net written premiums. Thus, if in compliance with §18923.D.1, the grantee may begin to earn the grant at the end of the first year.

C. Upon verification of the net written premium requirements during the preceding 12 months, the commissioner will issue written declaration that the grantee has earned 20 percent of the grant or a pro rata share thereof awarded to the grantee. No funds may be earned by the grantee until it receives official notification from the commissioner.

D. If the grantee does not meet the grant requirements during any year but shows promise of future compliance based on good cause having been demonstrated, the commissioner may extend the period of time from five years in order for the grantee to earn the entire grant. The extension may be granted for up to one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:2361 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR

§18933. Declaration of Default

A. The commissioner may declare a grantee in default of the requirements for a grant should it be found that any of the following exists:

1. The grantee fails at any time to meet the specific minimum requirements of §18915.A.1-4. The commissioner may take into consideration the effects of the Incentive Program, including efforts demonstrated by the grantee, when monitoring compliance with this criteria.

2. The grantee fails to maintain a certificate of authority for the line or lines of insurance written pursuant to the grant program.

3. The grantee fails to meet the specific requirements of §18923.

4. The grantee fails to comply with any other applicable provisions of R.S. 22:2361 et seq., or Regulation 125.

B. If the commissioner determines that the grantee is in default, the commissioner shall notify the grantee in writing of such default. Any grantee declared in default by the commissioner shall have 30 days from the date of the declaration of default to request reconsideration by the commissioner. The written request for reconsideration shall set forth, in detail, each and every reason why the grantee is entitled to the relief requested, including any documents tendered in support thereof. The commissioner shall have 30 days from the mailing of the request for reconsideration to review it and render a decision. The commissioner's decision upon reconsideration may be appealed to the division of administrative law in accordance with R.S. 22:2191 *et seq.* Unless modified on reconsideration or appeal, the default is effective from the date of the original declaration, and the grantee shall not be eligible to continue its participation in the Incentive Program unless the default is for failure to meet the requirements referenced in §18933.A.3.

C. The grantee in default is liable for and shall repay all grant funds that have not been earned by the grantee, plus legal interest as defined in R.S. 13:4202(B) from the date of the commissioner's default declaration. In the event of default, a portion of the grant award for the current year may be earned on a pro rata basis to give credit for premiums written under the Incentive Program. Repayment on a pro rata basis shall be determined using a method prescribed by the commissioner. If a request for reconsideration is not timely made, repayment is due upon the expiration of 30 days from the declaration of default. If a request for reconsideration is timely made and denied, repayment is due within 10 days of the denial of the reconsideration request.

D.1. In determining the pro rata earnings, the commissioner shall divide the actual amount of written premiums by the amount required to be written under the Incentive Program, in each of the following categories:

a. policyholders whose insured property is located in the parishes listed in §18917.B.3; and

b. the total amount of net premiums written by the grantee under the Incentive Program.

2. Each category is weighted equally at 50 percent, and credit shall be given based on the percentage of premiums written per category. The resulting factor is then multiplied by 50 percent of the amount the grantee is entitled to earn per category for each year of compliance under the Incentive Program (earned capital). The factor shall not exceed 1.00 for additional writings in any category. The sum of all categories shall equal the pro rata amount earned by the grantee.

E. The requirements for earning on a pro rata basis are illustrated by the following example assuming a grant of \$5,000,000, presuming a maximum earned capital of \$1,000,000 (20 percent per year entitlement assuming full compliance), and the grantee is declared in default.

Example: [The required amounts of premium for each of the two categories are listed in the table below under "Requirement." Each requirement equates to 50% of the earned capital for the earning period or \$500,000. The

“Actual” column represents the actual amount of writings by the grantee. The “Factor” column is the actual amount of writings divided by the requirement in each category. The “Earned” column represents the factor multiplied by \$500,000. Thus, under this example, the amount of money earned by the grantee on a pro rata basis is \$775,000.]

Category	Requirement	Weight	Actual	Factor	Earned
Total Net Written Premium	\$20,000,000	50 percent	\$15,000,000	.75	\$375,000
Parishes listed in §18917.B.3	\$10,000,000	50 percent	\$8,000,000	.80	\$400,000
				Total:	\$775,000

F. The commissioner may institute legal action to recover all sums due by the grantee in default in the Nineteenth Judicial District Court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:2361 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:

§18935. Cooperative Endeavor Agreements

A. In furtherance of R.S. 22:2361 et seq., and in accordance with R.S. 22:2363.A, the grantee shall execute a cooperative endeavor agreement with and in a form prescribed by the commissioner subject to approval by the Office of State Procurement of the Division of Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:2361 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:

§18937. Severability

A. If any provision of Regulation 125 or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of Regulation 125 that can be given effect without the invalid provision or application, and to that end, the provisions of Regulation 125 are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:2361 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:

§18939. Confidentiality

A. Any and all records, documents and information associated with the Incentive Program that are deemed confidential or privileged pursuant to R.S. 44:1 et seq, Title 22 or any state or federal law will remain confidential or privileged.

§18941. Effective Date

A. This regulation shall become effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:2361 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed regulation 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 regulation 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 regulation 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 regulation 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 regulation 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 regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed regulation 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 regulation 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 regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed regulation 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 regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Analysis

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with

the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed regulation 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 regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed regulation 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, by faxing comments to (225) 342-1632, or electronically at regulations@ldi.la.gov. Comments will be accepted through the close of business, 4:30 p.m., December 12, 2022.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Regulation 125 Insure Louisiana Incentive Program

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

The proposed rule is not anticipated to result in implementation costs or savings to the state or local governmental units. The proposed rule is being promulgated to establish the rules and regulations of the Insure Louisiana Incentive Program which was enacted through the passage of Act 754 of the 2022 Regular Session of the Louisiana Legislature. The rule will set forth standards and procedures relative to a property insurer's participation in the Insure Louisiana Incentive Program. The Insure Louisiana Incentive Program is a state match program for property insurers who commit to writing new business in Louisiana. The Commissioner may grant matching capital funds to qualified property insurers. The level of matching grant monies provided by the state is contingent upon the amount appropriated by the legislature.

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 OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule is anticipated to benefit Louisiana property owners with the current crisis in the availability and affordability of residential and commercial property insurance. The proposed rule outlines rules and regulations of the Insure Louisiana Incentive Program which was enacted by the legislature for the purpose of economic development and stability in Louisiana. The program encourages additional property insurers to participate in the voluntary property insurance market in Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The program anticipates increasing the availability of property insurance, increasing competitive pressure on insurance rates, and reducing the volume of business written by the Louisiana Citizens Property Insurance Corporation.

Denise Gardner
Chief of Staff
2211#032

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Articles and Products Made of Tobacco and Tobacco Substitutes (LAC 61.I.5105)

Under the authority of R.S. 47:841(D) and 1511, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61.I.5105 relative to products made with nicotine extract or synthetic nicotine and tobacco substitutes.

The purpose of this proposed regulation is to provide guidance regarding the taxability of products made with nicotine extract or synthetic nicotine and tobacco substitutes. The proposed regulation provides guidance by clarifying the phrases, "articles and products made of tobacco" and "tobacco substitute" used in the definition of smokeless tobacco provided in Louisiana Revised Statute 47:842(15). The proposed regulation reflects current policy of the Department of Revenue.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 51. Tobacco Tax

§5105. Articles and Products Made of Tobacco and Tobacco Substitutes

A. The definition of *smokeless tobacco* provided in R.S. 47:842(15) includes articles and products made of tobacco and tobacco substitutes.

B. Any product made with nicotine which is extracted from tobacco is considered an article or product made of tobacco. It is not necessary that tobacco leaves be present in the article or product. These products are smokeless tobacco for purposes of Louisiana tobacco tax.

C. As used in R.S. 47:842(15), for purposes of the tax due on smokeless tobacco, tobacco substitute includes any non-combustible product intended to be used or consumed as an alternative to tobacco. Examples of tobacco substitutes include, but are not limited to products made with nicotine

extracted from tobacco or any other source, products made with synthetic nicotine, and products which simulate traditional smokeless tobacco regardless of the presence of nicotine. These products are smokeless tobacco for purposes of Louisiana tobacco tax.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:841(D) and 1511.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, Policy Services Division, LR 49:

Family Impact Statement

The proposed adoption of this rule should have no known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed rule has no known or foreseeable effect on:

1. The stability of the family.
2. The authority and rights of parents regarding the education and supervision of their children.
3. The functioning of the family.
4. Family earnings and family budget.
5. The behavior and personal responsibility of children.
6. The ability of the family or a local government to perform this function.

Poverty Impact Statement

The proposed rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed rule has no known measurable impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

The proposed rule has no known or foreseeable effect on:

1. The staffing levels requirements or qualifications required to provide the same level of service.
2. The total direct and indirect effect on the cost to the provider to provide the same level of service.
3. The overall effect on the ability of the provider to provide the same level of service.

Public Comments

All interested persons may submit written data, views, arguments or comments regarding this proposed rule to Brandea Averett, Attorney, Policy Services Division, Office of Legal Affairs, P.O. Box 44098, Baton Rouge, LA 70804-4098. Written comments will be accepted until 4:30 p.m., December 27, 2022.

Public Hearing

A public hearing will be held on December 28, 2022 at 9 a.m. in the LaBelle Room, located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana.

Kevin J. Richard, CPA
Secretary of Revenue

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Articles and Products Made of Tobacco and Tobacco Substitutes

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

The proposed rule provides guidance on the taxability of smokeless tobacco products by defining the phrases, “articles

and products made of tobacco” and “tobacco substitute” used in the definition of smokeless tobacco provided in Louisiana Revised Statute 47:842(15).

The proposed rule will not result in material implementation costs or savings to state or local governmental units as the rule codifies existing department internal policy.

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

The proposed rule is not expected to have a material impact on annual state or local revenue collections.

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

The proposed rule will have minimal direct economic impact on affected persons, small businesses, or non-governmental groups. The affected businesses are tobacco taxpayers who sell smokeless tobacco. The proposed rule codifies existing department internal policy.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule does not have an effect on competition or employment.

Kevin J. Richard, CPA
Secretary of Revenue
2211#015

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Professional Engineering and Land Surveying Board**

Incidental Practice and Work Experience
(LAC 46:LXI.105, 1505, 1527 and 2101)

Under the authority of the Louisiana professional engineering and land surveying licensure law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Professional Engineering and Land Surveying Board has initiated procedures to amend its rules contained in LAC 46:LXI.105, 1505, 1527 and 2101.

This is a revision of existing rules under which LAPELS operates. The revision (a) incorporates the new provision in the LAPELS licensure law on the incidental practice of engineering by architects, (b) clarifies the supervision requirements for work experience and (c) removes some duplicative language in the rule on the reactivation of expired licenses. The anticipated effective date of these proposed rule amendments is the date of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXI. Professional Engineers and Land Surveyors

Chapter 1. General Provisions

§105. Definitions

A. The words and phrases defined in R.S. 37:682 shall apply to these rules. In addition, the following words and phrases shall have the following meanings, unless the content of the rules clearly states otherwise.

Practice of Engineering—

a. practice of engineering is defined in R.S. 37:682. The board recognizes that an architect as defined in R.S. 37:141(B)(1) has a right to engage in certain activities that

fall within the definition of the practice of engineering, but only to the extent such activities are necessarily incidental to the architect's practice of architecture as defined in R.S. 37:141(B)(3). Such incidental engineering work is limited to minor mechanical, electrical, or civil-structural engineering work necessarily incidental to the architect's practice of architecture. The incidental engineering work shall be of a secondary nature and shall be substantially less in scope and magnitude when compared to the architectural portion of the work. Incidental engineering work includes additions, renovations, or alterations that do not require significant adjustments to the engineering calculations for the changes to the engineering systems or components. The incidental engineering work shall be safely and competently performed by the architect without jeopardizing the life, health, property, or welfare of the public. The incidental engineering work shall also satisfy all of the following conditions for new construction or additions:

i. For new construction, the total proposed occupant load for the new construction shall not exceed 299 individuals for assembly occupancy and 49 individuals for all other occupancies. The occupant load shall be defined and determined by the method set forth in the currently enforced building code;

ii. For additions, the total proposed occupant load for the addition shall not exceed 299 individuals for assembly occupancy and 49 individuals for all other occupancies. The occupant load shall be defined and determined by the method set forth in the currently enforced building code.

b. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Surveyors, LR 4:298 (August 1978), amended LR 5:110 (May 1979), LR 7:643 (December 1981), LR 14:449 (July 1988), LR 16:772 (September 1990), LR 17:804 (August 1991), LR 20:901 (August 1994), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1020 (July 2001), LR 30:1704 (August 2004), LR 32:1618 (September 2006), LR 35:1908 (September 2009), LR 38:835 (March 2012), repromulgated LR 38:1030 (April 2012), amended LR 44:612 (March 2018), LR 45:75 (January 2019), LR 47:490 (April 2021), LR 49:

Chapter 15. Experience

§1505. Work Experience

A. ...

B. Engineering Work Experience

1. For any required engineering work experience obtained in a state, territory, or possession of the United States, or the District of Columbia, it should be obtained under the supervision of a professional engineer holding a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, or, if not, an explanation shall be made showing why such experience should be considered acceptable.

2. At least two years of any required engineering work experience obtained outside of a state, territory, or possession of the United States, or the District of Columbia,

shall be obtained under the supervision of a professional engineer holding a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia. The remainder of such experience should also be obtained under the supervision of a professional engineer holding a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, or, if not, an explanation shall be made showing why the remainder of such experience should be considered acceptable.

C. Land Surveying Work Experience

1. For any required land surveying work experience obtained in a state, territory, or possession of the United States, or the District of Columbia, it should be obtained under the supervision of a professional land surveyor holding a valid license to engage in the practice of land surveying issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, or, if not, an explanation shall be made showing why such experience should be considered acceptable.

2. At least two years of any required land surveying work experience obtained outside of a state, territory, or possession of the United States, or the District of Columbia, shall be obtained under the supervision of a professional land surveyor holding a valid license to engage in the practice of land surveying issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia. The remainder of such experience should also be obtained under the supervision of a professional land surveyor holding a valid license to engage in the practice of land surveying issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, or, if not, an explanation shall be made showing why the remainder of such experience should be considered acceptable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:112 (May 1979), amended LR 7:647 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1031 (July 2001), LR 30:1716 (August 2004), LR 32:1620 (September 2006), LR 44:619 (March 2018), LR 49:

§1527. Supervision by Licensed Professional

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1032 (July 2001), amended LR 30:1717 (August 2004), repealed LR 49:

Chapter 21. Certificates of Licensure and Certification of Individuals or Firms

§2101. Expiration and Renewals

A. Licenses and certificates of individuals and firms shall expire on the date specified on the applicable biennial renewal form and/or as shown on the board's records and shall become invalid after that date unless renewed within 120 days.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended LR 6:417 (June 1983), LR 11:363 (April 1985), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1035 (July 2001), LR 30:1718 (August 2004), LR 44:622 (March 2018), LR 48:2364 (September 2022), LR 49:

Family Impact Statement

In accordance with R.S. 49:961(A)(2)(h)(i) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*: The proposed Rule has no known impact on family formation, stability or autonomy.

Poverty Impact Statement

In accordance with R.S. 49:961(A)(2)(h)(ii) and 973, the following Poverty Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*: The proposed Rule has no known impact on child, individual or family poverty in relation to individual or community asset development.

Small Business Analysis

In accordance with R.S. 49:961(A)(2)(h)(iii) and 974.4, the following Small Business Economic Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*: The impact of the proposed Rule on small businesses has been considered. The proposed Rule is not anticipated to have an adverse impact on small businesses.

Small Business Analysis

In accordance with R.S. 49:961(A)(2)(h)(iv) and 974.5, the following Small Business Regulatory Flexibility Analysis is submitted with the Notice of Intent for publication in the *Louisiana Register*: The impact of the proposed Rule on small businesses has been considered. LAPELS has, consistent with health, safety, environmental and economic welfare, considered utilizing regulatory methods that will accomplish the objectives of applicable statutes while minimizing adverse impact on small businesses. The proposed Rule is not anticipated to have an adverse impact on small businesses.

Provider Impact Statement

In accordance with HCR No. 170 of the 2014 Regular Session, the following Provider Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*: The proposed Rule has no known effect on the staffing level requirements or qualifications required to provide the same level of service, the cost to the provider to provide the same level of service or the ability of the provider to provide the same level of service.

Public Comments

Interested parties are invited to submit written comments on the proposed Rule through December 12, 2022 at 4:30 p.m., to Donna D. Sentell, Executive Director, Louisiana Professional Engineering and Land Surveying Board, 9643 Brookline Avenue, Suite 121, Baton Rouge, LA 70809-1433.

Donna D. Sentell
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Incidental Practice and Work Experience**

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

There are no estimated implementation costs or savings to state or local governmental units resulting from this proposed rule change. The proposed rule change revises existing rules under which LAPELS operates to: (a) incorporate the new provision in the LAPELS licensure law (La. R.S. 37:701(I)), which relates to the incidental practice of engineering by architects, (b) clarify the supervision requirements for work experience, and (c) remove some duplicative language in the rule on the reactivation of expired licenses.

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

There will be no estimated effect on revenue collections of state or local governmental units as a result of this proposed rule change.

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

The proposed rule change will have no estimated impact on costs and/or economic benefits to directly affected persons, small businesses or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no estimated effect on competition and employment in the public and private sectors as a result of the proposed rule change.

Donna D. Sentell
Executive Director
2211#036

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Menhaden Season
(LAC 76:VII.307)

The Wildlife and Fisheries Commission does hereby give notice of intent to amend a Rule (LAC 76:VII.307) by adding provisions that prohibit the waste of fishery resources and abandonment of menhaden purse seine gear during fishing operations or while at sea. This Rule is being amended as a result of previous incidents of menhaden purse seine gear being intentionally released at sea and remaining unrecovered. Authority for amendment of this Rule is included in the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:6(25)(a), R.S. 56:313, R.S. 56:315, R.S. 56:326.3, R.S. 56:409.1 and R.S. 30:2531.3.

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, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and compiling public comments and submissions for the commission's review and consideration. In the absence of any further action by the commission following an

opportunity to consider all public comments regarding the proposed rule, the Secretary is authorized and directed to prepare and transmit a summary report to the legislative oversight committees and file the final Rule.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§307. Menhaden Season

A. - E.1. ...

F. No menhaden purse seine gear shall be abandoned while on the water or during the course of fishing operations. In the event that gear is released, such gear shall be marked in an appropriate manner to facilitate retrieval and effectively warn of navigational hazards caused by the released gear. Such gear shall be retrieved from the water within 48 hours of release. Failure to retrieve the gear within the prescribed period shall be considered abandonment of the gear.

1. All reasonable attempts shall be made to retrieve menhaden and any bycatch from the environment in the event that menhaden purse seine gear is lost, damaged, released, or abandoned.

2. Any unintentional or intentional release of purse seine gear or menhaden by the commercial reduction menhaden fishery into the waters of Louisiana shall be reported to the Enforcement Division within 2 hours of such release.

3. Violations of this Subsection shall be considered waste of a fishery resource and subject to civil fine and restitution for the value of the wasted fish. Failure to retrieve menhaden purse seine gear from the waters within 48 hours of release of such gear shall constitute a commercial littering violation pursuant to La. R.S. 30:2531.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:313, R.S. 56:315, R.S. 56:326.3, and R.S. 56:409.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 5:329 (October 1979), amended LR 14:547 (August 1988), LR 19:58 (January 1993), LR 19:1179 (September 1993), LR 48:1588 (June 2022), LR 49:

Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issue 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 proposed Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may submit comments relative to the proposed Rule to Jason Adriance, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, or

via e-mail to jadriance@wlf.la.gov prior to Thursday, January 5, 2023.

Joe McPherson
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Menhaden Season

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

The proposed rule change will have no impact on state or local government expenditures.

The proposed rule change prohibits the abandonment of menhaden purse seine gear while on the water or during the course of fishing operations. In the event that menhaden purse seine gear is lost, damaged, released, or abandoned, the proposed rule requires that the gear be marked to facilitate removal and to warn of potential navigation hazards. The gear must be removed from the water within 48 hours. Gear that is not removed within 48 hours shall be considered abandoned.

The proposed rule change requires reasonable efforts to remove menhaden and bycatch from the environment in the event that menhaden purse seine gear is lost, damaged, abandoned, or released on the water resulting in fish or bycatch being discharged into the water. It also requires the reporting of the release of menhaden purse seine gear or fish (menhaden and any bycatch) into the waters of Louisiana to the Louisiana Department of Wildlife and Fisheries (LDWF) Law Enforcement Division within two hours of the release.

The proposed rule change defines violations of the proposed rule as a waste of a fishery resource and subject to civil fines and the restitution for the value of the wasted fish. Failure to retrieve menhaden purse gear from Louisiana waters within 48 hours shall constitute a commercial littering violation.

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

The proposed rule change is not anticipated to have an effect on revenue collections of the LDWF or other state or local government units. Fines levied for waste of a fishery resource and commercial littering violations will accrue to local court systems. Any civil restitution payments will accrue to LDWF, but because abandonment has been historically infrequent, fines for violations of the proposed rule are expected to be levied relatively infrequently and not have a significant impact on revenues.

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

The proposed rule change may be expected to increase expenditures by menhaden harvesting operators involved in purse seine abandonment incidents for repairing damages related to the release of gear and fish into Louisiana waters. The operators might also be expected to incur increased expenditures on fines and civil restitution payments related to these incidents.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is expected to have no effect on competition or employment.

Bryan McClinton
Undersecretary
2211#034

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Licenses and Fees Inconsistent with
Licensing Framework Established in Law
(LAC 76:I.323, 325, 329, 331, 333, 335; 76:V.113, 303, 317
and 501; 76:VII.161, 341, 365, 403, 407, 515, and 525)

The Wildlife and Fisheries Commission does hereby give notice of intent to modify its rules by repealing or amending existing regulations that establish licenses or fees that are in conflict with the license framework established in law by Act 356 of the 2021 Regular Legislative Session.

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, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and compiling public comments and submissions for the commission's review and consideration. In the absence of any further action by the commission following an opportunity to consider all public comments regarding the proposed Rule, the secretary is authorized and directed to prepare and transmit a summary report to the legislative oversight committees and file the final Rule.

Title 76

WILDLIFE AND FISHERIES

Part I. Wildlife and Fisheries Commission and Agencies Thereunder

Chapter 3. Special Powers and Duties

Subchapter G. Wild Louisiana

§323. Wild Louisiana Stamp and Print Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 193 of the 1992 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Wildlife, LR 19:359 (March 1993), repromulgated LR 19:513 (April 1993), LR 19:660 (May 1993), repealed by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 49:

§325. Wild Louisiana Stamp Artist Agreement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 193 of the 1992 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Wildlife, LR 19:360 (March 1993), repealed by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 49:

§329. Outdoor Press Licenses

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:109 and R.S. 56:647.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:1103 (May 2005), repromulgated LR 31:1346 (June 2005), repealed LR 49:

§331. Special Disability Fishing and Hunting Licenses

A. In lieu of recreational basic fishing and recreational saltwater fishing licenses and in lieu of basic hunting, deer, turkey, and duck hunting licenses, and WMA access permit, the department may issue a Disabled/Special Needs Hunting and Fishing license to residents who qualify as

developmentally disabled as defined in R.S. 28:751 and who meet all other legal requirements to obtain a hunting license. Developmentally disabled may include, but is not limited to mental retardation, cerebral palsy, downs syndrome, spina bifida, and multiple sclerosis.

A.1. - A.4.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:3000(J)(1).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:1104 (May 2005), repromulgated LR 31:1346 (June 2005), amended LR 49:

§333. Charitable Organizations, Youth Groups and Schools; Fee Waivers

A. In lieu of recreational basic fishing and recreational saltwater fishing licenses the secretary may issue a letter of waiver of fees for fishing to members of bona fide charitable organizations, youth groups or schools. For the purpose of hunting, the secretary may issue a letter of waiver of license fees for hunting to members of bona fide charitable organizations, youth groups or schools who meet all other legal requirements to obtain a hunting license, which will include basic hunting, deer, turkey, Louisiana duck license and WMA access permit.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:641.2 and R.S. 56:3000(J)(1).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:1104 (May 2005), repromulgated LR 31:1346 (June 2005), amended LR 49:

§335. Conferences; Fee Waivers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:104, R.S. 56:109 and R.S. 56:302.2.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:1104 (May 2005), repromulgated LR 31:1346 (June 2005), repealed LR 49:

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§113. Fox/Coyote Hunting Preserve, Purchase and Sale of Live Foxes and Coyotes, Permitting Year- round Coyote Trapping

A. - B. ...

C. Licenses, Permits and Fees. The licenses and fees required for activities authorized by these regulations are as prescribed under provisions of Title 56.

D. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:262.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:205 (February 1991), amended LR 49:

Chapter 3. Wild Birds

§303. Nonresident Preserve Hunting License

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:631 (September 1988), repealed LR 49:

§317. Nonresident Duck Stamp Fee Increase

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(28).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 23:1168 (September 1997), repealed LR 49:

Chapter 5. Licenses and License Fees

§501. Nonresident Hunting License Fees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(28).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 27:214 (February 2001), repealed LR 49:

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing

§161. Freshwater Mussel Harvest

A. - F.3.h. ...

G. Reporting

1. Harvesters are required to submit monthly reports on forms furnished by the department whether they fished or not. These reports must be postmarked no later than the fifteenth day of the month following the month of harvest.

2. Mussel buyers must contact the department either in the region where they will be conducting buying operations, or at the department's toll-free telephone number, and provide information as to which site these operations are to be set up. This notification is to be made on the day previous to setting up these operations. The buyer must also notify the department within 24 hours when buying activities at that location have been completed. Mussel buyers may not conduct buying activities outside of designated and/or approved sites.

3. a. Mussel buyers are limited to setting up buying operations at department approved sites in or nearby to these cities.

- i. Bogalusa;
- ii. Columbia;
- iii. Coushatta;
- iv. Delhi;
- v. Kinder;
- vi. Ferriday;
- vii. Leesville;
- viii. Livingston;
- ix. Minden;
- x. Port Barre;
- xi. Ramah;
- xii. Simmesport;
- xiii. Tioga.

b. Additional buyer's sites may be set up at department discretion to facilitate harvest.

4. Each permittee harvesting mussels for sale is responsible for department notification. The permittee shall notify the department at a designated telephone number (1-800-442-2511) at least four hours prior to harvesting any mussels. The permittee shall provide, at the time of notification, the parish and area to be fished. Such notification will be on a daily basis, unless the harvester fishes in the same area during a Monday through Friday period. However, even if harvesting in the same location for an extended period, weekly notification will be required. The permittee will be given a confirmation number at the time of initial notification.

5. Each permittee must again notify the department at 1-800-442-2511 immediately prior to selling any mussels. The permittee must report their confirmation number and the name and mussel buyer's permit number of the individual who will be purchasing mussels obtained under the permit.

H. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:450.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 19:510 (April 1993), amended LR 21:193 (February 1995), LR 22:374 (May 1996), LR 23:1327 (October 1997), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 49:

Chapter 3. Saltwater Sport and Commercial Fishery §341. Spotted Seatrout Management Measures

A. Commercial Season; Quota; Permits

1. - 2. ...

3. Permits

a. The commercial taking of spotted seatrout is prohibited except by special nontransferable Spotted Seatrout Permit issued by the Department of Wildlife and Fisheries. This permit, along with other applicable licenses, authorizes the bearer to sell his spotted seatrout catch.

A.3.b. - C. ...

AUTHORITY NOTE: Promulgated in accordance with Act Number 157 of the 1991 Regular Session of the Louisiana Legislature, R.S.56:6(25)(a); R.S. 56:306.5, R.S. 56:306.6, 56:325.1(A) and (B); R.S. 56:325.3; R.S. 56:326.3; Act 1316 of the 1995 Regular Legislative Session; and Act 1164 of the 2003 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:199 (February 1992), amended LR 22:238 (March 1996), LR 24:360 (February 1998), LR 26:2333 (October 2000), LR 30:1509 (July 2004), LR 30:2498 (November 2004), repromulgated LR 32:125 (January 2006), amended LR 32:1071 (June 2006), LR 37:355 (January 2011), LR 49:

§365. Shrimp Records and Labeling

A. Shrimp Records, Shrimp Packaging

1. Wholesale/retail seafood dealers, retail seafood dealers, restaurants and retail grocers shall maintain records in accordance with R.S. 56:306.5 and 56:506. In addition to the requirements therein, wholesale/retail seafood dealers when selling or otherwise transferring shrimp shall specify on each invoice of sale or transfer required to be delivered to retail dealers, restaurants and/or retail grocers the specific country of origin of the shrimp being sold or transferred. All purchase and sales records of wholesale/retail seafood dealers, which are required to be maintained by law, shall specify the country of origin of all shrimp acquired and sold or transferred. All purchase records of retail dealers, restaurants and retail grocers which are required to be maintained by law, shall specify the country of origin of shrimp acquired or purchased. Shrimp from different countries shall be recorded separately on all records.

2. All records for shrimp, which are harvested from Louisiana waters or which are landed in Louisiana from a harvesting vessel, shall indicate such shrimp are a "Product of Louisiana" or "Louisiana Shrimp" or "Louisiana (and shrimp species)."

3. No wholesale/retail seafood dealer, retail seafood dealers or restaurants shall possess, package, process, sell, barter, exchange or attempt to sell, barter, trade or exchange shrimp from a foreign country which is commingled with

shrimp caught in the United States or which is represented to be a product of the United States.

B. Violations of the provisions of this Section shall constitute a Class 4 violation as defined in R.S. 56:34.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:506.

HISTORICAL NOTE: Promulgated by Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 28:2571 (December 2002), amended LR 49:

Chapter 4. License and License Fees

§403. Gulf Seafood Traversing and Offloading Permit

A. The Department of Wildlife and Fisheries is authorized to issue a Gulf Seafood Traversing and Offloading permit (“traversing permit”) upon application to its Commercial License Section at the Baton Rouge office. Application for permits must be made in person or as provided by Section 415 of this Part.

B. The traversing permit shall be valid for the calendar year of issue (January 1 through December 31).

C. A traversing permit shall be in lieu of a commercial fisherman’s license, vessel license, and any applicable commercial gear license for fishing gear aboard the vessel. Each gear used in the waters of the federal exclusive economic zone (EEZ) shall be properly licensed. For licensing purposes, trammel nets, strike nets, and seines are required to be licensed as gill nets when used in the EEZ.

D. - H.9....

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:303(G)(1), R.S. 56:305(B), and R.S. 56:320.2(E).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22:240 (March 1996), amended LR 26:2333 (October 2000), LR 38:2944 (November 2012), LR 49:

§407. Three-Day Basic and Saltwater Nonresident Recreational Fishing License Fees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(28).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 24:710 (April 1998), amended LR 27:215 (February 2001), repealed LR 49:

Chapter 5. Oysters

§515. Oyster Lessee Out-of-State Landing Program

A. - C. ...

D. Records and Reporting. The permittee shall maintain an up-to-date daily record of the number of sacks of oysters landed under the permit on forms provided by the department for that purpose. The permittee shall submit to the department a monthly record of the number of sacks of oysters landed under the permit and the name and Food and Drug Administration interstate certified shellfish shipper's number of the business to whom the oysters were sold no later than 15 days following the last day of the month on forms provided by the department for that purpose, even if no landings occurred. Failure to submit monthly records or incomplete records to the department before the reporting deadline shall result in suspension or revocation of the permit, at the discretion of the department.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56.6(10), R.S. 56:422, R.S. 56:424(B, G), and R.S. 56:425.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 22:120 (February 1996), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:1624 (July 2005), LR 34:889 (May 2008), LR 49:

§525. Commercial Oyster Seed Ground Vessel Permit

A. Policy. For license year beginning 2009 any oysters taken for commercial purposes from the public natural reefs or the oyster seed grounds or reservations, except those in Calcasieu Lake or Sabine Lake, shall be placed only on a vessel which has an oyster seed ground permit issued exclusively by the department. The permit does not grant any rights to the oyster resource or any rights to harvest oysters from the waters of the state and shall not be sold, exchanged, or otherwise transferred. No new applications for vessel permits shall be accepted after December 31, 2009. The permit shall be valid for up to one calendar year beginning on January 1 and ending on December 31 of the same year, but may be made available for purchase beginning on November 15 for the immediately following license year.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:610(L), R.S. 56:6, R.S. 56:23, and R.S. 56:433.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:2681 (December 2008), amended LR 38:1998 (August 2012), LR 49:

Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issue 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 proposed Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may submit comments relative to the proposed Rule to Angela Morejon, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, or via e-mail to amorejon@wlf.la.gov prior to Thursday, January 5, 2023.

Joe McPherson
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Licenses and Fees Inconsistent with Licensing Framework Established in Law

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

The proposed rule change will have no impact on state or local governmental unit expenditures.

The proposed rule change removes outdated references in Title 76 to certain licenses, fees, and taxes that were inconsistent with legislation, especially Act 356 of the Regular Session of the 2021 Louisiana Legislature.

The proposed rule change removes references to fees for resident and non-resident quadruped exhibitor's licenses, resident and non-resident quadruped breeder licenses, resident trappers' licenses, non-resident basic season hunting licenses, non-resident basic five-day hunting licenses, resident and non-resident Spotted Seatrout Permits, and resident and non-resident commercial oyster seed ground vessel permits within Title 76. These fees will remain in place as listed in statute. The proposed rule change also eliminates the non-resident preserve hunting license.

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

The increase in license revenue collections accruing to the Louisiana Department of Wildlife and Fisheries (LDWF) under the proposed elimination of the non-resident preserve hunting license might be expected to range between approximately \$23,000 and \$85,000 per year, depending the types of substitute licenses that non-resident game bird hunters choose to acquire in their stead. An increase toward the lower end of this range might be more likely than an increase toward the upper end.

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

The proposed elimination of the non-resident preserve hunting license may result in a cumulative increase in license expenditures of \$23,000 to \$85,000 for non-resident hunters who pursue pen-raised game birds on private lands in Louisiana, depending on the types of substitute licenses these non-resident hunters choose to acquire. An increase toward the lower end of this range might be more likely than an increase toward the upper end.

It may also cause a drop in the number of non-resident hunters pursuing pen-raised game birds on private lands and, consequently, a decrease in revenue among hunting preserve operations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is anticipated to have no impact on competition and employment in Louisiana.

Bryan McClinton
Undersecretary
2211#033

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Spotted Seatrout Management Measures (LAC 76:VII.341)

The Wildlife and Fisheries Commission does hereby give notice of intent to amend a Rule (LAC 76:VII.341) by modifying the recreational minimum size for spotted seatrout from 12 inches minimum total length to 13.5 inches minimum total length statewide. Further modifications reduce the daily bag limit from 25 fish to 15 fish statewide. Modifications in this rule create one statewide size and bag limit, removing the separate regulations in coastal western

Louisiana. Authority for amendment of this Rule is included in the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:6(25)(a), 56:326.1, and 56:326.3 to the Wildlife and Fisheries Commission.

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, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and compiling public comments and submissions for the commission's review and consideration. In the absence of any further action by the commission following an opportunity to consider all public comments regarding the proposed Rule, the secretary is authorized and directed to prepare and transmit a summary report to the legislative oversight committees and file the final Rule.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§341. Spotted Seatrout Management Measures

A. - B. ...

C. Recreational Regulations.

1. The daily take and possession limit for Spotted Seatrout (*Cynoscion nebulosus*) caught recreationally within or without Louisiana waters shall be 15 fish per day and in possession.

2. The minimum legal size for the recreational taking of Spotted Seatrout (*Cynoscion nebulosus*) shall be 13.5 inches total length.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the 1991 Regular Session of the Louisiana Legislature, R.S. 56:6(25)(a), R.S. 56:305.5, R.S. 56:305.7, R.S. 56:325.1 (A) and (B), R.S. 56:325.3, R.S. 56:326.3, Act 1316 of the 1995 Regular Session of the Louisiana Legislature, and Act 1164 of the 2003 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:199 (February 1992), amended LR 22:238 (March 1996), LR 24:360 (February 1998), LR 26:2333 (October 2000), LR 30:1509 (July 2004), LR 30:2498 (November 2004), repromulgated LR 32:125 (January 2006), amended LR 32:1071 (June 2006), LR 37:355 (January 2011), LR 49:

Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issue 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 proposed Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may submit comments relative to the proposed Rule to Jason Adriance, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, or via e-mail to jadriance@wlf.la.gov prior to noon on Friday, December 30, 2022.

Joe McPherson
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Spotted Seatrout Management Measures**

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

There are no anticipated implementation costs or savings to the Department of Wildlife and Fisheries (LDWF) or local governmental units as a result of the proposed rule change. The proposed rule change would establish a take limit for spotted seatrout (also known as "specks") of 15 fish per day and a minimum legal-size limit of 13.5 inches. The proposed rule change sets one statewide size and take limit, removing the separate regulations in western coastal Louisiana. It would replace the current take limit of 25 fish per day and minimum size limit of 12 inches for portions of Louisiana east of the Mermentau River and the slot limit regulations currently in place for portions of the state between the Mermentau River and the Texas state line.

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

There may be a decrease in revenue collections to LDWF and to local governmental units if the rule change results in a decrease in saltwater angler activity. A decrease in fishing trips may result in a drop in the issuance of fishing licenses and lower sales tax revenue from lower supply purchases (e.g. lodging, gas, gear, bait). The potential for fewer fishing trips taken is speculative due to the low response rate of the survey distributed to Louisiana fishers; therefore, any decrease in revenues to state and local governmental units is indeterminable at this time.

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

The proposed rule change may result in a decrease in angler activity and spending and thus a decline in income among businesses that serve saltwater anglers as a result of the seatrout harvest reduction.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change could have a minor negative effect on employment in sectors that serve saltwater anglers by reducing harvests and thus angler activity and spending.

Bryan McClinton
Undersecretary
2211#035

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Division of Administration Office of Facility Planning and Control

Building Code for State Owned Buildings (LAC 34:III.131)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950, et seq.) and the provisions of RS 39:121, The Division of Administration, Facility Planning and Control hereby gives notice of its intent to amend Title 34, GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL, Part III. Facility Planning and Control, Chapter 1. Capital Improvement Projects, Section 131, Louisiana Building Code for State Owned Buildings. These rule changes are the result of a review by Facility Planning and Control of the editions of the codes specified by RS 40:1722 and the most recent editions of these codes. This review has led to the determination that new editions of these codes will provide a higher standard than the currently referenced editions. Facility Planning and Control is, therefore, establishing the appropriate editions of these codes as the standards.

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

Part III. Facility Planning and Control

Chapter 1. Capital Improvement Projects

Sub Chapter A. Procedure Manual

§131. Louisiana Building Code

A. R.S. 40:1722 establishes the Louisiana building code and directs that the following codes be established as the standards as minimum standards for this code. These codes shall be established as constituting the code in the editions indicated:

1. the Life Safety Code, standard 101, 2015 edition as published by the National Fire Protection Association;
2. the International Plumbing Code, 2021 edition as published by the International Code Council and amended by R.S. 40:1730.28.1;
3. the International Building Code, 2021 edition as published by the International Code Council, not including chapter 1, administration, chapter 11, accessibility, and chapter 27, electrical;
4. the International Mechanical Code, 2021 edition as published by the International Code Council;
5. the National Electric Code (NFPA no. 70), 2020 edition as published by the National Fire Protection Association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Facility Planning and Control, LR 8:473 (September 1982), amended by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 11:849 (September 1985), amended by the Office of the Governor,

Division of Administration, Office of Facility Planning and Control, LR 33:2649 (December 2007), LR 37:3260 (November 2011), LR 39:86 (January 2013), LR 39:2493 (September 2013), effective on January 1, 2014, LR 43:1163 (June 2017), effective on July 1, 2017, LR 49:

Family Impact Statement

1. The Effect of this Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule will have no effect on family earnings and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973

Small Business Statement

The Office of Facility Planning and Control has considered all methods of reducing the impact of the proposed rule on small business as noted in R.S. 49:965.6. The intent of the proposed Rule is to upgrade the current edition of the International Building Code, the International Plumbing Code, the International Mechanical Code and the National Electric Code established as standards for the Louisiana Building Code. These codes are the basis of safety and mobility of the general public in the design of state owned buildings. It would not be feasible to consider a partial or modified compliance of these building codes specifically for small businesses. Any alternative code standards or exemption of small businesses from these revised building codes would jeopardize the well being of the general public.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR 107) of the 2014 Regular Session of the Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on providers. However, the particular proposed Rule does not impact or affect the staffing level requirements required to provide the same level of service.

Public Comments

Interested persons may submit comments to Mark Bell, Facility Planning and Control, P.O. Box 94095, Baton

Rouge, LA 70804-9095. Written comments will be accepted through December 10, 2022.

Jason D. Sooter
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Building Code for State Owned Buildings

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

The proposed administrative rule will likely result in a net increase in per building construction costs for state-owned buildings. The proposed administrative rule will not result in any implementation costs or savings to local governmental units. The proposed administrative rule updates the Louisiana Building Code for state-owned buildings as per RS 40:1722 by updating the current editions of the Life Safety Code, the International Building Code, the International Plumbing Code, the International Mechanical Code and the National Electric Code established as standards for the Louisiana Building Code. Any increases will be small relative to the total construction cost and can be covered by project contingency until capital outlay funding can be adjusted if necessary. The size of the project and the design solutions determined by the architect or engineer will determine cost impacts and may be expected to range from \$1,000 to \$100,000 per project.

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

There is no anticipated direct material effect on governmental revenues as a result of this measure.

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

To the extent that the net cost per construction project for state-owned buildings may increase due to updates to the Louisiana Building Code to reflect current construction and safety codes, designers and contractors may realize a marginal but unknown economic benefit, which will vary depending upon the size and complexity of individual projects. The LFO assumes any training necessary for contractors to comply with updated construction and safety codes are a normal part of operating within this industry and do not create extraordinary economic costs. The Office of Facility Planning and Control does not anticipate a material impact to directly affected persons or nongovernmental groups as a result of the proposed rule change. Any project cost increase as a result of the proposed rule will likely be passed down to the state through the public bid process.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated direct material effect on competition and employment as a result of the proposed administrative rules. There will likely be the same number of jobs though some tasks may be slightly different as a result of the proposed administrative rule.

Jason D. Sooter
Director
2212#070

Alan M. Boxberger
Interim Legislative Fiscal Office
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Agriculture and Forestry Board of Veterinary Medicine

Board Meeting Dates

The Members of the Louisiana Board of Veterinary Medicine will meet at 8:30 a.m. on the following dates through 2023:

Thursday, December 1, 2022
Thursday, February 3, 2023 *
Thursday, April 6, 2023
Thursday, June 1, 2023
Thursday, August 3, 2023
Thursday, October 5, 2023
Thursday, December 7, 2023

The February third board meeting will be held at the LSU School of Veterinary Medicine. All other meeting will be held at the board office. Dates are subject to change. For more information, please visit www.lsbvm.org/meetingdates or contact the board office via telephone at (225) 925-6620 or email at admin@lsbvm.org.

Jared B. Granier,
Executive Director

2211#002

POTPOURRI

Department of Agriculture and Forestry Board of Veterinary Medicine

Board Nominations

The Louisiana Board of Veterinary Medicine announces that nominations for the position of Board Member will be taken by the Louisiana Veterinary Medical Association (LVMA) at the annual winter meeting to be held in late January 2023. Interested persons should submit the names of nominees directly to the LVMA as per La. R.S. 37:1515. It is not necessary to be a member of the LVMA to be nominated. The LVMA may be contacted at (225) 928-5862.

Jared B. Granier
Executive Director

2211#002

POTPOURRI

Department of Agriculture and Forestry Board of Veterinary Medicine

Examination Dates

The Louisiana Board of Veterinary Medicine will administer the State Board Examination (SBE) for licensure to practice veterinary medicine in the Board office on the first Tuesday of every month. Deadline to apply for the SBE is the third Friday prior to the examination date desired. The SBE can also be taken online once an application for licensure is submitted and fees are paid. SBE instructions and upcoming dates can be seen online at www.lsbvm.org/sbe and are subject to change due to office closure (i.e. - holiday, weather).

The board will accept applications to take the North American Veterinary Licensing Examination (NAVLE) which will be administered through the International Council for Veterinary Assessment (ICVA), formerly National Board of Veterinary Medical Examiners (NBVME), and the National Board Examination Committee (NBEC), as follows:

Test Window Date	Deadline to Apply
April 10 - April 22, 2023	February 1, 2023

The board will also accept applications to take the Veterinary Technician National Examination (VTNE) which will be administered through American Association of Veterinary State Boards (AAVSB), for state registration of veterinary technicians as follows:

Test Date	Deadline to Apply
March 15 – April 15, 2023	February 15, 2023

Applications for all examinations must be received on or before the deadline. No late application will be accepted. Requests for special accommodations must be made as early as possible for review and acceptance. Applications and information is available online at www.lbvm.org. Call 225-925-6620 or email admin@lsbvm.org with any questions.

Jared B. Granier,
Executive Director

2211#002

POTPOURRI

**Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences**

2022 Annual Quarantine List Supplement

In accordance with LAC 7:XV.107 and 109, the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences is hereby publishing the a supplement to the annual quarantine list that was published in the September 2022 Louisiana Register.

1.0 Sweetpotato Weevil

(Cylas formicarius elegantulus Sum)

(a) ...

(b) In the State of Louisiana:

1) ...

2) The properties located at the following coordinates in Franklin Parish: -91.672827, 32.048690; -91.702688, 32.095618; -91.708630, 32.098848 and any properties within a 300-yard radius of these coordinates.

Mike Strain DVM
Commissioner

2211#050

POTPOURRI

Board of Elementary and Secondary Education

Notice of Public Hearing—Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years

On October 11, 2022, the State Board of Elementary and Secondary Education approved, as Notice of Intent, revisions to Bulletin 136, *The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*. This Notice of Intent was published on pages 2614-2629 of the October 20, 2022 issue of the *Louisiana Register*, as recommended by the Early Childhood Care and Education (ECCE) Advisory Council and the Louisiana Department of Education (LDE). Requests for a public hearing regarding the October 20, 2022, Notice of Intent were received. In accordance with R.S. 49:953.A(2)(a) and R.S. 49:953A(2)(b)(i), BESE will hold a public hearing on November 28, 2022, at 2:00 p.m. in the Claiborne Building, Room 1-100 (The Louisiana Purchase Room), 1201 North Third Street, Baton Rouge, LA 70802. Interested persons are invited to attend.

Interested persons are invited to attend and submit oral or written comments. BESE will consider all written and oral comments; however, only written comments received by BESE will be included in the report and submitted to the Louisiana legislative oversight committees. Written comments must be hand-delivered or mailed to the BESE office. Hand-delivered comments must be date-stamped by BESE office staff on the date received. Comments sent via U.S. Mail must be dated and must include the original signature of the person submitting the comments. If mailing, please send to: Mrs. Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box

94064, Capitol Station, Baton Rouge, LA 70804. For hand-delivered comments, the BESE office is located at: 1201 North Third Street, Baton Rouge, LA in the Claiborne Building, Suite 5-190. All comments must be received no later than 1 p.m. on November 28, 2022.

Any individual who needs special assistance in order to attend or speak at this public hearing should notify Shan Davis, BESE Executive Director, within 10 working days prior to the Hearing Date, in writing at, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, via email at Shan.Davis@la.gov or by telephone at (225) 342-5840. Any questions should be directed to Erin LeBlanc at 225-342-5841 or call the board office at (225) 342-5840.

Shan N. Davis
Executive Director

2211#040

POTPOURRI

**Office of the Governor
Office of Financial Institutions**

Judicial Interest Rate for 2023

Pursuant to authority granted by R.S. 13:4202(B)(1), as amended, the Louisiana Commissioner of Financial Institutions has determined that the judicial rate of interest for calendar year 2023 will be 6.50 percent per annum.

Stanley M. Dameron
Commissioner

2211#004

POTPOURRI

**Office of the Governor
Office of Financial Institutions**

Virtual Currency

During the process of promulgating LAC 10:I.1901 through 1937, the Office of Financial Institutions (“OFI”) determined that it was in the best interest of the industry and Louisiana residents wishing to engage in virtual currency to revisit and adjust the rule without unnecessary delay of licensure, registration and engagement in virtual currency business. Amendments submitted by emergency rule seek to ensure uninterrupted access to virtual currency, avoid unintended consequences of affording such access during the pendency of the application process and accommodate a high volume of anticipated applications for licensure and notices of registration. Amendments are further intended to respond to concerns regarding a rapidly-evolving industry and afford requested guidance.

Stanley M. Dameron
Commissioner

2211#029

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