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Executive Orders

AMENDMENT TO EXECUTIVE ORDER EWE-78-14

(Editor's Note: The paragraph referred to in this amendment was the eleventh paragraph of Executive Order EWE-78-14 as it appeared in the Louisiana Register, Volume 4, Number 10, page 357.)

Paragraph Two of Page Two of Executive Order EWE-78-14, dated September 14, 1978, is hereby amended to read as follows:

BE IT FURTHER RESOLVED, that the members of this special commission, as appointed by the Governor, shall be Honorable Theodore M. Hickey, who shall serve as Chairman, Honorable Huntington B. Downer, Jr., Honorable Nat G. Keifer, Honorable J. E. Jumonville, Jr., Honorable Fritz H. Windhorst, Honorable Thomas A. Casey, Honorable deLesseps S. "Toni" Morrison, Jr., Honorable Harry M. Hollins, Mr. Martin C. Miler, Mr. Michael J. Rapier, Mr. Lawrence A. Merrigan, Mr. Charles J. Cassidy, Mr. Charles W. McCoy, Mr. John Kavanaugh, Mr. Ed Steimel, Mr. Victor Bussie, Mr. Patrick A. Delaney, Mr. Clarence D. Ardoin, Mr. W. W. Whitmore, Mr. V. J. "Red" Scogin, Mr. Richard Blossman, and Mr. R. F. Haas.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to have affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this the 12th day of January, A.D. 1979.

Edwin Edwards
Governor of Louisiana

Emergency Rules

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

Effective March 8, 1979, the Department of Health and Human Resources, Office of Family Security, has exercised those administrative powers conferred by the emergency provision of the Administrative Procedures Act, R.S. 49:953B, to adopt new federal regulations which govern the payment of sterilizations under the Medical Assistance Program. A sterilization is defined as "any medical procedure, treatment or operation for the purpose of rendering an individual permanently incapable of reproducing." The following regulations apply to medically indicated procedures which result in sterility, as well as to those sterilizations done solely for family planning purposes.

For the Louisiana Medical Assistance Program to pay for a sterilization under the new federal regulations:

The patient must sign a consent form at least thirty days, but no more than one hundred eighty days before the date of the sterilization, excepting premature delivery or emergency abdominal surgery.

The patient may consent to sterilization at the time of premature delivery or emergency abdominal surgery if seventy-two hours have passed since he or she gave informed consent to the sterilization. In the case of premature delivery, the informed consent must have been given thirty days before the expected date of delivery.

The patient must be at least twenty-one years old when consent is obtained.

The patient must give informed consent to the sterilization and the consent form published in the federal regulations must be used.

Informed consent may not be obtained when the individual to be sterilized is in labor or childbirth, seeking to obtain or obtaining an abortion, or under the influence of alcohol or other substances affecting the individual's state of awareness.

The patient must be mentally competent.

The patient cannot be institutionalized.

Three copies of the consent form must be filled out: one for the patient, one for the physician and one for attachment to the claim form.

The federal regulations governing sterilizations, include regulations governing payment of hysterectomies under the Medical Assistance Program. According to the regulations, the Louisiana Medical Assistance Program cannot pay "for the performance of any hysterectomy solely for the purpose of rendering an individual permanently incapable of reproducing or where, if there is more than one purpose to the procedure, the hysterectomy would not be performed but for the purpose of rendering the individual permanently incapable of reproducing."

In other words, payment is not available for hysterectomies done for sterilization purposes for which there are also some medical indications which are themselves insufficient to justify the performance of a hysterectomy.

If a hysterectomy is performed for purposes other than sterilization, payment can be made only if the patient is informed orally and in writing that the hysterectomy will render her permanently incapable of reproducing and she has signed a written acknowledgement of receipt of this information. The written acknowledgement should be attached to the claim form submitted when requesting payment for these medical services.

The acknowledgement reads as follows:

I hereby acknowledge that I have been informed orally and in writing that a hysterectomy (surgical removal of the uterus) will render the individual on whom the procedure is performed permanently incapable of bearing children.

Signature of Recipient
or Designated Representative

Date

Note: It is necessary that the acknowledgement statement appear above the signature of the recipient or her designated representative and that the statement be dated before the actual time of the surgical procedure.

This action has been taken in order to comply with federal regulations which were published in the *Federal Register*, Volume 43, Number 217, Wednesday, November 8, 1978, pages 52146 through 52175.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

Beginning January 25, 1979, the Department of Health and Human Resources, Office of Family Security, has exercised those administrative powers conferred by the emergency provision of the Administrative Procedures Act, R.S. 49:953B, to adopt Maximum Allowable Costs (MAC) for the following drugs when dispensed on prescription:

Acetaminophen w/codeine 30 mg. tabs.	\$0.0780 per tablet
Acetaminophen w/codeine 60 mg. tabs.	0.1545 per tablet
*Ampicillin 250 mg. caps.	0.0595 per capsule
*Ampicillin 500 mg. caps.	0.1103 per capsule
Doxepin HCL 10 mg. caps.	0.0950 per capsule
Doxepin HCL 25 mg. caps.	0.1161 per capsule
Doxepin HCL 50 mg. caps.	0.1765 per capsule
Erythromycin Stearate 250 mg. tabs.	0.0697 per tablet
Erythromycin Stearate 500 mg. tabs.	0.1250 per tablet
Penicillin G Potassium 400 mu. tabs.	0.0180 per tablet
Penicillin G Potassium 800 mu. tabs.	0.0265 per tablet
Phenylbutazone 100 mg. tabs.	0.0750 per tablet
Phenylbutazone Alka 100 mg. caps.	0.0940 per capsule
Probenecid 0.5 gm. tabs.	0.0644 per tablet

*These MACs reflect a reduction in the MACs established on June 27, 1977.

In no case may a receipt be required to provide payment for any difference in a prescription price that may occur with the implementation of MAC, nor may our office use a cost which exceeds the established maximums except as follows.

The Department of Health, Education and Welfare's regulations provide that when a physician certifies that a specific brand is medically necessary for a particular patient, then the MAC limitations for that medication will not apply. In this case their specific guidelines provide that:

1. The certification must be in the physician's handwriting.
2. The certification may be written directly on the prescription, or on a separate sheet which is attached to the prescription.
3. A standard phrase written on the prescription, such as "brand necessary" will be acceptable.
4. A printed box on the prescription blank that could be checked by the physician to indicate brand necessity is unacceptable.
5. A handwritten statement transferred to a rubber stamp and then stamped on the prescription blank is unacceptable.

This action has been taken in order to comply with federal regulations which were published in the *Federal Register*, Volume 43, Number 238, Monday, December 11, 1978.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of the Secretary

The following rules include amendments which were adopted through the emergency provision of the Administrative Procedures Act (R.S. 49:953B) to be effective February 1, 1979. The emergency rulemaking was necessary in order that the Department of Health and Human Resources could have various

amendments to this pay plan in effect on February 1, 1979, prior to the reimbursement rates being set for fiscal year 1979-1980.

Facility Manual for Facilities Where Health and Human Resources Department Funds Are Used to Care for Handicapped Persons Introduction

The Department of Health and Human Resources (DHHR) currently places clients whose needs cannot be appropriately met through other State programs in private residential facilities and day programs. Placement may be under the supervision of any one of several different agencies of the Department.

Children, youths, and other handicapped individuals placed in such programs include three major, broad client categories: (1) children and youth who are legally adjudicated abandoned, neglected, and/or abused, and those in need of care due to the inability of the parent or caretaker to adequately provide for them, (2) adjudicated delinquents and children in need of supervision, and (3) children, youths, and other individuals who are handicapped physically, mentally, emotionally, or neurologically to such an extent that they cannot satisfactorily participate in community living.

The determination of appropriate placement for any client in any of these broad categories is made by the placing agency within DHHR and all referrals for placement must originate through one of the placing agencies of the Department. Private facilities from which placement services are purchased retain the right of acceptance or rejection of the clients referred by the Department's supervising agencies with the exception of emergency shelter care facilities which do not have the right of rejection.

The procedures and rules set forth herein have been developed to assure an equitable, cost-related reimbursement for the services purchased from private providers for the care and treatment of these clients. The foundation of these procedures rests upon a classification of each facility, and each distinct program within a facility, based on the level of care required by the residents and provided by the facility and/or by a distinct program within a facility.

Major objectives of DHHR in developing and implementing these procedures are to provide an incentive to the private sector to expand and improve the quality and quantity of services available, and to accommodate the presently existing variety of treatment modalities needed to provide appropriate care for the Department's clients.

These procedures shall apply to all facilities wherein Department funds are spent for the purchase of services for the Department's clients, regardless of the procedures whereby a facility is approved for funding. Certain facilities within the state are required to adhere to licensing regulations established and administered by DHHR. All facilities are required to conform to the *Minimum Standards for Certification of Facilities*. These procedures apply to facilities in both categories.

While these various standards may vary in certain respects, each has as an objective the assurance of a high quality of the overall level of care. Consequently, each approval procedure can accommodate the development of cost-related reimbursement procedures. However, in conjunction with the development of a uniform rate structure, as herein proposed, efforts will continue to systematize the licensing/certification/approval procedures of various agencies of DHHR which are affected by these rate provisions.

Levels of Care

A description of the various levels of care which will be utilized for classification purposes appears below. Level of care classifications will apply to all facilities and will identify program requirements.

Each facility which is required to conform to the *Minimum Standards for Certification of Facilities* will be visited during each fiscal year by a certification representative to determine compliance with previously established standards for certification. Concurrently with the certification determination, the certification representative will make a determination of the appropriate level(s) of care provided in each facility.

In facilities which offer more than one distinct program, i.e., level of care, the certification representative shall make a determination with respect to the proper classification of each distinct program within the facility. Facilities which provide services for more than one type of client group must also meet certification standards for each distinct client group and/or program.

Classification of level(s) of care shall be based upon actual staff ratios, actual care and supervision needed by the resident population, programs provided, and ancillary support services required.

Facility administrators should feel free to discuss level of care determinations with the certification representative. In the absence of a resolution of differences between the facility administrator and the certification representative, should differences exist, the determination of the certification representative shall be final and shall not be changed except as a result of procedures set below.

A facility administrator who does not concur with the classification established by the certification representative should first set forth his objections to the classification in writing, fully documenting reasons for the objections. Such statements of facility position should be directed to Licensing Section, Department of Health and Human Resources, Box 3767, Baton Rouge, Louisiana 70821.

Upon receipt of such a statement of facility position, the Licensing Section shall immediately convene an appropriately constituted body to re-examine the certification representative's determination of the facility's classification. The decision of this body shall be rendered within fifteen days of the date of receipt of the statement of facility position, and the facility administrator shall be immediately notified in writing of the decision.

A facility administrator who does not agree with the results of this preliminary redetermination may officially appeal the level of care classification. This appeal shall be made within thirty days after receipt of the Licensing Section's final decision as to the level of care. This written appeal must be directed to the Secretary of DHHR and must request a formal hearing to appeal the decision of the Licensing Section. The Secretary, or his designee, shall set a hearing to be held within thirty days after receipt of such request.

The hearing shall be held in the immediate vicinity of the appellant. The Secretary, or his representative, shall conduct the hearing. The facility administrator, and/or his legal counsel, shall have the right to be present and to present evidence for consideration by the Secretary or his designee. Within ten days after the hearing, the appellant shall be advised, by registered mail, of the decision of the Secretary, either confirming or amending the original decision.

Definition of Levels of Care

Cost-related reimbursement rates paid to facilities shall be based upon expenditures directly related to the level of care, as determined in the certification process, assigned to each facility and/or distinct program within a facility, as follows:

Non-Residential

Level I—This type of facility serves a population which requires minimal supervision and little or no medical attention. No academic training is given and clients of school age usually attend public schools. Specific treatment(s) is given for specific problem(s) of a mental and/or physical nature. Individual treatment goals are written. Staffing ratio meets the minimum requirements for certification and/or licensure. Treatment is planned and supervised by qualified professionals, but may be implemented by paraprofessional staff.

Level II—The population served requires moderate or close supervision and may also possess some medical disabilities. Academic training may be given and clients may also attend public schools. Specific treatment(s) is given for specific problem(s) of a mental and/or physical nature. Individual treatment plans, procedures, and goals are written. Direct-care staffing ratio meets minimum requirements for certification and/or licensure. Treatment is planned and supervised by qualified professionals, with professional services implemented by the appropriate professional staff. Other services may be implemented by paraprofessional staff.

Residential

Level III—The population served requires minimal supervision and care, and possesses no significant medical disabilities. No academic training is given and clients of school age usually attend public schools. Planned habilitation and treatment programs are usually of a recreational or therapeutic nature. Counseling and psychotherapy may be given. Individual treatment goals are written. Direct-care staffing ratio must meet minimum requirements for certification and/or licensure. Treatment is planned and supervised by qualified professionals, with implementation by paraprofessionals. Professional support services provided on a consultant/contractual basis.

Level IV—Population served requires minimal to moderate supervision and may possess medical disabilities. Some academic training may be given and clients may also attend public schools. Planned individual habilitation and treatment programs may include academic and recreational services, as well as specific treatments for emotional and/or physical disabilities. Individual treatment plans, procedures, and goals are written. Direct-care staffing ratio is 5:16. Treatment is planned and supervised by qualified professionals, with implementation by paraprofessional staff. Professional services of a medical or psychological nature are implemented by qualified professionals, although supportive services may be provided by paraprofessional staff.

Level V—Population served requires moderate supervision and some medical disabilities are usually present. Academic training is given and clients do not attend public schools although some clients may use specific services of the public school system. Habilitation and treatment plans are individual and comprehensive, covering all areas of a client's needs. Evidence is given of implementation of plans, procedures, and goals, with an individual's response to the treatment program. Direct-care staffing ratio is 8:16. Treatment is planned and supervised by qualified professionals. Any necessary professional services are provided on a regular basis by qualified professionals on the facility staff or on a contractual basis. Medical personnel are available on seven-day, twenty-four-hour call.

Level VI—Population served requires close supervision and/or total medical care. Academic training may be given and clients do not utilize the public school system. The focus of treatment is largely of a medical nature. Habilitation may also include recreational and therapeutic programs. Individual plans, procedures, and goals are written. Direct-care staffing ratio is 12:16. Treatment is planned and supervised by qualified professionals. Professional staff must be adequate to supervise and deliver all professional services as needed on a regular basis and for emergency treatment. Doctors and nurses constitute a part of the full-time staff.

Cost-Related Reimbursement

The following procedures have been developed with the intent of guaranteeing to private providers of services for clients placed through any agency of DHHR a direct cost-related reimbursement rate commensurate with the actual costs of providing appropriate client care.

Implicit in these procedures is the intention that actual costs shall be paid only to the extent that the costs claimed for reimbursement

are reasonable, that all facilities will seek to minimize actual costs, and that actual costs will not exceed that which a prudent and cost-conscious buyer would pay. Only allowable costs directly related to client care will be used in cost computations to establish reimbursement rates. No payments above the facility's established cost-reimbursement rate will be paid, except in cases where a child's unique needs necessitate a prior special contractual agreement with the placing agency.

The following requirements apply to any established facility housing any client placed by DHHR.

Prior to approval for receipt of DHHR funds, a new facility shall be required to submit a projected annual budget covering the facility's first fiscal year. The projected budget shall be submitted on the required cost report form and include detailed information to substantiate the report based on allowable cost as set forth in this manual. The projected budget shall form the basis for the establishment of the rate for the facility's initial year of operation.

Facilities which provide several distinct programs, i.e., levels of care, must segregate and report actual direct expenditures on a program-by-program basis.

The following general instructions apply to all facilities which are subject to these requirements. Specific limitations of reimbursement appear both in these general instructions and in the following section entitled "Limitations of Reimbursement."

General Instructions for Cost Reporting

1. Effective January 1, 1979, each facility must provide a cost report, together with a statement of intent to participate, no later than August 1 of each year, as follows:

A. The cost report must be submitted within three months after the end of its fiscal year or August 1 whichever comes first.

B. The statement of intent to participate shall include the anticipated number of client days for which DHHR funds will be requested.

2. Delinquent Cost Reports.

A. If a cost report is not received by August 1 of each year the most recent cost report on file will be used for revising the rate for reimbursement for the succeeding year.

B. If a cost report is still not received within six months after the end of the cost reporting period, a recommendation will be made to the Assistant Secretary of the appropriate office that a one hundred percent suspension of the current claim payments be implemented. A thirty-day warning of this action will also be sent.

C. Cost reports will be sent to: Health Services Audit Director, Office of Management and Finance, Box 3776, Baton Rouge, Louisiana 70804.

3. Accounting records must be kept (or converted at year end) on an accrual basis.

4. Accounting records must be kept (or converted at year end) in accordance with the attached Chart of Accounts.

5. Each facility must maintain all accounting records, books, invoices, cancelled checks, payroll records, and other documents relative to client-care costs for a period of six years.

6. All fiscal and other records pertaining to client-care costs shall be subject at all times to inspection and audit by DHHR, the Legislative Auditor, and auditors of appropriate Federal funding agencies.

7. Each facility must maintain statistical information related to the daily census and/or attendance records for all clients receiving care in the facility.

8. Purchase discounts, allowances, and refunds will be recorded as a reduction of the cost to which it relates.

9. Cost to related organizations: Cost applicable to services, facilities, and supplies furnished to the facility by related organizations are allowable costs at the cost to the related organization. However, such cost must not exceed the price of comparables

purchased in the open market and the goods and services must be common to and generally purchased by client-care facilities.

Allowable Cost for Services Provided

1. Shelter Costs.

A. Living space (both indoor and outdoor) used by the clients, including rent, depreciation, or building use allowance. Depreciation must be computed by the straight-line method only. The estimated useful life of fixed assets will be based on the Internal Revenue Service's approved useful life of fixed assets. Depreciation will be allowed only on buildings and equipment used to provide direct client-care services. Facilities must maintain adequate records to determine cost, value, and reasonable useful life of buildings and equipment.

B. Depreciation of furniture and upkeep for items related directly to shelter space used by the clients, e.g., living, dining room and bedroom equipment and furniture, and furnishings, such as draperies, blinds, rugs, etc.

C. Fuel and utilities for space used by the clients, e.g., heat, air conditioning, electricity, etc., if these charges are not a part of the rent.

D. Routine maintenance and upkeep of property and equipment used in daily living activities of the clients. This includes staff and supplies for janitorial services, maintenance, and minor repairs to grounds and equipment.

2. Food Costs. Actual food costs and kitchen and dining room operational costs including personnel, depreciation of equipment, and supplies associated with planning meals, ordering, preparing, and serving food, cleanup work, and the cost of planned meals away from the facility.

3. Clothing and Other Personal Need Costs.

A. Clients' personal wardrobe, when necessary, not to exceed four hundred dollars per client annually; including initial and replacement clothing; such items will be the client's personal property which he may take with him upon discharge.

B. Expenses incurred in the upkeep of clients' clothing, including staff and supplies on grounds, and for services provided off grounds, such as shoe repair, mending, dry cleaning, alterations, etc.

C. Medicine chest supplies, personal hygiene items, such as comb, brush, toothbrush, soap, shampoo, deodorant, sanitary needs and other sundries and incidentals.

D. Cost of hair grooming, limited to two haircuts per month for males and a comparable expenditure for females.

4. Recreation Costs.

A. Recreational program and services, including, but not limited to, such items as reading materials, athletic equipment, games, etc.

B. Individual client's dues for youth clubs, scouts, community centers, etc., if not financed from personal allowance.

C. Clients' admission fees to sporting or other recreational and cultural events, including cost of snacks and treats purchased on outings, if not financed from personal allowance.

D. Client's personal allowance, not to exceed five dollars per week for clients age 13 and up and two dollars and fifty cents per week for clients below age 13.

5. Education Costs.

A. School supplies.

B. Activity fees, class dues, and other miscellaneous costs, if not financed from personal allowance.

C. Transportation to school or training programs if not provided or paid for by other public funds or tax monies.

D. Fees or costs of special training programs, instruction in daily living skills, or other specialized training, if not provided or paid for from other public funds or tax monies.

E. Specialized educational programs required by a client that are essential to his/her individualized program of care if no other source of funding is available.

6. Care Costs.

A. Client care staff, social workers, other specialized staff and direct line supervisors of staff responsible for the twenty-four hour program of care and supervision of the clients, including salary, wages, maintenance and fringe benefits if not met through the State's program under Titles XIX, XX, IV-B, or other publicly funded programs.

B. Transportation intrinsic to the well-being of the client, including but not limited to, visits with relatives, prospective foster or adoptive parents, and other activities or events that are an integral part of the twenty-four hour program of care. Expenses for an attendant, when required, may be met if not already charged to the State's program under Titles XIX, XX, IV-B, or other publicly funded programs.

7. Health Cost if Not Met Through Title XIX as Specified in the Individual State's Plan.

A. Routine physical examinations.

B. Required medical care and treatment, including, but not limited to, immunizations, injections, laboratory tests, emergency room and infirmary care, nursing care in the institution.

C. Psychological testing.

D. Psychiatric examination and treatment.

E. Dental care and treatment.

F. Eye glasses and other corrective appliances not provided by another public program.

8. Administrative Costs.

A. Interest on current obligations and mortgage loans reasonably related to client care. The interest rate must not be in excess of what a prudent borrower would pay.

B. Allowance shall be permitted for a salary for an owner-administrator of a proprietary facility only if he/she is performing the duties of an administrator and would otherwise have to employ another individual to perform these duties. Allowance for a salary of an owner-administrator shall be limited to the national average of salaries for owner-administrators of similarly sized, similarly staffed facilities. Operating cost of living quarters and automobiles provided an administrator for his/her convenience will be considered part of their compensation. The administrators who are not owners are also limited to the national average of salaries for administrators of similarly sized, similarly staffed facilities.

C. Premiums for officer/owner's life insurance is allowable only if the beneficiary is the officer/owner's family. Premiums will be included as part of the officer/owner's compensation and subject to the limitations set forth in B.

D. With the following specific exceptions, taxes are an allowable cost:

- (1) Federal income or excess profit tax.
- (2) State income or excess profit tax.
- (3) Taxes relating to financing.
- (4) Special assessments. (This would be capitalized and amortized.)
- (5) Taxes for which exemptions are available.
- (6) Taxes on property not related to direct client care.
- (7) Self-employment (FICA) taxes applicable to individual proprietors, partners, etc.
- (8) Fines or penalties of any kind.

E. Cost for the following types of advertising are allowable:

- (1) Classified newspaper advertising to recruit personnel or solicit bids.
- (2) Telephone "Yellow Page" advertising, except in the event that such advertisement is promotional in nature.

F. Membership costs and costs for conferences and meetings are allowable if related to client-care activities and efficient operation of the facility. Allowable costs include dues, registration fees, travel, meals, and lodging only for the period of a conference. Membership dues and other expenditures related to civic or social organizations are specifically disallowed.

G. Accident or hospitalization insurance for the clients. Insurance claim reimbursements should be credited to the respective expense account for health care.

H. Audit costs are allowable but certified audits are not required by DHHR.

I. Clerical salaries and costs related to general administration.

J. Attorneys' fees. Actual fees incurred for nonlitigation legal services which are directly related to child care will be allowed.

Unallowable Costs for Services Provided

1. In-kind contributions.
2. Fund raising; public relations.
3. No monies paid to an attorney or a law firm as a retainer, rather than as legal fees for services actually performed, will be allowed.
4. Payments made by the facility as gifts, assessments, or paybacks to parent organization.
5. Income producing expenses, including depreciation of equipment to secure self-generated revenue.

Limits of Reimbursement

1. Fiscal Limitation. The availability of State and Federal funds may result in a uniform rateable reduction of fees.
2. Reasonable Cost Limits. Payments to facilities for client services shall be based on the lesser of the reasonable cost of services or the customary charges to the general public for such services.
3. Profit Limits. An allowance of a reasonable return on equity capital invested and used in the provision of client care is allowable as an element of the reasonable cost of covered services. The amount allowable on an annual basis will be determined by applying to the provider's equity capital a percentage basis equal to one and one half times the average of the rates of interest on special issues of public debt obligations issued by the Federal Hospital Insurance Trust Fund. A profit factor will be allowed only for proprietary facilities.
4. Occupancy Limits. The determination of the reimbursement rate for each facility shall be based upon the percentage of occupancy. Those facilities which operate above ninety-three percent capacity, a ninety-three percent occupancy level will be used. For facilities whose occupancy level is between eighty-three and ninety-three percent, the actual occupancy levels will be used. For those facilities operating at less than eighty-three percent capacity, an eighty-three percent occupancy level will be used. This formula will provide an incentive for facilities who operate above ninety-three percent of their capacity and a penalty for those who operate at less than eighty-three percent of their capacity. All facilities licensed and/or certified for an occupancy of fifteen or less will be exempted from this rule.
5. Other Limits. Costs which are unallowable for Federal participation will be paid by the State up to the maximum allowable under the section entitled "Allowable Costs for Services Provided." Payment procedures do not include a year-end settlement. Revised rates are effective July 1 of each year based upon the actual expenditures per cost reports received August 1 of the preceding year. Retroactive adjustment will not be made except for overpayments which result from the inclusion of unallowable costs in the cost report. Therefore, management decisions which increase cost will not affect the current rate and will increase future rates only if justified. To determine the 1979-1980 rate, the cost report on file will be revised by using current economic indicators to reflect inflation. In subsequent years, current economic indi-

cators will be used to determine an inflation factor in calculating the per diem rate.

Definitions

1. Equity Capital. The term "equity capital" means the net worth of a facility, excluding those assets and liabilities which do not relate to direct client care. Specifically, equity capital includes: (1) a facility's investment in plant, property, and equipment (net of depreciation) related to direct client care, plus funds deposited by a facility which leases plant, property, or equipment related to client care and is required by the lease to deposit such funds, and (2) net working capital maintained for necessary and proper operation of client-care activities.

2. Fiscal Year. The facility's fiscal year is the twelve-month period used by the facility for Federal income tax purposes. This does not apply to State or Federal fiscal year.

3. Net Working Capital. Working capital is the difference between current assets and current liabilities. Net working capital is working capital reduced by any amount determined to be excessive for the necessary and proper operation of client-care activities.

4. Plant, Property, and Equipment. Fixed assets related to client care are, for example, building, land, fixtures and equipment, goodwill, and other assets not part of current assets.

5. Proprietary Facilities. The term "proprietary facilities" means a facility, whether sole proprietorship or corporation, organized and operated with the expectation of earning profit for the owners, as distinguished from facilities organized and operated on a non-profit basis, as confirmed by the Internal Revenue Service.

6. Related organizations.

A. "Related to facility" means that the facility, to a significant extent, is associated or affiliated with, or has control of, or is controlled by, the organization furnishing the services, facilities, or supplies.

B. Common ownership exists when an individual or individuals possess significant ownership or equity in the facility or organization serving the facility.

C. Control exists where an individual or an organization has the power, directly or indirectly, significantly to influence or direct the actions or policies of an organization or facility.

7. New Facility.

A. Any facility not receiving funds from DHHR the entire preceding state fiscal year.

B. Or, any facility which has a change in ownership.

C. Or, any facility which has been certified by DHHR for a change in its level of care.

8. Client. Any person receiving services in the facility.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

Rules

RULE

**Department of Commerce
Racing Commission**

§20.13 The fee to a jockey in all races shall be deposited with the horsemen's bookkeeper in advance and shall be, in the absence of special agreement, as follows:

Purse	Winning Mount	Second Mount	Third Mount	Losing Mount
\$400 and under	\$27.00	\$ 19.00	\$ 17.00	\$ 16.00
\$500	\$30.00	\$ 20.00	\$ 17.00	\$ 16.00
\$600	\$36.00	\$ 22.00	\$ 17.00	\$ 16.00

Purse	Winning Mount	Second Mount	Third Mount	Losing Mount
\$700-900	10% of win purse	\$ 25.00	\$ 22.00	\$ 20.00
\$1,000-1,400	10% of win purse	\$ 30.00	\$ 25.00	\$ 22.00
\$1,500-1,900	10% of win purse	\$ 35.00	\$ 30.00	\$ 28.00
\$2,000-3,400	10% of win purse	\$ 45.00	\$ 35.00	\$ 33.00
\$3,500-4,900	10% of win purse	\$ 55.00	\$ 45.00	\$ 35.00
\$5,000-9,900	10% of win purse	\$ 65.00	\$ 50.00	\$ 40.00
\$10,000-14,900	10% of win purse	\$ 75.00	\$ 60.00	\$ 45.00
\$15,000-24,900	10% of win purse	\$100.00	\$ 75.00	\$ 50.00
\$25,000-49,900	10% of win purse	\$150.00	\$100.00	\$ 60.00
\$50,000-99,900	10% of win purse	\$225.00	\$150.00	\$ 75.00
\$100,000 and up	10% of win purse	\$400.00	\$250.00	\$100.00

Albert M. Stall, Chairman
Racing Commission

RULES

**Department of Commerce
Real Estate Commission**

The following Subsection has been deleted from the Rules and Regulations of the Real Estate Commission. The deleted Subsection read as follows:

§32.1.7 The nonresident must provide, with the application, a \$20,000 surety bond for each nonresident license.

The following Subsections have been added to the Rules and Regulations of the Real Estate Commission:

§34.54.1 The Louisiana Real Estate Commission may require that a school furnish proof of any of its advertising claims. In accordance with Section 34.57 and 34.58, retractions of advertising claims may be ordered by the Commission, and such retractions are to be published in the same manner as the original claim.

§34.54.2 All advertisements by certified real estate schools shall contain the following prominently displayed language: "This course has been certified by the Louisiana Real Estate Commission."

Stanley Passman, Executive Director
Real Estate Commission

RULE

Board of Trustees for State Colleges and Universities

Section 7.6 of the Policies and Procedures of the Board of Trustees for State Colleges and Universities shall read as follows:
Section 7.6 Salaries

A. Advanced Degree Adjustments—Pay increases shall be granted when additional degrees are earned according to existing salary schedule and Board policy.

B. Date of Implementation—Raises in pay because of advanced degrees shall be effective upon receipt of certificate from the proper authority of the institution attended for the semester following date of receipt, excluding summer sessions.

Bill Junkin, Executive Director
Board of Trustees for
State Colleges and Universities

RULE

Board of Elementary and Secondary Education

Rule 3.01.70.v(23)

The Board amended Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, page 30, to require an

additional three hours in audio-visual education for certification in Library Science. Implementation date for enrolling freshmen will be the fall of 1979 and those persons who have their certification updated will be excluded from the requirement.

* * * *

Rule 5.00.50.d

As requested by a management audit team from the Office of Education, U.S. Department of Health, Education, and Welfare, the Board adopted the following policy: Where any federal funds are used in any education projects and/or programs, all provisions of federal law and regulations, including Department of Health, Education, and Welfare, Office of Education, General Provisions for Programs, Administrative and Fiscal Requirements, as found in the Federal Register, Volume 38, No. 213, part 3, Appendix B, page 30,694, will be complied with and followed.

James V. Soileau, Executive Director
Board of Elementary and Secondary Education

RULE

**Department of Health and Human Resources
Office of Family Security**

The Department of Health and Human Resources, Office of Family Security, has adopted policy that will only honor out-of-state medical claims for services rendered to individuals eligible for Louisiana's Medical Assistance Program under one of the following circumstances:

1. Where an emergency arises from an accident or illness.
2. Where the health of the individual would be endangered if he undertook travel to return to the State of Louisiana.
3. Where the health of the individual would be endangered if the care and services are postponed until he returns to the state.
4. When it is general practice for residents of a particular locality to use medical resources in the medical marketing areas outside the state.
5. When the medical care and services or needed supplementary resources are not available within the state; prior approval of the Medical Director is required.

This limitation does not apply to out-of-state independent laboratories when these services are ordered by a physician residing in the State of Louisiana.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

RULE

**Department of Health and Human Resources
Office of Family Security**

The Department of Health and Human Resources, Office of Family Security, has adopted a permanent policy that will permit payment to Intermediate Care Facilities for the Mentally Retarded (ICF/MR) on an individual, prospectively determined rate with no provision for retroactive adjustment for over or underpayment, except for overpayments which occur from the inclusion of unallowable costs in the cost report. This policy was adopted as an emergency rule to be effective for the November, 1978, payment for October, 1978, services. The ICF/MR facilities, both private and state owned, will file cost reports.

The ICF/MR facilities will be paid a rate equal to their allowable cost, inflated. Private for-profit facilities will have included in their per diem rate a return on net equity capital equal to the Medicare (Title XVIII) rate, using the simplified computation.

New facilities will be paid a rate equal to the weighted average rate paid to facilities in the area. A new facility will be paid an individual, prospectively determined rate when the earlier of the following two events occur: (1) three months of operation when an average occupancy of eighty percent has been achieved; (2) two years of participation in the program have been completed.

If option (1) occurs first, the facility must file a cost report for the three-month period. The new rate will be effective when computed not when submitted. The new rate will be set within sixty days of receipt of the cost report by the state agency.

The facility will thereafter file annual cost reports.

Individual prospectively determined rates hereafter shall be computed annually to be effective with the July payment for June services. An individual facility's most current cost document will be appropriately inflated to set a payment rate to be effective for one year.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

RULES

**Department of Revenue and Taxation
Petroleum, Beverage and Tobacco Tax Section**

By virtue of the authority granted the Secretary of Revenue and Taxation under the provision of R.S. 47:1511, the following rules and regulations relative to the transportation of gasoline as provided for in R.S. 47:711-727 and 771-789 are hereby promulgated.

Anyone, other than common or contract carriers licensed by the Interstate Commerce Commission and who files monthly reports under provision of R.S. 47:783, who transports gasoline upon Louisiana highways into or from a state which has a lower tax rate than Louisiana, may do so only on designated routes authorized by the Secretary.

The interstate transportation of gasoline on highways other than those designated by the Secretary is strictly prohibited unless special authority to use alternate routes has been obtained from the Secretary, who, at his discretion, may deny such requests.

The transportation of gasoline from any state into Louisiana on any highway is prohibited except:

- I. When the carrier is bonded in Louisiana as a dealer or jobber of gasoline, or
- II. When the payment of the tax has been assumed by the out-of-state supplier who is bonded as a dealer, or
- III. When the gasoline being transported by common and contract carrier is consigned to or title is held by a dealer or jobber of gasoline.

Responsibilities of Bulk Carriers of Gasoline

- I. Request to transport gasoline on designated routes.

A written request to the Secretary must be made ten days prior to any interstate movements of gasoline. Any request for deviation from assigned designated route must be made five days prior to movement of gasoline. The request is to be sent to the Petroleum, Beverage and Tobacco Tax Section, Box 201, Baton Rouge, Louisiana 70821, and must include the following information:

- A. Name and address of the person or company who will be transporting the gasoline.
- B. Points of origin of gasoline.
- C. Points of destination of gasoline.
- D. Number of trucks that will be transporting the gasoline from or into Louisiana.
- E. Routes normally used at present time.

Upon receipt of application, if in order, authorization cards will be issued by the Secretary. This authorization is continuous until revoked, withdrawn, or surrendered.

II. Authorization cards.

Authorization cards will be issued for all vehicles transporting gasoline into or from Louisiana. A card must be kept at all times in each vehicle while transporting gasoline into or from Louisiana. This card cannot be transferrable from one transporter to another. If this authorization is revoked, withdrawn, or surrendered, these cards must be returned to the Secretary.

III. Requirements for transporting bulk gasoline on the Louisiana highways by all vehicles other than common or contract carriers.

To properly identify gasoline being transported on Louisiana highways, a person must have in his possession, a currently dated invoice, bill of lading, or manifest which must show the following information:

- A. The sellers' and purchasers' name and address.
- B. The origin of the gasoline being transported.
- C. The destination or destinations of the gasoline.
- D. The designated routes to be followed when importing or exporting gasoline.
- E. The quantity of gasoline

Also those vehicles involved in the interstate transportation of gasoline from or to a state which has a lower tax rate than does Louisiana must have authorization cards from the Secretary, designating the route or routes and must be in agreement with the route or routes shown on the invoice, bill of lading, or manifest.

IV. Penalty for failure to comply.

Any person transporting gasoline shall, at the request of the Secretary of Revenue and Taxation or his authorized agents or any weights or standard police officers of the Department of Transportation and Development, produce and offer for investigation, one of the documents referred to in Section III above. Failure to produce one of these documents at the time of inspection or if when produced it fails to disclose the information required, shall be prima facie evidence of a violation.

Any person found to be in violation of the statutory provisions and these regulations shall be fined \$5,000.00 for the first offense, and \$10,000.00 for each succeeding offense, or forfeiture and seizure of the vehicle and its cargo.

Malcolm D. Brumfield, Manager
Petroleum, Beverage and Tobacco Tax Section

RULES

**Department of Revenue and Taxation
Petroleum, Beverage and Tobacco Tax Section**

By virtue of the authority granted the Secretary of Revenue and Taxation under the provision of R.S. 47:1511, the following rules and regulations relative to the enforcement of the Louisiana Special Fuels Tax Law (R.S. 47:800-815) are hereby promulgated.

I. No interstate user of special fuels who has extensive operations in Louisiana shall commence operations without first procuring a license for that purpose from the Secretary of Revenue and Taxation, together with a surety bond guaranteeing the payment of any and all taxes, penalties, and interest due. The name and address shown on the cab doors must be in agreement with the name and address on the surety bond and the monthly tax report. In a lease agreement, the surety bond and monthly report shall be required of whoever furnishes the fuel. The name and address of the user must be on both cab doors and the vehicle must have a working odometer or hub meter at all times.

II. Every interstate user must keep satisfactory records of:

A. The miles traveled in all operations within and without the State of Louisiana.

B. The fuel purchased and used in propelling motor vehicles both within and without the State of Louisiana.

1. Purchases of special fuels from licensed dealers (service stations and truck stops) must be recorded on special fuels invoices and the original submitted with user report only upon request.

2. Copies of invoices recording bulk purchases from suppliers must be submitted with monthly user report. Gallons purchased from suppliers must be shown by invoice on the user's tax report in addition to total gallons removed from bulk storage facilities and placed in fuel supply tanks of motor vehicles.

3. Special fuels invoices showing odometer reading and license number, together with other required information, must be carried in the cab of the truck as evidence of the source of the tax-paid fuel in the fuel supply tank of the vehicle.

4. The totalizer meter reading on the measuring device of any tax-paid bulk storage tank maintained by all users in the State of Louisiana and the inventory of tax-paid fuel on hand must be recorded at the beginning of operations on the first day of every month.

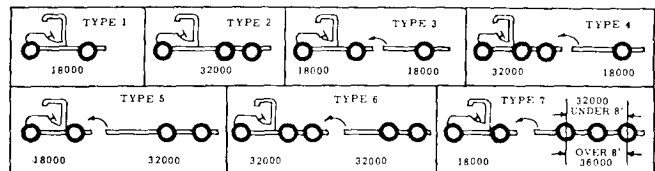
III. Miles per gallon are to be determined by:

A. The total miles traveled divided into the total gallons placed in the fuel supply tanks of the motor vehicles.

- 1. Entire operations as a whole in all states or
- 2. Computed by vehicle.

B. Miles per gallon factor will be set by the Secretary of Revenue and Taxation if records are not complete. The factor set by the Secretary is based on the number of axles on the vehicle.

	Diesel	LPG
Type 1	8 MPG	6 MPG
Type 2	6 MPG	5 MPG
Type 3	6 MPG	5 MPG
Type 4	5 MPG	3 MPG
Type 5	5 MPG	3 MPG
Type 6	4 MPG	2½ MPG
Type 7	4 MPG	2½ MPG



IV. Reports and supporting schedules must accurately reflect the miles traveled, gallons put in vehicle, gallons purchased and gallons consumed in all states in which the user operates, together with all other information as follows:

A. Business Master File number must be indicated by user requesting refund or credit.

B. User license number must be shown in proper space.

C. Name and address (must agree with name and address indicated on surety bond and on cab doors of vehicles.)

D. Type of fuel consumed must be indicated and separate reports submitted for diesel fuel and liquefied petroleum gas.

E. Purchase information:

1. Each bulk purchase must be listed and supported by a copy of the purchase invoice.

2. Purchases from service stations or truck stops must be listed in total by station.

3. Gallons removed from tax-paid storage must be shown and added to service station purchases to arrive at gallons placed in fuel supply tanks in Louisiana.

F. Monthly beginning and ending inventories must be shown to determine withdrawals from storage.

G. Any user requesting a refund must furnish complete information concerning other states in which he operates.

H. Tax report must be signed by an authorized agent as being true and accurate. Any evidence of the submission of a refund claim that is fraudulent either by information included on report or any supporting evidence will result in the entire claim for refund being voided at the Secretary's discretion. Any person found guilty of filing a fraudulent claim shall be fined up to one thousand dollars (\$1,000.00), or imprisonment not to exceed two years, or both, at the discretion of the Court.

V. Refunds or credit are permitted whenever a bonded interstate user of special fuels pays tax to another state on fuel exported from Louisiana and is bonded and files reports in all states in which he operates in accordance with the requirements of these states. The user's exportation of tax-paid fuel must exceed the importation in order to qualify for a refund. Refunds will be reduced according to special fuels tax owed, and not remitted to another state as required. Certified copies of user reports to other states must be supplied upon request as supporting evidence of payments to those states.

VI. Users requesting a refund must submit User's Monthly Report of Special Fuels indicating the states in which they operate and where user reports are filed as required. Miles traveled, gallons consumed and gallons purchased for each state in which they operate must be shown, together with copies of fuel purchase invoices from suppliers and original invoices of fuel purchased from Louisiana dealers to verify tax-paid special fuels purchased in Louisiana. Tax-paid purchases of special fuels must be delivered by a supplier into the properly marked bulk storage facilities of the user or purchased from a licensed dealer (service station or truck stop) of special fuels.

VII. Users requesting a refund must submit the originals of the special fuels invoices which record the purchase of special fuels from a service station or truck stop with the User's Monthly Report of Special Fuels. An "original invoice" means the first or top sheet of an invoice, bearing the original inked imprint, issued by a seller to a purchaser covering the product or products sold, except where the use of a credit card is authorized, the name and address may be carbon-imprinted. Invoices from service stations or truck stops must be submitted within the current month and shall be accepted no later than thirty days from the accounting period during which the purchases were made. Invoices recording purchases of special fuels in bulk must also accompany the User's Monthly Report of Special Fuels as evidence of the source of the tax-paid special fuels. Transactions shall be recorded indelibly without any alterations. Any erasures, changes, or corrections on invoices, such as changes in date, gallonage or name may result in prosecution or in rejection of the entire claim. When corrections are necessary, these shall be certified to by the dealer in an affidavit. Any incomplete invoice will be disallowed. The original invoice shall be dated, serially numbered and provide spaces for the following information:

A. The name and address of the dealer must be preprinted or mechanically imprinted.

B. Name and address of user recorded on invoice must agree with name and address indicated on bond and cab doors of vehicles.

C. Odometer or hub meter reading and license number.

D. Number of gallons of special fuels purchased, together with price per gallon and total price of gallons purchased.

VIII. Properly filed claim for refund must be submitted with the User's Monthly Report of Special Fuels. The claim for refund must

be submitted within six months of the date that the report is due. Refund claims for users who have bulk purchases will be approved and returned to the users who in turn will forward the original approved refund certificate to their suppliers for credit. The supplier will attach these approved refund certificates to his Supplier's Monthly Report of Special Fuels as a deduction. Refunds of less than fifty dollars shall be carried forward to the subsequent month's report as a credit. In no case will the refund exceed the gallons paid to other states unless user can prove that some operations in some other states do not affect Louisiana. Refunds or credits may be less than the gallons paid to other states because reports to some states may be computed on a different basis from that required by Louisiana.

Malcolm D. Brumfield, Manager
Petroleum, Beverage and Tobacco Tax Section

RULES

Department of Transportation and Development

Policy and Procedures for Weight Enforcement Field Personnel

I. General Procedures

A. Accounting Procedures

1. Payrolls: Payrolls shall be filled out by the field supervisor, signed by each employee, certified by the supervisor's signature, and sent to headquarters.

2. Expense Accounts: Expense accounts shall be filled out and signed by the person submitting the claim for reimbursement of official expenditures. Any receipts required for expenditures claimed must be transmitted also. Expense accounts will be checked for accuracy by the headquarters office and signed by the section head.

3. Violation Tickets: All violation tickets shall be accounted for. Books of tickets and violation ticket book receipt cards will be sent to each field supervisor from headquarters. Upon issuing a violation ticket book to an officer, the supervisor shall sign and have the officer sign the corresponding receipt card and return the card to headquarters. None other than the officer to whom the book is issued shall write in a violation ticket book. In the event that a ticket is lost or spoiled, the proper form shall be filled out, as outlined in Part IX, Forms. These forms shall be signed by both the officer and the supervisor.

Distribution of Violation Tickets:

a. Original—shall be given to the driver.

b. Pink and yellow copies—shall be mailed to the Enforcement and Truck Permits Administrator daily.

c. Fourth copy—shall be kept on file at the unit.

4. Driver's License Receipt Forms: All Driver's License Receipt forms shall be accounted for. Only one book of Driver's License Receipt forms shall be in use at a unit at a time (except for double installations where conditions make it necessary for each installation to have a book). The unit supervisor shall sign the Receipt for Driver's License Receipt Book cards and return them to headquarters. The shift supervisor shall see that the Driver's License Receipts are issued consecutively. Distribution of Driver's License Receipt form:

a. Original—shall be given to the driver.

b. Second copy—shall be given to the driver with instructions to take it to Department of Transportation and Development (DOTD) headquarters in Baton Rouge within thirty days, or mail within fourteen days, with the payment, to secure the return of the license.

c. Third or fourth copies—shall be mailed to the headquarters office, with the confiscated license, daily.

5. Control Permit Forms: All Control Permit Forms issued at a unit shall be noted on the Register of C-Forms, noting the form numbers and disposition.

6. Temporary Forty-Eight Hour Permits: All Temporary Forty-Eight Hour Permits shall be accounted for. Upon receipt of a supply of these permits from headquarters, the unit supervisor shall check to make sure all permits in the numerical sequence are there. If any permit is missing, the unit supervisor shall fill out a Missing Temporary Forty-Eight-Hour Permit form and return it to headquarters. The unit supervisor shall sign and return to headquarters the Receipt for Temporary Forty-Eight Hour Permits card for the permits received.

7. Cash Receipts: Cash Receipt forms, the Cash Reconciliation form, and the Register of Cash Receipts shall be filled out for cash collected at the unit.

8. Collecting Payment of Fines: Accept certified or cashier's checks or money orders made payable to Louisiana Department of Transportation and Development, Master Charge, or Visa. If a company appears on the list of "Companies Which Have Posted Overweight and Oversize Penalty Bonds," the fine will be charged to the bond. Write "Paid by Posted Bond" in the Remarks section of the violation ticket, and release the truck without collecting the driver's license. It is not permissible to accept personal or company checks when collecting fines, unless the violator has a posted bond.

9. Payment of fines is to be made immediately, except that any driver, of any vehicle registered in Louisiana, who lawfully possesses a valid Louisiana Operator's License may deposit that license with the officer in lieu of the fine. A Driver's License Receipt form shall be issued when any operator's license is retained by an officer.

B. Maintaining Records and Keeping Manuals Current.

1. Violation Tickets: The fourth copy of each violation ticket issued shall be filed in consecutive order at the unit.

2. Register of Violation Tickets: Each unit supervisor shall maintain this ledger, noting each day all the information required for each ticket on the Register of Violation Tickets ledger sheet, as outlined in the supervisor's instructions in Part IX, Forms.

3. Register of Control Forms and Register of Temporary Forty-Eight-Hour Permits: Each unit supervisor shall maintain this information, as outlined in the supervisor's instructions in Part IX, Forms.

4. The supervisor shall maintain an up-to-date list of vehicle license plates to be confiscated, as provided by the headquarters office.

5. The supervisor shall instruct the officers on their duties and responsibilities, have them initial all memoranda pertaining to their jobs, and ascertain that all manuals are kept current. The memoranda transmitting manual revisions shall be initialed by all personnel, and the supervisor shall be responsible for ensuring that all unit personnel understand the revisions.

C. Supervisory Reports.

1. Summary Report of Weighing Operations: The unit supervisor shall submit a Summary Report of Weighing Operations to the Enforcement and Truck Permits Administrator with his copies of the day's violation tickets, Driver's License Receipt forms, confiscated operator's licenses, and monies collected daily. This report shall contain the hours of operation of each shift, the officers on duty, the number of trucks weighed per shift, number of overloaded vehicles, overloads and permits penalized, number of tickets issued, and number required to reduce load and shift load. In addition, mobile units shall note the hours of operation for that day and which highways they cruised.

2. Log of Scale Calibrations and Repairs: The unit supervisor shall maintain a scale calibration and repair log, noting the date and

time of every scale calibration and repair. In addition, the mobile unit supervisor shall note the above information for each individual portable scale. In the interim, if any discrepancy in the scales is noticed by an officer, he shall report it to his supervisor, who shall immediately contact the section head and request a scale calibration or repair. This verbal request shall be followed up in writing.

D. Personal Conduct and Behavior.

1. Dress and Decorum: All personnel shall at all times be properly attired in the furnished uniform, which they shall keep clean and neatly pressed. Employees shall at all time be courteous, patient, and respectful in dealing with the public. All conversations shall be conducted in a courteous and even-tempered manner.

2. Supporting Fellow Employees: Employees shall cooperate with, support, and assist each other in all ethical endeavors at every opportunity and shall not publicly criticize the work or the manner of performance of duty of any other employee to anyone except the supervisor.

3. Threatening or Insulting Language: Employees shall not use threatening or insulting language or mannerisms when dealing with the public.

4. Relations with the Press: Officers shall be courteous to the press, but the release of any statement to the news media shall be made by the Secretary or by an authority delegated by him.

5. Conflicting Employment: No employee may be engaged in any gainful outside employment when this would affect in any way the normal competency of the individual in the regular performance of his job responsibilities. No full time employee of DOTD may be engaged in the private escorting of vehicles.

6. Duty of Employees to Keep Informed: Employees are held responsible for thoroughly understanding the laws and policies they are charged with enforcing, and all policies and procedures published for the section.

7. Soliciting, Accepting Gifts, Gratuities: No employee shall, directly or indirectly, accept, receive, seek or solicit anything of value as a gift, loan, gratuity or favor from any person or firm, or any officer, employee, or agent thereof, who has or is seeking to obtain contractual or other business or financial relationships with the department, or who has interests which may be substantially affected by such employee's performance or nonperformance of official duty. The duty of any employee to the department must supersede any private contractual obligation of the employee to any third parties; no employee shall incur any contractual obligation which could interfere with or influence the performance of his duties to the department. Any employee that is observed accepting a gift or anything of value from any member of the trucking industry shall be immediately instructed by the supervisor to leave the DOTD premises. Details of the incident shall be reported to the Chief of the Weights and Standards Police Force.

8. Unauthorized Disclosure of Information: Employees shall not disclose any confidential section work schedules.

9. Drugs and Alcohol: There are a number of restrictions on drugs and alcohol which must be observed by all employees. The use of either is prohibited during working hours as such use can limit efficiency and increases the chance of injury to oneself or others. Specific departmental policy prohibits the possession, storage, serving or consumption of alcoholic beverages on state property. The same restrictions hold for mind-altering drugs and other controlled substances including but not limited to marijuana, amphetamines, cocaine, LSD and certain stimulants, barbiturates and tranquilizers when not prescribed by a physician. An employee found under the influence of any such substance or alcohol, or in violation of any of the regulations mentioned shall be subject to immediate disciplinary action not excluding dismissal. Any employee in a potentially hazardous classification or any employee operating state vehicles shall notify his supervisor when he must