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Executive Orders

EXECUTIVE ORDER BR 90 - 4

WHEREAS, Executive Order BR 90-3 was signed February 2, 1990, establishing a Transportation Infrastructure Evaluation Committee; and

WHEREAS, it is necessary to expand the membership of said committee to include those listed below:

NOW THEREFORE I, BUDDY ROEMER, Governor of the State of Louisiana, do hereby order and direct that Section 3 of Executive Order BR 90-3 be and the same is hereby amended to read as follows:

- a. Six members of the Louisiana Legislature;
- b. Three state departmental heads or their designee;
- c. Five members shall be port directors;
- d. One member shall be affiliated with a levee district;
- e. One member shall be affiliated with the railroad industry;
- f. Two members shall be airport directors;
- g. Two members shall be affiliated with the shipping industry;
- h. One member shall be affiliated with international trade;
- i. Five members shall have demonstrated a commitment to interstate and international commerce;
- j. One member who shall be knowledgeable in labor relations; and
- k. One member shall be affiliated with the motor transport and/or trucking industry.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 2nd day of March, 1990.

Buddy Roemer
Governor of Louisiana

ATTEST BY
GOVERNOR
Fox McKeithen

Emergency Rules

DECLARATION OF EMERGENCY

Department of Economic Development Economic Development Corporation

The Department of Economic Development, Economic Development Corporation, is exercising the emergency provision

of the Administrative Procedure Act, R.S. 49:953B, to implement the rules of The Louisiana Small Business Linked Deposit Loan effective February 10, 1990. These rules will outline procedures for administering the Louisiana Small Business Linked Deposit Loan Program as authorized by Act number 633 of the 1989 Legislature.

The above described action is necessary as the Louisiana Small Business Linked Deposit Loan Program is preparing to process loan applications.

RULES

Procedures for Authorization and Administration of Louisiana Small Business Linked Deposit Loan

§1301. Definitions

“Corporation” means the Louisiana Economic Development Corporation of the Department of Economic Development or its successor.

“Eligible small business” means any person, or business, that has all of the following characteristics:

- (a) Is headquartered in this state.
- (b) Maintains offices and operating facilities in this state and transacts business in this state.
- (c) Employs fewer than one hundred and fifty employees, the majority of whom are residents of this state.
- (d) Is organized for profit.
- (e) Is not a federally chartered or state chartered bank or savings and loan institution.

“Eligible Lending Institution” means any bank located in this state and organized under the laws of this state and any national bank having its principal office in this state which is authorized to make commercial loans and which agrees to participate in the linked deposit program as defined herein.

“Linked Deposit” means a certificate of deposit placed by the treasurer (as defined herein) with an eligible lending institution at three percent below existing investment rates, as determined and calculated by the treasurer, provided the institution agrees to lend the value of such deposit, according to the deposit agreement required by Section 1303. (I), to eligible small businesses at three percent below the bank existing borrowing rate applicable to each specific business at the time of the deposit of state funds in the lending institution.

“Person” means any individual, firm, corporation, partnership or association domiciled in this state.

“Substantial stockholders” means any person who owns more than 20 percent of a business applying for or currently participating in the Link Deposit Loan Program as outlined in this Chapter.

“Treasurer” means the treasurer of the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:450.2 and R.S. 3:450.3

§1302. Priorities

A. The corporation and treasurer shall give priority to those persons who utilize Louisiana products to the maximum extent possible.

B. The Lending institution shall give priority to the:

1. Economic needs of the area of the state in which the business is located;
2. The number of jobs created or preserved in the state;
3. The order in which the linked deposit loan packages were received and whenever possible give priority based on this chronological order.

§1303. Linked Deposit Loan Program Authorization Lending Institution Requirements; Applicants Requirements and Conditions for Approval

A. The treasurer may invest in linked deposits, as provided and defined by La. R.S. 51.2365, and, also defined herein, provided that at the time of placement of any linked deposit the total amount of such investments at any one time shall not exceed, in the aggregate, 20 million dollars. When deciding whether to invest in linked deposits, the treasurer shall give priority to the investment, liquidity, and cash flow needs of the state and a determination of the financial soundness of the eligible lending institution.

B. An eligible lending institution that desires to receive a linked deposit shall accept and review applications for loans from eligible small businesses. The eligible lending institution shall apply all usual lending standards to determine the credit worthiness of each eligible small business. The eligible lending institution shall not charge, levy or collect any loan application fee, processing fee, or other charges other than its normal loan application fee, processing fee, or other charges when handling a link deposit application.

C. (1) Only one loan through the linked deposit program shall be made and shall be outstanding at any one time to any eligible small business.

(2) The maximum amount which may be loaned to any eligible small business at any one time shall be two hundred thousand dollars.

(3) No loan shall be made to any officer or director of the lending institution making the loan.

D. An eligible small business shall certify on its loan application that the reduced rate loan will be used exclusively to create new jobs or preserve existing jobs and employment opportunities in the state. Whoever knowingly files a false statement concerning such application shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in La. R.S. 14:133.

E. In considering which eligible small businesses to include in the linked deposit loan package for reduced rate loans, the eligible lending institution shall give priority to the economic needs of the area of the state in which the business is located, the number of jobs to be created or preserved in the state by the receipt of such loans, and such other factors as the eligible lending institution considers appropriate to determine the relative financial need of the eligible small business.

F. The eligible lending institution shall forward to the corporation and the treasurer for review a linked deposit loan package, in the form and manner prescribed by the Corporation. The package shall include such information as required by the Corporation including, the amount of the loan requested, the number of jobs to be created or sustained in the state by each eligible small business, the ratio of state funds to be deposited to jobs sustained or created, and any reports, statements, or plans applicable to the business, the overall financial need of the business, and such other factors as the Corporation considers appropriate. The eligible financial institution shall certify that each applicant is an eligible small business as defined herein and shall, for each eligible small business, certify the present borrowing rate applicable to each specific eligible small business. Within 45 days after receipt, the Corporation shall provide written recommendations to the treasurer on each linked deposit loan package received from eligible financial institutions.

G. The treasurer may accept or reject a linked deposit loan package or any portion thereof, based on the treasurer's

review of the recommendations of the Corporation, the availability and amount of state funds to be deposited, and a determination of the financial soundness of the financial institution in which the deposit is to be made. The treasurer shall notify the Corporation and the eligible lending institution of acceptance or rejection of a linked deposit loan package within 15 days of receipt by the treasurer of the recommendations of the Corporation.

H. Upon acceptance of the linked deposit loan package or any portion thereof, the treasurer may place certificates of deposit with the eligible lending institution at three percent below the current investment rates, as determined and calculated by the treasurer. When necessary, the treasurer may place certificates of deposit prior to acceptance of a linked deposit loan package.

I. The eligible lending institution shall enter into a deposit agreement with the treasurer, which shall include the requirements necessary to carry out the purposes of this Chapter. The requirements shall reflect the market conditions prevailing in the eligible lending institution's lending area. The agreement shall specify the period of time in which the lending institution is to loan funds upon the placement of a linked deposit, and shall include provisions for the certificates of deposit to mature within a period not to exceed one year. The treasurer may renew a certificate of deposit in one year increments but in no event shall the total period of time that a certificate of deposit is placed with any lending institution exceed three consecutive years. Interest shall be paid at the times determined by the treasurer. However, upon placement of a linked deposit, the treasurer will give priority to renewal of existing linked deposits prior to placement of new linked deposits. Prior to renewal of linked deposits, the treasurer shall continue to give priority to the investment, liquidity cash flow needs of the state and a determination of the financial soundness of the eligible lending institution.

J. The period of time for which each certificate of deposit is placed with an eligible lending institution shall be neither longer nor shorter than the period of time for which the linked deposit shall be used to provide loans at reduced interest rates. The agreement shall further provide that the state shall receive investment interest rates on any certificate of deposit or any portion thereof for any period of time for which there shall be no corresponding linked deposit loan outstanding to an eligible small business.

K. Upon placement of a linked deposit with an eligible lending institution, the institution shall lend such funds to each approved eligible small business listed in the linked deposit loan package. Each loan shall be at a fixed rate of interest for a period of one year which shall be three percent below the current borrowing rate applicable to each eligible small business. All records and documents pertaining to the linked deposit program shall be segregated by each lending institution for ease of identification and examination. A certification of compliance with this Section in the form and manner prescribed by the treasurer shall be completed by the lending institution and filed with the treasurer and the Corporation.

If it is discovered that there is a linked deposit made for any purpose not authorized, the certificate may be matured and/or rewritten, if appropriate, without penalty to the State Treasury. If this situation occurs the eligible lending institution will pay the State Treasury the same terms and interest rate as if the deposit were placed without benefit of a linked deposit. If the eligible lending institution fails to pledge securities to the Treasury or if such securities shall be unsatisfactory to secure the Deposit,

in her/his sole discretion, the treasurer may declare the Deposit and interest earned thereon, or any part thereof, to become immediately due and payable, notwithstanding any agreement or contract to the contrary.

§1304. Liability

Neither the state, the Corporation, nor the Treasury shall be liable to any lending institution in any manner for payment of the principal or interest on any loan to an eligible small business under this Section. Any delay in payments or default on the part of a small business shall not in any manner affect the deposit agreement between the eligible lending institution in the event of a loan default.

Mike Williams
Interim Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Awarding of High School Diplomas

The State Board of Elementary and Secondary Education, at its meeting of February 22, 1990, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act R. S. 49:953B and approved the addition of the following standards to Bulletin 741 (p. 77) to provide for the awarding of high school diplomas:

AWARDING OF HIGH SCHOOL DIPLOMAS

- 2.099.03 A state high school diploma shall be awarded to any student in a state-approved school who successfully completes the state's required program of studies and takes and successfully passes the state high school exit exam.
- 2.099.04 Any state-approved nonpublic school which wishes to award the state diploma to its students shall contact the State Department of Education for timelines and other administrative guidelines for administering the state exit testing program.
- 2.099.05 Any approved nonpublic school which does not choose to administer the state high school exit exam to its students may grant a school diploma which shall carry the same privileges as one issued by a state-approved public school.
- 2.099.06 The awarding of high school diplomas shall in no way affect the school approval classifications of any school.

Emergency adoption is necessary so that state-approved nonpublic schools may elect to participate in the April, 1990 administration of the Graduation Exit Examination in order to be able to award a state high school diploma to those students who pass all components of the examination.

Em Tampke
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Performance Standard(s) for LEAP Written Composition Test
Grades 5 and 7

The State Board of Elementary and Secondary Education, at its meeting of February 22, 1990, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act R. S. 49:953B and approved the following Performance Standard(s) for the LEAP Written Composition Test - Grades 5 and 7, as recommended by the Department of Education.

WRITTEN COMPOSITION - GRADE 5

Performance Standard/	Passing Raw Score	*Maximum Possible Points	Percentage of Points Necessary To Pass	Estimated Percent Failed
553	53	72	74	14%

WRITTEN COMPOSITION - GRADE 7

Performance Standard	Passing Raw Score	*Maximum Possible Points	Percentage of Points Necessary to Pass	Estimated Percent Failed
745	45	72	63	26%

* A student can score a maximum of 72 points based upon the Domain Scoring Model that will be used by the readers to score the student responses.

Emergency adoption is a necessity because the tests will be administered for the first time in April, 1990. The test support services contractor must be advised of the passing score in order to develop computerized scoring and reporting programs.

Em Tampke
Executive Director

DECLARATION OF EMERGENCY

**Department of Employment and Training
Office of Workers' Compensation**

MEDICAL FEE SCHEDULE

In accordance with the emergency provision of LSA-R.S. 49:953(B) of the Louisiana Administrative Procedure Act, and under the authority of LSA-R.S. 23:1034.2 of Act 938 of 1988 Regular Louisiana Legislative Session and LSA-R.S. 23:1203, the director of the Office of Workers' Compensation has determined that because of the imminent peril to the public health, safety and welfare, it is necessary that the Office of Workers' Compensation adopt an immediate medical reimbursement fee schedule for drugs, supplies, hospital care and services, medical and surgical treatment and any non-medical treatment recognized by the laws of this state as legal and due under Workers' Compensation Act and is applicable to any person or corporation who renders such care, services or treatment or provides such drugs or supplies to state employees covered by Chapter 10 of Title 23 of the Louisiana Revised Statutes of 1950. March 7, 1990 is the effective date of this rule.

Further, a previous declaration of emergency for the identical medical fee schedule was submitted with typographical er-

rors, and published by the State Register on February 20, 1990. That declaration of emergency published on February 20 is hereby rescinded and superseded by the declaration of emergency herein with the appropriate corrections of the typographical errors.

Additionally, Act 938 mandates the promulgation of a medical reimbursement fee schedule by the director of the Office of Workers' Compensation effective January 1, 1989.

This medical reimbursement fee schedule establishes a basis for billing and payment of medical services provided all injured state employees and shall be applicable only to state employees. A copy of the fee schedule shall be available for view at the Office of Workers' Compensation Administration at 1001 North 23rd Street, Baton Rouge, LA 70804, Room 142.

Stephen W. Cavanaugh
Director

DECLARATION OF EMERGENCY

Office of the Governor Office of Elderly Affairs

The Office of the Governor, Office of Elderly Affairs (GOEA), has exercised those powers conferred by the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend the GOEA Policy Manual, effective March 12, 1990. The purpose of the amendment is to clarify the state agency policy as it relates to the direct delivery of services by area agencies on aging in Louisiana.

The test standard for adequate supply and the test standard which requires that the area agency be able to demonstrate it can provide the services of comparable quality more economically than any other service provider have been revised. The standard procedure for area agencies has been deleted, since this is subject to change and can be addressed in the service procurement guidance provided annually by the state agency.

A notice of intent to adopt the following rule under the Administrative Procedure Act will be published in the April 20, 1990 edition of the *Louisiana Register*.

RULE

LAC 4:VII.1143 shall be revised to read as follows:

§1143. Service Procurement

A. General Rule for Services Funded under Title III of the Older Americans Act

The Governor's Office of Elderly Affairs and all area agencies in Louisiana use procurement contracts or subcontracts with service providers to provide all services under the state and area plans unless the Governor's Office of Elderly Affairs, after exploring alternatives, decides that direct provision of a service by the area agency using its own employees is necessary to assure an adequate supply of the service; or where such services are directly related to such area agency on aging's administrative functions; or where such services of comparable quality can be provided more economically by the area agency on aging.

B. Service Delivery Standards

The following standards must be met by all providers of services under the State Plan.

Standard 1: A person qualified by training and experience is designated to be responsible for the conduct of this activ-

ity, including supervision of paraprofessional and volunteer staff.

Standard 2: There are adequate numbers of supervisory staff, trained and skilled in dealing with assessing the needs of older persons and assisting such persons to obtain needed services.

Standard 3: The service is provided in a timely manner to meet the individual needs of eligible participants.

Standard 4: There is a system established for follow-up on referrals.

Standard 5: There is an up-to-date file of community resources which will contribute to the well being of older persons.

Standard 6: Procedures are established for the service.

Standard 7: Linkages are planned with other services available under Title III Section 203 of the Older Americans Act.

Standard 8: There is a sound management system capable of furnishing timely and accurate fiscal and program reports.

Standard 9: There is a sufficient schedule of service delivery days. (minimum: 250 service delivery days per contract year)

Standard 10: Outreach is available to target older persons with the greatest social or economic need with particular attention to low-income minority individuals; older persons with severe disabilities; and older Indians [if there is a significant Indian population (at least 25) in the PSA], and rural elderly.

Standard 11: There are service delivery criteria for each service giving priority in the delivery of services to older individuals who are frail, homebound by reason of illness or incapacitating disability or otherwise isolated; and older individuals with the greatest social or economic need (with particular attention to low-income minority individuals).

Standard 12: There is a system established for the reevaluation of clients receiving services.

C. Criteria for Direct Delivery of Services by an Area Agency

1. The Governor's Office of Elderly Affairs may grant an exception to the general rule and authorize direct service delivery by an area agency on aging if, after solicitation under the service procurement guidelines promulgated by the Governor's Office of Elderly Affairs, the area agency:

- demonstrates that it is necessary to directly deliver services to ensure an adequate supply of the service; or
- demonstrates that it can provide services of comparable quality more economically than other providers.

2. The Governor's Office of Elderly Affairs' requests for exceptions to the decision concerning AAAs' general rule for the provision of direct service delivery will be based on one of two tests: The Adequate Supply Test (when no proposals are received by the AAA in response to the SFP); or The More Economic Test Standard (when proposals are received).

D. Test Standards

1. Adequate Supply Test Standard

a. The Adequate Supply Test will require area agencies to demonstrate that services are either not offered or are only partially available in the PSA.

b. The Adequate Supply Test will be met when the AAA provides documentation that it has not received any proposals to deliver the service(s) in all or a portion of the PSA after the AAA has: 1) advertised the availability of funds; and 2) written to bona fide service providers, inviting them to submit proposals.

2. More Economic Test Standard

a. The More Economic Test will require area agencies to demonstrate that services of comparable quality will be provided

by the AAA at a unit rate at least 10 percent lower than the lowest responsible applicant's proposed unit rate.

b. The More Economic Test Standard will be met when the AAA's sealed narrative proposal substantiates that it meets the Service Delivery Standards in a manner comparable in quality to the lowest responsible applicant's proposal; and provides the service(s) at a unit rate which is at least 10 percent lower than the lowest responsible applicant's proposed unit rate. Unit rate is defined as the total expenditure of funds offered for the service divided by the number of units of service to be delivered.

Vicky Hunt
Director

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953 B to adopt the following rule in the Medical Assistance Program effective April 1, 1990.

Currently, computer-matched data is considered verified information and action to terminate Medicaid, if appropriate, is taken based on such data. A 10-day notice for appeal requests is allowed for the non-SSI recipients. SSI recipients are currently terminated effective the month of receipt of an SSI closure if received by the tenth of the month and effective the following month if received after the tenth of the month.

Public Law 100-503 is mandated to improve the oversight and procedures governing the disclosure of personal information used in computer matching programs when a federal agency is a party to the match. The law covers matches which the Social Security Administration obtains from the Veterans Administration, Office of Personnel Management, and the Railroad Retirement Benefits and passes to the state through the SDX, BENDEX, TPQY, IRS, INS, IEVS, and SA systems.

In order to continue receiving SDX tapes from the Social Security Administration which enables the state to make Medicaid determinations on SSI recipients, it is a requirement that each state sign an agreement for matches covered by these provisions, containing specific elements such as procedures for notification of the affected individuals. The Department of Social Services, Office of Eligibility Determination, as the responsible component for the disclosure, signed such an agreement on May 24, 1989.

Under the provisions of the law, prior to making a final denial of any assistance or taking other adverse action against an individual as a result of information produced by a matching program, the individual must be given a notice containing a statement of the agency's findings and informed of the opportunity to contest such findings. The notice period is mandated to be a minimum of 30 days. The recipient may appeal the decision within ten days of receipt of the notification, and benefits continue until the appeal process is completed. If the client responds to the 30-day notice within 10 days, and does not contest the data, the 30-day notice period expires, allowing immediate ter-

mination action. If the client provides evidence during the 30-day notice period, such as a check that refutes the matched data, eligibility is continued. If, however, the client does not respond to the notice, the case shall remain open until the notice period expires.

Under this rule, the bureau is adopting the provisions of P.L. 100-503, the Computer Matching and Privacy Protection Act of 1988, for implementation. This rule is necessary to ensure compliance with mandated federal regulations and laws and to avoid sanctions for HCFA.

RULE

Information obtained from the Social Security Administration and passed to the state through a computer matching program shall be utilized in conformity to the provisions of Public Law 100-503.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953B to adopt the following rule in the Medical Assistance Program.

Under the authority of Section 1915(c) of the Social Security Act created by §2176 of Public Law 97-35, the Omnibus Reconciliation Act of 1981, the Department of Health and Hospitals has obtained a Home and Community Based Services waiver designed to meet the needs of developmentally disabled individuals by providing an array of residential and family support services. Public Law 100-203, which mandates preadmission screening and annual resident review for nursing care to ensure that individuals with a diagnosis of mental illness or mental retardation receive appropriate levels of care, will result in the deinstitutionalization or diversion of many individuals now placed or applying for placement in nursing facilities (Long Term Care facilities other than an ICF/MR). Under this waiver, federal financial participation is approved under Title XIX (Medicaid) for family and community services as alternatives to institutionalization for a limited number of Medicaid eligible individuals with a developmental disability who would otherwise require an ICF/MR level of care. This includes all mandatory and categorically needy groups and uses the institutional income and resources regulations.

The waiver document, as approved, conforms to federal requirements and provides definitions of services, assurances, and documentation as specified in implementing regulations. The following services are included: personal care services, respite care, substitute family care, supervised independent living, and habilitative/support employment. These services are designed to provide alternative residential living opportunities for individuals with developmental disabilities who currently reside in an ICF/MR or are in need of an ICF/MR level of care, including those removed from Long Term Care facilities other than an ICF/MR.

Under the terms of this waiver, a limited number (224 the first year, 334 the second year, and 442 the third year) of SSI recipients who meet the criteria for ICF/MR institutionalization could receive waiver services. Services to be provided are determined by an interdisciplinary team which formulates an individual plan of care (composed of an Individual Service Plan and an Individual Habilitation Plan) for each recipient. The per client expenditure is not to exceed the per client Medicaid expenditure that would have been spent if the client were in an ICF/MR.

The following services are to be provided:

1. Personal Care Services

Definition of Services

Personal care services are those services which meet the needs of those diverted or deinstitutionalized recipients whose disabilities preclude the acquisition of certain independent living skills related to the activities of daily living. Examples of these activities include bathing, dressing, grooming, and food preparation. These services also include performance of tasks related to maintaining a safe, healthy, and stable living environment for recipients.

Personal care services include assisting recipients in transfer and/or ambulation, assisting with bladder and/or bowel requirements, and assisting in any services in the individual habilitation plan (IHP) or individual service plan (ISP). The IHP and/or ISP constitute the individual's Plan of Care.

Extent of Services

The frequency of personal care services and the number of hours to be provided to each recipient will be determined by an interdisciplinary team as defined in the waiver document. Either habilitative or other services will be specified on either an IHP or an ISP with programmatic approval by the Division of Mental Retardation/Developmental Disabilities (DMRDD). The IHP and/or ISP is subject to the approval of the Medicaid Bureau (Bureau of Health Services Financing) to determine that services are within the acceptable amount, duration, and scope of the waiver guidelines.

Personal care provider staff will participate as members of the interdisciplinary team and will assist in the development of goals and objectives for the IHP and/or ISP.

Providers of personal care services will be reimbursed for each approved unit of service provided. A unit of service for personal care will be one hour. Providers will not be allowed to bill for a unit of service unless at least one half hour of service has been provided. A maximum of 1,825 hours per recipient per waiver year will be reimbursed under this waiver. Personal care services needed, exceeding the maximum of 1,825 hours, may be requested on an individual case-by-case basis. Such a need must be recommended by the interdisciplinary team, supported by documentation justifying that the client would be in jeopardy of losing independence and requiring institutional care, and be approved by the DMRDD central office and the Medicaid Bureau prior to the delivery of additional personal care services.

Provider Qualifications

In order to provide personal care services under the waiver, the agency must be licensed as a personal care service provider by the state of Louisiana. The minimum qualifications for personal care attendant providers are described in state Licensure Standards.

2. Respite Care Services

Definition of Services

Respite care service is the temporary care of recipients on a short-term basis who are unable to care for themselves because of the absence of, or need for, relief of the primary caregiver(s).

This care is not habilitative or remedial in nature, but includes procedures for maintenance of client's IHP and/or ISP whenever feasible. Services may be provided to any recipient on either an emergency or planned basis. Respite care may be provided either in the recipient's home or a licensed respite center.

Extent of Services

The need for planned respite services will be determined by the interdisciplinary team and will be included in an IHP and/or ISP with programmatic approval by DMRDD. The plan is also subject to the approval of the Medicaid Bureau to determine that services are within the acceptable amount, duration, and scope of the waiver guidelines. Respite care provider staff will participate in the interdisciplinary team process regarding maintaining goals or objectives on the IHP and/or ISP.

Emergency respite care will be reviewed retroactively by the interdisciplinary team within ten working days of the onset of the respite care of the recipient to determine if the service was utilized as specified in the approved waiver proposal. The reimbursement for in-home respite will be in one hour units.

Center-based respite, provided only in state-licensed respite care centers or in skilled nursing facilities which are also state-licensed will be reimbursed in one-hour units of service. Services under this waiver for center-based and in-home respite services will not exceed 30 24-hour periods of time or 720 hours per recipient per waiver year. The 720-hour limit per waiver year includes any combination of center-based and in-home respite services. In order to maintain client eligibility, respite care is not to be delivered for more than 14 consecutive days.

Provider Qualifications

In order to provide respite care services under this waiver, a respite care center must be licensed as a respite care provider by the state of Louisiana. The qualifications for respite services providers are described in the state Licensure Standards. Skilled Nursing Facilities (SNF) must be licensed by the state to provide both SNF and respite care center services. The state also requires that a SNF providing respite care under the waiver be certified for Title XIX SNF services. SNF's providing both skilled nursing services and respite services will be separately enrolled for each service with a separate provider code being assigned for each type of service.

3. Substitute Family Care Services

Definition of Services

Substitute family care is defined as personal care and supervision appropriate to an individual provided for children and adults in family homes. Substitute family caregivers serve as surrogate parents and assume the direct responsibility for the recipient's physical, social, and emotional well-being and growth, including the maintenance of natural family ties, when indicated in the IHP and/or ISP. Substitute family care services included in the waiver are day programming, transportation, training in independent living skills, and community integration. The cost of room and board for the recipients of substitute family care will not be reimbursed under this waiver.

Extent of Services

The need for substitute family care is determined by an interdisciplinary team and identified in an IHP and/or ISP which is approved for programmatic considerations by DMRDD. The IHP and/or ISP must also be approved by the Medicaid Bureau to determine that services are within the acceptable amount, duration, and scope of the waiver guidelines.

Provider Qualifications

In order to provide substitute family care under this waiver, the agency must be licensed as a Substitute Family Care

(SFC) agency by the state of Louisiana. Qualification for SFC agencies and individual caregivers are described in state Licensure Standards.

4. Supervised Independent Living Services

Definition of Services

Supervised Independent Living is defined as either cluster or individual apartment living arrangements designed to allow recipients to live as independently as possible in the community.

Extent of Services

Services to be provided in supervised independent living arrangements are designed to prevent reinstitutionalization or to divert individuals from becoming institutionalized. These services include training in community living skills for all areas of independent functioning. Assistance is provided to recipients in obtaining financial aid and assessing other benefits available. Recipients are also provided emergency support and training in self advocacy as appropriate.

The need for supervised independent living services is determined by an interdisciplinary team and identified in an IHP and/or ISP which must be approved by DMRDD. The plan is also subject to the approval of the Medicaid Bureau to determine that services are within the acceptable amount, duration, and scope of the waiver guidelines. Provider staff participate as members of the interdisciplinary team and assist in the development of goals and objectives. Reimbursement for supervised independent living is for service related costs and not room and board costs. Services costs represent the expected number of hours of staff support that will be provided to keep recipients in the supervised independent living setting. These costs include IHP/ISP program development, implementation, and monitoring. Room and board costs are those associated with rent, utilities, food, and related items such as administrative costs not associated with service provision, and are offset by the recipient's income, principally SSI, food stamps, and earnings. Room and board costs are excluded from services covered by the waiver.

Provider Qualifications

In order to provide supervised independent living under the waiver, an agency must be licensed as a supervised independent living provider by the state of Louisiana. The minimum qualifications for supervised living providers are described in state Licensure Standards.

5. Habilitative/Supported Employment Services

Definition of Services

Habilitative/supported employment is paid employment which is for persons with developmental disabilities for whom competitive employment at or above the minimum wage is unlikely, and who, because of their disabilities, need intensive ongoing support to perform in a work setting. Habilitative/supported employment is conducted in a variety of settings, particularly worksites in which persons without disabilities are employed.

To be eligible for Habilitative/Supported Employment services, the individual must have been deinstitutionalized from a SNF, ICF or ICF/MR. A copy of LA OFS Form 148 (Title XIX Longterm Care Facility Notification of Admission or Change" will be filed in the recipient's file. Individuals receiving this service either are not eligible or have been referred and rejected for participation in §110 or the Rehabilitation Act of 1973 or programs funded under P.L. 94-142. Documentation of the referral and/or rejection will be maintained in the recipient's file.

Extent of Services

The need for habilitative/supported employment services is determined by an interdisciplinary team and identified in a

written IHP and/or ISP which must be approved for programmatic content by DMRDD. The plan is also subject to the approval of the Medicaid Bureau to determine that services are within the acceptable amount, duration, and scope of the waiver guidelines.

The scope of activities included in habilitative/supported employment is any activity needed to sustain paid work by persons with disabilities, including supervision, training, and transportation. In this waiver, supported employment models include supported jobs, enclaves, and mobile work crews.

Supported job programs typically are full or part-time jobs located in conventional, private sector companies, and persons with disabilities are placed in these jobs. A trainer usually performs the job for a few days to determine the exact job requirements and necessary social and personal skills. After this job analysis, continuous onsite training is provided in the work place until the new employee competently performs the job. Continuing support is then provided as needed. Enclaves follow this same model except that a group of individuals work in proximity and training support is available to the group over longer periods of time. Mobile work crews are small businesses that work for customers at their regular workplaces. While the type of work varies, mobile work crews typically are involved in janitorial, groundskeeping, or related services.

Provider Qualifications

In order to provide habilitative/supported employment under this waiver, there are two requirements. First, the agency must meet health and safety requirements established by the state for places of business. Secondly, the agency must have individuals who have specialized training in the area of supported employment which is approved by the DMRDD.

State Licensure Requirements

Where the state of Louisiana has licensure or certification requirements for service providers or for individuals who furnish services, these standards will be met.

In order to permit federal financial participation in funding of waiver services provided to recipients as an alternative to institutionalization, including services to appropriate individuals deinstitutionalized or diverted from institutionalization under the mandatory provisions of Public Law 100-203, this emergency rule is adopted. Sufficient institutional (ICF/MR) placement or other sheltered living arrangements under current funding arrangements is not available for the increased population anticipated to result from diversion, and makes imperative the prompt implementation of this waiver.

A copy of the approved waiver may be viewed at the Office of the State Register, 900 Riverside North, Baton Rouge, LA, or may be obtained by writing the Office of the State Register, Box 94095, Baton Rouge, LA 70804-9095, or by calling (504) 342-5015.

RULE

The Family and Community Services Program, a home and community-based services program providing alternative services to persons with developmental disabilities, shall be covered under the state's Title XIX Medical Assistance Program in accordance with all regulations applicable to such programs, as specified in Section 1915(c) of the Social Security Act and as approved in the waiver request document and attachments.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953B to adopt the following rule in the Medical Assistance Program.

The Health Care Financing Administration (HCFA) promulgated reimbursement limits on payments for drugs under Title XIX (Medicaid). These limits were published in the *Federal Register*, Vol. 52, No. 147, dated July 31, 1987, Pages 28648 - 28658. Under these regulations reimbursement for prescription drugs was divided into two groupings: Multiple Source Drugs for which a federal upper limit was established; and Other Drugs. Under this regulation the state agency incorporated federal upper limits into its existing "lower-of" reimbursement methodology. The state agency also retained its reimbursement methodology for drugs included in the "Other Drugs" category. Reimbursement for drugs in this category was based on the lower of:

1. Louisiana Maximum Allowable Cost (LMAC) limits on multiple source drugs;
2. Average Wholesale Price (AWP) for the drug product subject to expanded package size limitations; and
3. usual and customary charges to others.

Following submittal of the state's reimbursement methodology to the Health Care Financing Administration (HCFA) the state was notified the continued utilization of AWP in setting reimbursement for "Other Drugs" was unacceptable in light of "overwhelming evidence" that providers do not pay AWP for drugs purchased. The state agency appealed this decision and was notified on June 16, 1989 that the administrator of HCFA had upheld the disapproval of Louisiana's methodology making the following findings:

"The administrator has reviewed the entire prescription drug reimbursement plan proposed in Plan Amendment No. 87-33. There are features in this plan which properly constrain Medicaid drug reimbursement costs. The state's LMAC program has been, and continues to be, a significant factor in keeping total costs in line. There was evidence in the record that the LMAC program accounted for 56 percent of all drug claims reimbursed by the state.

However, all of the drugs subject to LMAC are multiple-source drugs. Other multiple-source drugs are subject to the federal MAC, set up under 42 CFR 447.332. EAC would still serve as the primary cost screen for all single source drugs. This is the crux of the issue in this reconsideration - the effectiveness of EAC for those drugs subject to it.

Reimbursement for all drugs, except those subject to the federal MAC, would be subject to the additional limitation of the usual and customary charge made to the general public. This is a regulatory requirement at 42 CFR 447.331(b). However, when this limitation is frequently used because the retail prices are lower than the average wholesale price (AWP) plus a dispensing fee, there is a further indication that the unmodified AWP is in excess of the providers' acquisition cost.

The LMAC and usual and customary charge limitation are commendable features of the state's proposed plan. However, the plan would be more economical and efficient if the EAC did not rely upon an unmodified AWP."

The Bureau of Health Services Financing has been orally advised by HCFA Region VI personnel that without specific findings of what price participating pharmacies are paying for prescription drugs, reimbursement of single source drugs based upon data cannot be approved unless such data is reduced by a minimum of 10.5 percent.

To prevent the disallowance of federal funding effective July 1, 1989, for pharmacy services, the Bureau of Health Services Financing adopted this change in reimbursement through emergency rules, published in the *Louisiana Register*, Vol. 15, No. 7, page 536, dated July 20, 1989 and Vol. 15, No. 11, dated November 20, 1989. While the bureau appealed HCFA's disapproval of the state's reimbursement methodology, it was necessary to implement the mandated methodology of the federal government until a decision of the Federal Court of Appeals was rendered.

Under these rules the agency expanded its definition of "Estimated Acquisition Cost" for "Other Drugs" to include an additional "lower-of" limitation. This limitation establishes AWP-10.5 percent as the maximum reimbursement for "Other Drugs" not subject to, or exempt from LMAC and federal upper limits. This change is mandated to comply with HCFA's final ruling on Louisiana drug reimbursement and mandatory federal regulations effective July 1, 1989. As the current dispensing fee was established taking reimbursement limitations into account, the changes in reimbursement limits requires the bureau to also amend its dispensing fee to assure total reimbursement for prescription services remains reasonable and adequate to cover the costs which must be incurred by efficiently and economically operated providers.

Under this rule the agency is also adjusting its maximum allowable dispensing fee to \$4 based on the dispensing fee survey performed by the bureau in 1987. This rule is necessary to implement mandatory federal regulations and prevent issuance of disallowances for pharmacy services.

RULE

Prescribed Drugs are reimbursed as follows:

I. Methods of Payment

Maximum and minimum payment rates for medications - pharmacy or dispensing physician are as follows:

A. Maximum Pharmaceutical Price Schedule

The maximum payment by the agency for a prescription shall be no more than the cost of the drug established by the state plus the established dispensing fee.

Each pharmacy's records shall establish that the established dispensing fee paid by the Medical Assistance Program for prescriptions does not exceed the dispensing fee paid by others. This also applies to the payment for insulin and diabetic testing agency and indwelling catheters and catheterization trays for which the dispensing fee may not exceed 50 percent of the wholesale price.

B. Payment for Medications to Dispensing Physician

Payment will be made for medications dispensed by a physician on a continuing basis **only** when his main office is more than five miles from a facility which dispenses drugs.

Under the above circumstances, vendor payment (when the treating prescriber dispenses his own medications and bills the Medical Assistance Program under his own name or the name of his own clinic or hospital) will be made on the same basis as a pharmacist as specified in Paragraph A above.

II. Standards for Payment

A. Payment will be made for medications in accordance

with the payment procedures for any eligible person who has identified himself to the provider by presenting his identification card which shows his eligibility. State office advises participating pharmacists regarding payable medication.

B. The pharmacy must be licensed to operate in Louisiana except:

1. as provided for a person residing near the state line; or
2. as provided for a recipient visiting out-of-state.

C. Payment will be made only to providers whose records are subject to audit.

D. Payment will be made to providers only for medications furnished to persons eligible for medical vendor payments on a prescription written by a licensed physician or dentist.

E. Payments will be made only for the drugs covered under the Medical Assistance Program's Pharmacy Program.

1. Definitions

Brand Name means any registered trade name commonly used to identify a drug.

Estimated Acquisition Cost means the modified average wholesale price of the drug dispensed, identified by the manufacturer number, product number, and package number usually purchased by a provider, from a supplier whose products are generally available to all pharmacies and reported in one or more national compendia. Repackaged drug products supplied through co-ops, franchises, or other sources not readily available to other providers shall not be used to estimate provider acquisition cost. In such instances, the average wholesale price for the drug product used by the repackager identified by the manufacturer number, product number, and largest reported package size in one or more national compendia shall be utilized by the agency to estimate acquisition cost.

Modified means the lower of the following applicable limits:

- a. AWP-10.5 percent for "Other Drugs" not subject to LMAC limits, and any drug exempted from LMAC or Federal Upper Limits by physician override;
- b. LMAC limits on multiple source drugs established by the state as set forth below; and
- c. Federal Upper Limits on multiple source drugs established by HCFA as set forth below.

Average Wholesale Price means the wholesale price of a drug product as reported to the agency by one or more national compendia on a weekly basis to update the Medicaid Management Information System (MMIS).

Multiple Source Drug means a drug marketed or sold by two or more manufacturers or labelers or a drug marketed or sold by the same manufacturer or labeler under two or more different proprietary names or both under a proprietary name and without such a name.

2. Federal Upper Limits for Multiple Source Drugs

a. Except for drugs subject to "Physician Certification", the Medical Assistance Program shall utilize listings established by HCFA that identify and set upper limits for multiple source drugs that meet the following requirements:

(1). All of the formulations of the drug approved by the Food and Drug Administration (FDA) have been evaluated as therapeutically equivalent in the most current edition of their publication, *Approved Drug Products with Therapeutic Equivalence Evaluations* (including supplements or in successor publications);

(2). At least three suppliers list the drug (which has been classified by the FDA as category "A" in the aforementioned publication based on listings contained in current editions (or up-

dates) of published compendia of cost information for drugs available for sale nationally.

b. The Medical Assistance Program shall utilize the maximum acquisition cost established by HCFA in determining Multiple Source Drug Cost.

c. The Medical Assistance Program shall provide pharmacists who participate in Title XIX reimbursement with updated lists reflecting the multiple source drugs subject to Federal Multiple Source Drug Cost requirements, the maximum reimbursement amount per unit, and the date such costs shall become effective.

3. Louisiana Maximum Allowable Cost (LMAC) Limits

LMAC is the median AWP cost for a specific strength/unit drug determined by listing the wholesale costs for each readily available manufacturer, labeler, etc. and taking the median of those AWP costs (one-half will be above the median cost and one-half will be below the median cost.) LMAC limits may be adjusted by the agency based on changes in the availability and EAC of the drugs.

The agency shall make determinations of which multiple source drugs are to be subject to LMAC regulation based on the availability of drugs in the Louisiana Medical Assistance Program. The availability of a drug product will be determined by review of provider claim data. Providers shall be given advance notice of any additions, deletions, or adjustments in price. A complete LMAC cost listing will be distributed periodically. Any provider may request and receive at no charge, one complete listing annually. In no case shall a recipient be required to provide payment for any difference in a prescription price that may occur with implementation of the LMAC limit, nor may BHSF use a cost which exceeds the established maximums except for physician certification for brand name drugs.

4. Lower of Reimbursement for Multiple Source Drugs

The agency shall make payments for Multiple Source Drugs other than drugs subject to "Physician Certifications" based on the lower of:

- a. the providers' usual and customary charges to the general public not to exceed the agency's "Maximum Pharmaceutical Price Schedule";
- b. the agency's estimate of acquisition cost plus the agency's established dispensing fee;
- c. any applicable Federal Upper Limit for Multiple Source Drugs plus the agency's established dispensing fee; or
- d. any applicable Louisiana Maximum Allowance Cost Limit plus the agency's established dispensing fee.

5. Physician Certifications

Limits on payments for multiple source drugs shall not be applicable when the prescriber certifies in his own handwriting that a specified brand name drug is medically necessary for the care and treatment of a recipient. Such certification may be written directly on the prescription or on a separate sheet which is attached to the prescription. A standard phrase, in the prescriber's handwriting, such as "brand necessary" will be acceptable.

Any practice which precludes the prescriber's handwritten statement shall not be accepted as a valid certification. Such practices include, but are not limited to:

- a. a printed box on the prescription blank that could be checked by the prescriber to indicate brand necessity.
 - b. a handwritten statement transferred to a rubber stamp and then stamped on the prescription blank.
 - c. preprinted prescription forms using a facsimile of the prescriber's handwritten statement.
6. Other Drug Cost Limits

The agency shall make payments for drugs other than multiple source drugs and drugs subject to "Physician Certifications" based on the lower of:

- a. the agency's estimate of acquisition cost plus the agency's established dispensing fee;
- b. the providers' usual and customary charges to the general public not to exceed the agency's "Maximum Pharmaceutical Price Schedule."

7. General Requirements Applicable to all Prescriptions

a. For all prescriptions, the maximum quantity payable shall be a month's supply or 100 unit doses, whichever is greater. The quantity billed shall be that prescribed, unless it exceeds the maximum quantity payable in which case the maximum quantity payable shall be filled.

b. When maintenance drugs are prescribed and dispensed for chronic illnesses they shall be in quantities sufficient to effect economy in dispensing and yet be medically sound. Listed below are drugs the agency considers to be maintenance type drugs and which should be prescribed and dispensed in a month's supply:

- Anti-coagulants
- Anti-convulsants
- Oral Anti-diabetics
- Calcium Gluconate, Calcium Lactate, and Calcium Phosphate
- Cardiovascular Drugs including: diuretics, antihypertensives, and Antihyperlipidemics
- Estrogens
- Ferrous Gluconate and Ferrous Sulfate
- Potassium Supplements
- Thyroid and antithyroid drugs
- Vitamins - A, D, K, B₁₂ Injection, Folic Acid, and Nicotinic Acid

c. For patients in nursing homes, the pharmacist shall bill for a minimum of a month's supply of medication unless the treating physician specifies a smaller quantity for a special medical reason.

d. Payment will not be made for narcotics prescribed only for narcotic addiction.

F. Recipients shall have free choice of pharmacy unless subject to the agency's "lock-in" procedures.

G. When services are provided the eligible person under another service plan (Hospitalization or extended care facility), the provisions applicable to such service plans shall apply during the time the service is provided and vendor payments will not be made for medications.

H. Payment will be made for prescriptions refilled not more than five times or more than six months after issue date and only to the extent indicated by the prescriber on the original prescription and as restricted by state and federal statutes. The prescriber is required to state on the prescription the number of times it may be refilled.

I. Prescriptions shall be filled within 10 days; narcotic (classified as schedule II by the U.S. Drug Enforcement Administration) prescriptions within 24 hours.

J. A prescriber who has a suboffice in an area more than five miles from a pharmacy or other facility dispensing medications will not be paid for medication he dispenses if his main office is within five miles of a pharmacy or other facility dispensing medications.

K. When a prescriber bills the Medical Assistance Program for medications he dispenses, he shall certify that he himself, another prescriber or a pharmacist dispensed the

medications and he shall maintain the same records as required of the pharmacist.

L. The manufacturer number, product number, and package number for the drug dispensed shall be listed on all claims. This information shall be taken from the actual package from which the drug is usually purchased by a provider, from a supplier whose products are generally available to all pharmacies and reported in one or more national compendia. Repackaged drug products supplied through co-ops, franchises, or other sources not readily available to other providers shall not be used. In such instances, the manufacturer number, product number, and package number for the largest package size, as reported in one or more national compendia, for the drug shall be listed.

III. Dispensing Fee

The bureau shall pay a dispensing fee on each Title XIX prescription of no more than \$4. The dispensing fee paid on a prescription shall be subject to reimbursement limitations adopted by the bureau for payment of Title XIX prescription drug services.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953B to adopt the following rule in the Medical Assistance Program effective April 1, 1990.

Current policy allows a four-month transition period for AFDC terminations due to employment or child support and a nine-month transition period for AFDC terminations due to loss of earned income disregards.

Who is Eligible

Effective April 1, 1990, families who lose AFDC because of a caretaker relative's earnings may receive a mandated six-month period of transitional Medicaid plus the optional second six-month period of transitional Medicaid elected by Louisiana under the provisions of Public Law 100-485, the Family Support Act of 1988. The family must have been eligible for and received AFDC for at least three of the six months preceding the month it became ineligible for AFDC. Those recipients in four or nine month discontinuance status described in the previous paragraph on April 1, 1990 are not entitled to the 12-month benefits.

Coverage

The Medicaid coverage to families during the transitional period must be of the same amount, duration, and scope as if the family were still receiving AFDC payments.

Beginning Date

The initial six-month period begins immediately following the last month of AFDC eligibility or the first month of AFDC ineligibility if a retroactive determination of eligibility is made.

Redetermination

A redetermination of Medicaid eligibility is required at least every 12 months per 42 CFR 435.916.

Loss of Eligibility

A family loses eligibility for transitional Medicaid if any of the following criteria are met:

1. it fails to meet the reporting requirements;
2. there is no longer a dependent child in the home (the state must first determine that the child is not eligible for other Medicaid assistance);
3. the state determines in the first or fourth month of the second six-month period (seventh or tenth months) that the family's average gross monthly earnings, less costs for child care necessary for the employment of the caretaker relative, during the immediately preceding three-month period exceeded 185 percent of the Federal Poverty Level for the assistance unit size;
4. it had no earnings in one or more of the previous three months, unless the lack of earnings was due to an involuntary loss of employment, illness, or other good cause as established by the state.

Reporting Requirements

The families receiving transitional Medicaid under this regulation must report gross monthly earnings and costs for necessary child care for each of the three preceding months no later than the 21st day of the following: the fourth month of the initial transitional period and the first month and the fourth month of the second transitional period (the fourth, seventh, and tenth months).

Notification Requirements

The following notifications shall be provided:

When	Notice
AFDC eligibility is lost due to caretaker relative's earnings	Termination notice must notify families of their right to receive transitional Medicaid, the reporting requirements, and the circumstances under which the transitional medical assistance can be terminated.
Eligibility for transitional Medicaid is lost	Must provide advance notice of termination.
During the third month of the initial transitional period	Must notify families of their option for the additional six months of coverage. The notice must also include a statement of the reporting requirements.
During the sixth month of the initial transitional period	Must notify families of their option for the additional six months of coverage.

This rule is necessary to ensure compliance with mandated federal regulations and laws and to avoid sanctions from HCFA.

RULE

Effective April 1, 1990, transitional Medicaid benefits shall be provided to families who lose AFDC because of a caretaker relative's earnings. Under the provisions of the Family Support Act of 1988, Public Law 100-485, §303, such mandatory benefits shall be provided for six months, and extended for an additional six months to each family which had Medicaid coverage during the entirety of the first six-month extension period.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

Department of Justice Office of the Attorney General Electronic Video Bingo Panel

In accordance with the emergency provisions of the Administrative Procedure Act (R.S. 49:953.B) and R.S. 33:4861.17, the Attorney General's Electronic Video Bingo Panel proposes to adopt the following emergency rules, supplementing §105 of the Department of Justice Electronic Video Bingo Rules to provide for Paragraphs 11 and 12. The adoption of these emergency rules is necessary due to the fact that distributors of electronic video bingo machines are presently operating under leases and agreements with bingo hall owners whereby the distributor is paying the hall owner a percentage of the distributor's profit or a fee greater than the reasonable market rental rate which is in violation of LSA R.S. 33:4861.12(G).

The adoption of these emergency rules will further benefit charitable organizations by enabling the distributors of EVB machines to pay the charitable organizations a greater percentage of the net win, rather than paying the bingo hall owners rent which exceeds the reasonable market rental rate for said premises.

The attorney general is specifically authorized under LSA-R.S. 33:4861.17.F to adopt rules and regulations governing the use of electronic video bingo machines and proposes the adoption of these emergency rules to require leases between distributors of electronic video bingo machines and bingo hall owners to be in writing and filed with the department, and to further require that the rental rate paid by distributors of electronic video bingo machines to bingo hall owners be based upon the reasonable market rental rate mandated by R.S. 33:4861.12(G).

The adoption of these proposed emergency rules is necessary to continue providing essential and consistent regulation of electronic video bingo machines and to avoid imminent peril to charities of the state, the members of the general public who play the machines and the manufacturers and distributors of the machines.

Title 22 CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT Part VII. Department of Justice

Chapter 1. Electronic Video Bingo §105. Registration of Manufacturers, Distributors or Owners of Electronic Video Bingo Machines

1. - 10. . . .
11. Lease agreements for rental space for electronic video bingo machines between bingo hall owners and electronic video bingo machine distributors must be in writing and filed with the department.
12. The maximum rental rates allowable in leases between electronic video bingo distributors and hall owners shall be the reasonable market rental rate (RMRR) as mandated by R.S. 33:4861.12(G) which shall be computed using the RMRR formula as follows:

REASONABLE MARKET RENTAL RATE FORMULA

RMRR INDEX

- A - Allowable Square Feet Per Machine $4' \times 4' = 16$ Square Feet.
- B - Number of Machines

- C - Total Square Feet Allowed for EVB Machines in Hall
- D - Total Square Feet of Hall
- E - Ratio of EVB Square Footage to Hall Square Footage
- F - Rental Fee Per Session Electronic Video Bingo
- G - Number of Sessions
- H - Hall Rental Fee
- I - Maximum Allowable Reasonable Market Rental Rate Per Month

RMRR FORMULA

1. $A \times B = C$
2. $C \div D = E$
3. $E \times H = F$
4. $F \times G = I$

William J. Guste, Jr.
Attorney General

DECLARATION OF EMERGENCY

**Board of
River Port Pilot Commissioners
For The Port Of New Orleans**

FOREWORD

Following are the rules and requirements of the Board of River Port Pilot Commissioners for the Port of New Orleans for considering and recommending to the governor candidates desiring to become river port pilots associated with the Crescent River Port Pilot Associations under the board's jurisdiction.

All applicants must be experienced mariners who hold the appropriate Federal License, Any Gross Tons, before becoming apprentices for this association.

**DRUG USE, ALCOHOL USE, AND APPLICATION FOR
AND THE RECOMMENDING OF CANDIDATES FOR
COMMISSIONS AS RIVER PORT PILOTS**

§1. Terms

The following terms shall have the following meaning as used in these rules:

1. *Board* refers to the Board of River Port Pilot Commissioners as defined in R.S. 34:991.
2. *Pilot* refers to river port pilots as defined in R.S. 34:992.
3. *Commission* is the appointment by the governor authorizing one to perform the duties of a river port pilot.
4. *Commissioner* refers to a member of the Board of River Port Pilot Commissioners for the Port of New Orleans as appointed and serving in accordance with state law.
5. *Drug* refers to all controlled dangerous substances as defined in R.S. 40:961(7).
6. *Prescription Medication* refers to medication which can only be distributed by the authorization of a licensed physician as defined in R.S. 40:961(30).
7. *Petitioner* refers to one who submits a petition to become a river port pilot.
8. *Candidate* refers to one whose petition has been certified by the commissioners.
9. *Apprentice* refers to one who has been selected to

become a river port pilot pending successful completion of the apprenticeship program.

§2. Drug Use

Rule 1

A pilot shall be free of use of any "drug" as defined in Section 1, but excluding "Prescription Medication" as defined in Section 1 so long as use of such "prescription medication" does not impair the physical competence of the pilot to discharge his duties.

Rule 2

The Board of River Port Pilot Commissioners shall designate a testing agency to perform scientific test or tests to screen for the presence of drugs. These tests shall be conducted at random at the discretion of the Board of River Port Commissioners.

Rule 3

All pilots shall submit to reasonable scientific testing and screening for drugs when directed by the Board of River Port Pilot Commissioners.

Rule 4

The results of the drug testing and screening shall be confidential and disclosed only to the Board of River Port Pilot Commissioners and the pilot tested, except that:

- (1) the Board of River Port Pilot Commissioners may report the results to the governor and the Board of Directors of the Crescent River Port Pilot Association; and
- (2) in the event that the Board of River Port Pilot Commissioners determines that a hearing is required pursuant to R.S. 34:991 and/or 1001 there shall be no requirement of confidentiality in connection with the hearing.

Rule 5

Any pilot testing positive for drugs or any residual thereof, shall be suspended from performing the duties of a pilot pending a hearing pursuant to R.S. 34:991 and 1001.

Rule 6

Any pilot who refuses to submit to reasonable scientific testing or screening for drugs, fails to cooperate fully with the testing procedures, or in any way tries to alter the test results shall be suspended from performing the duties of a pilot pending a hearing pursuant to R.S. 34:991 and 1001.

Rule 7

Any pilot found to be in violation of this Section may be reprimanded, fined, evaluated, and/or treated for drug use and/or have his commission suspended and revoked.

Rule 8

Any pilot who is required to undergo evaluation and/or treatment for drug use shall do so at his own personal expense and responsibility; the physician, as well as the evaluation and treatment facility, must be approved by the Board of River Port Pilot Commissioners.

§3. Alcohol Use

Rule 1

No pilot shall consume any alcoholic beverage within six hours before, or during, the performance of his pilotage duties.

Rule 2

No pilot shall perform his duties as a river port pilot if his blood alcohol content is .04 or greater.

Rule 3

Any pilot who believes he would be in violation of any of these rules if he were to perform his duties as a river port pilot is obligated to remove himself from duty.

Rule 4

The Board of River Port Pilot Commissioners may request a pilot to submit himself to a blood alcohol test upon com-

plaint or reasonable suspicion that a pilot is performing his duties as a river port pilot while under the influence of alcohol.

Rule 5

Any pilot found to be in violation of this Section may be reprimanded, fined, evaluated and/or treated for alcoholism and/or have his commission suspended or revoked.

Rule 6

Any pilot who is required to undergo evaluation and/or treatment for alcoholism shall do so at his own personal expense and responsibility; the physician, as well as the evaluation and treatment facility, must be approved by the Board of River Port Pilot Commissioners.

§4. Apprenticeship

Rule 1

All petitions for commissions to become river port pilots must be in writing, must be signed by the petitioner, and presented to the secretary of the board. As a prerequisite to being considered by the board, all applications must be accompanied by proof satisfactory to the board of compliance with the following requirements:

1) Petitioner must be of good moral character. While evidence of a clear police record will be considered, the board reserves the right to examine other sources of information as to the applicant's character.

2) Petitioner must have been registered as a voter of the State of Louisiana continuously for at least one year before submitting an application to become a river port pilot.

3) The petitioner must possess a high school diploma.

4) The petitioner must not have reached his fortieth birthday prior to the first day of balloting on apprentices by the river port pilots.

Rule 2

Before being accepted as a candidate to become a river port pilot, each petitioner must meet the following requirements:

1) Each petitioner must hold a United States Coast Guard first class pilot license Steam or Motor Vessel of any gross tons for the Mississippi River from Southport to the Head of Passes and for the Inner Harbor Navigation Canal (Industrial Canal) from the Mississippi River to Lake Pontchartrain.

2) Each petitioner must hold United States Coast Guard Master's license of Steam and Motor Vessels of any gross tons upon rivers or inland waters (Master's License) or a United States Coast Guard Third Mate's License (or any upgrade thereof) of Steam and Motor Vessels of any gross tons upon oceans, or the petitioner must have a Bachelor's Degree or diploma granted by a college or university accredited by the American Association of Colleges and Secondary Schools.

Rule 3

1) The petitioner must be examined by a physician, clinic or group of physicians of the board's choosing to determine the petitioner's physical condition. The examination report must reflect to the board's satisfaction that the petitioner's physical condition is satisfactory and commensurate with the work and responsibilities of the duties of a pilot, and will enable him to safely perform the duties of pilotage. The board shall have no responsibility for the examinations or their results. The petitioner submitting to such examinations will hold the board harmless from any responsibility for any injury or loss, including attorneys' fees and the costs of defense, incurred as a result of the examination or the reliance by the board or any others on the results of such examination.

2) The petitioner shall submit to an examination by a mental health professional or group composed of such mental

health professionals of the board's choosing. The report of this examination must reflect, to the board's satisfaction, that the petitioner's mental condition and aptitude is satisfactory and commensurate with the work and responsibilities of the duties of a pilot, and will enable him to safely perform the duties of pilotage. The board shall have no responsibility for the examinations or their results. The petitioner submitting to such examinations will hold the board harmless from any responsibility for any injury or loss, including attorneys' fees and the costs of defense, incurred as a result of the examination or the reliance by the board or any others on the results of such examination.

3) The petitioners shall submit to drug screening in the same manner as pilots and apprentices.

Rule 4

The apprentice must serve a minimum of 12 months of apprenticeship in his proposed calling, handling deep draft vessels over the operating territory of the river port pilots under the tutelage of not less than 20 commissioned river port pilots. The apprentice must set forth in detail the names of the vessels handled, dates handled, draft, tonnage, between what points so moved, and the names of the supervising commissioned river port pilots. No apprentice shall be permitted to be examined for commissioning who has not made at least 18 trips on the operating territory of the river port pilots between Pilottown and Southport during each of the 12 months of his apprenticeship and serve at least one week of each month of the apprenticeship engaged in harbor shifting, docking, undocking and piloting on the Mississippi River Gulf Outlet. The apprenticeship work must be certified by the commissioner during the apprenticeship program. The commissioners reserve the right to require satisfactory completion of additional or extended apprenticeship, or terminate the apprenticeship when deemed necessary.

Rule 5

Before completion of the apprenticeship, the apprentice must obtain First Class Pilot's license of any gross tons for the Intracoastal Waterway (ICW) from the intersection of the Industrial Canal and ICW to and including the Michoud Slip, and for the Mississippi River Gulf Outlet from the intersection of the Intracoastal Waterway to Beacon #78 in the Mississippi River Gulf Outlet.

Rule 6

The Board of Commissioners shall examine those apprentices who have complied with all the requirements. The apprentices will be examined as to their knowledge of pilotage and their proficiency and capability to serve as commissioned river port pilots. This examination shall be given in such manner and shall take such form as the board may, in its discretion from time to time, elect.

Rule 7

The Board of Commissioners shall certify to the governor for his consideration for appointments to commissions as river port pilots those apprentices who satisfactorily completed all requirements established by state law and these rules and who complete and pass the examination given by the board. Should the apprentice fail the examination, the board, at its discretion, may terminate the apprenticeship, or may designate additional apprenticeship requirements to be satisfied by the apprentice before he may again petition the board for examination.

Rule 8

The commission has established the following guidelines, which shall be adhered to whenever possible.

After being commissioned a river port pilot by the governor of Louisiana, the newly commissioned pilot shall be allowed

to pilot the following vessels in the first four months subsequent to the issuance of the Pilots Commission:

- a) Vessels up to 30.00 feet in draft,
- b) Vessels up to 25,000.00 Deadweight tons,
- c) Vessels up to 600.00 feet in length.

After the newly commissioned pilot has served the first four months as a pilot subject to the restrictions of this Section, the board shall evaluate the newly commissioned pilot with regard to his ability and competence to handle the above classes of vessels. Upon such examination, the board shall determine whether, and if so, for what time period, the newly commissioned pilot shall continue to be subject to any or all of the prohibitions of this section before being reexamined.

The newly commissioned pilot shall be allowed to pilot the following vessels in the second four months subsequent to the issuance of the Pilots Commission:

- a) Vessels up to 35.00 feet in draft,
- b) Vessels up to 50,000.00 Deadweight tons,
- c) Vessels up to 700.00 feet in length.

After the newly commissioned pilot has served the second four months as a pilot subject to the restrictions of this Section, the board shall evaluate the newly commissioned pilot with regard to his ability and competence to handle the above classes of vessels. Upon such examination, the board shall determine whether, and if so, for what time period, the newly commissioned pilot shall continue to be subject to any or all of the prohibitions of this section before being reexamined.

The newly commissioned pilot shall be allowed to pilot the following vessels in the third four months subsequent to the issuance of the Pilots Commission:

- a) Vessels up to 40.00 feet in draft,
- b) Vessels up to 75,000.00 Deadweight tons,
- c) Vessels up to 800.00 feet in length.

The newly commissioned river port pilot shall be prohibited from piloting the following vessel during the first 12 months he holds a commission as a river port pilot:

- 1) passenger vessels regardless of draft, tonnage or length,
- 2) tank vessels with explosive or combustible cargo aboard, regardless of the draft, tonnage or length. Gas-free tank vessels are not subject to this prohibition.

After the newly commissioned pilot has served the third four months as a pilot subject to the restrictions of this section, the board shall evaluate the newly commissioned pilot with regard to his ability and competence to handle the above classes of vessels. Upon such examination, the board shall determine whether, and if so, for what time period, the newly commissioned pilot shall continue to be subject to any or all of the prohibitions of this Section before being reexamined.

William H. Crawford, Sr.
President

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

In accordance with emergency provisions of R.S. 49:953 B, the Administrative Procedure Act, R.S. 49:967, which allows the Wildlife and Fisheries Commission to use the emergency

procedures to set shrimp seasons and R.S. 56:497 which authorizes the Louisiana Wildlife and Fisheries Commission to set shrimp seasons seaward of the inside-outside shrimp line, the Louisiana Wildlife and Fisheries Commission on March 1, 1990, adopts the following emergency rule:

In accordance with R.S. 56:497 the shrimp season in Louisiana's offshore Territorial waters seaward of the inside-outside shrimp line as described in R.S. 56:495 is hereby opened at 6 a.m., Monday, March 12, 1990. The secretary of the department shall have the authority to close this season should conditions warrant.

From March 1, 1990 to the opening of the 1990 spring inshore shrimp season, the secretary of the department shall have the authority to open and close special seasons in the inshore waters for the harvest of shrimp should this harvest be feasible without the destruction of small brown shrimp.

Warren Pol
Chairman

Rules

RULE

Department of Economic Development Office of Financial Institutions

Pursuant to the authority granted to the commissioner of Financial Institutions by R.S. 6:121(B)(1) and 451(H), the commissioner proposes to permanently adopt a rule, previously promulgated under the emergency provisions of R.S. 49:953(B), which amends the regulations governing limited function financial institutions.

Title 10 BANKS AND SAVINGS AND LOANS Part I. Banks

Chapter 19. Related Organizations and Services Subchapter D. Limited Function Financial Institutions §1993. Certificates of Authority; Issuance, Refusal, and Renewal

A. ...

B. If the commissioner finds that the public interest will not be served by permitting the organization of the proposed limited function financial institution, that there is no need for additional facilities in the community where the limited function financial institution is to be located, or that there is a lack of ability within that community to support additional facilities, he may refuse to issue the certificate of authority or may refuse to renew the certificate of authority.

C. A certificate of authority shall expire on December 31 in the year of its issuance. If the licensee has not complied with its license, or the governing laws, or the rules and regulations applicable to limited function financial institutions, the commissioner may refuse renewal of the certificate of authority. If the

licensee is found to be in compliance with its license, and the governing laws, rules and regulations applicable thereto, it shall qualify for renewal of the certificate of authority. An annual renewal fee as indicated in §1991.D shall be assessed for renewal of said certificate of authority for an additional period of one year.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 14: 860 (December 1988), amended LR 16: (March 1990).

§1995. Certificates of Authority; Powers and Authority; Prohibitions

A. In accordance with R.S. 6:451, a limited function financial institution which accepts deposits shall be limited to the following:

1. a. The accepting of deposits of only cash from corporations as approved by the commissioner, of which at least 25 percent of the voting stock and 25 percent of the total equity interest is owned by the licensee's parent corporation or any affiliate.

b. The authority granted by this license shall be in addition to and not supersede the authority of licensee as the holder of any of the entitlements referred to in R.S. 6:451(G).

c. Each deposit shall be evidenced by a certificate of deposit, which shall be numbered and issued in sequence.

2. The licensee shall obtain prior approval from the commissioner of financial institutions before a change in control or ownership may occur.

3. a. - b. ...

c. The minimum term for each certificate of deposit shall be 30 days and shall not be construed as a demand deposit. The maximum term for each certificate of deposit shall not exceed one year from date of issuance. Certificates of deposit shall not be renewed or extended beyond their maturity date.

d. Each certificate of deposit issued shall bear interest at a rate stated on its face. Interest shall be paid in cash at least quarterly.

4. a. The licensee shall furnish quarterly financial statements to the Office of Financial Institutions within 60 calendar days following the end of the quarter.

b. The licensee shall annually furnish to the Office of Financial Institutions a December 31 year-end unqualified financial statement which shall have been audited by an independent certified public accountant, to be filed no later than March 30 of the following year.

5. The licensee shall be subject to examination by the Office of Financial Institutions, at least annually. The cost for any such examination shall be borne by the licensee and shall be assessed at the cost incurred by the Office of Financial Institutions in performing the examination at the rate of \$500 or \$30 per hour, whichever is greater.

6. The licensee shall annually furnish to the Office of Financial Institutions a listing certified by its executive officer of all deposit activity which has taken place during the previous 12 months. This listing shall be as of December 31, and shall be filed no later than January 31 of the following year, and shall include:

a. - f. ...

7. Requirements

a. The licensee at all times shall maintain a ratio of total stockholders equity to deposits of at least 10 percent.

b. The licensee at all times shall maintain on hand a ratio of permissible investments to all outstanding certificates of deposit in an amount equal to:

i. 100 percent of cash, investment securities that are obligations of the United States, its agencies or instrumentalities, or obligations that are guaranteed fully as to principal and interest by the United States.

ii. 110 percent of investment-grade rated (rated in the top four rating categories by a nationally recognized rating organization) obligations of any state, municipality or of any political subdivision thereof.

iii. a percentage to be determined by the commissioner for any other approved investments.

c. The licensee at all times shall conduct its operations in a safe and sound manner.

d. Loans between the licensee and its affiliates are at all times restricted by the terms of the limited function financial institution's license.

8. The licensee shall notify the Office of Financial Institutions in writing within 24 hours of its inability to either meet scheduled interest payments or inability to redeem any certificate of deposit at maturity.

9. ...

B. ...

C. The licensee shall at all times maintain a license bond and a fidelity bond, issued by an unaffiliated bonding company authorized to do business in Louisiana with at least a B+ rating. The licensed bond shall be in an amount of at least \$30,000 and the fidelity bond shall be sufficient to cover the amount of cash which may be handled by employees of the licensee. If the commissioner determines at any time that either bond is insecure or deficient in amount, he shall by written order require the filing of a new or supplemental bond. If the order is not complied with within 30 days following service by certified mail upon the licensee, the commissioner shall immediately suspend the authority of the licensee to accept deposits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 14: 860 (December 1988), amended LR 16: (March 1990).

§1997. Records and Funds

A. Each limited function financial institution shall maintain books and records which are complete and accessible for inspection by the commissioner or any of his examiners during normal working hours. Failure of the limited function financial institution to maintain adequate and accessible records may result in the revocation of its license.

B. In no case shall the records or funds of the parent company or any affiliate company be commingled with those of the limited function financial institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 14: 860 (December 1988), amended LR 16: (March 1990).

§1998. Penalties

The violation of any provision of the laws, rules, regulations or license governing limited function financial institutions shall subject the alleged violator or violators, whether they be a limited function financial institution, its officers, directors, stockholders, employees or any combination thereof, to all the enforcement powers of the commissioner of Financial Institutions

provided in Title 6 of the Louisiana Revised Statutes of 1950 as amended, and any and all penalties contained therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 16: (March 1990).

§1999. Definitions

A. *Total income* - gross income before any expense deductions.

B. *Incidental to the other business activities of the applicant* - those business activities subordinate to the business activities of the applicant/licensee.

C. *Safe and sound* - the ability of a limited function financial institution to meet its withdrawal requests, to adhere to its license, laws and regulations governing the institution. Safe and sound also includes the ability of a limited function financial institution to conduct its business honestly, carefully and efficiently.

D. *Permissible investments* - unencumbered cash; unencumbered investment securities that are obligations of the United States, its agencies or instrumentalities, or obligations that are guaranteed fully as to principal and interest by the United States; or unencumbered investment-grade rated (rated in the top four rating categories by a nationally recognized rating organization) obligations of any state, municipality or of any political subdivision thereof; or any other unencumbered investments approved in writing by the commissioner.

E. *Affiliate* - a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the licensee.

F. *Control* - when a person directly or indirectly, or acting through or in concert with one or more persons:

1. owns, controls, or has the power to vote 25 percent or more of any class of voting securities of the limited function financial institution;

2. controls in any manner the election of a majority of the directors of the limited function financial institution; or

3. has the power to exercise a controlling influence over the management or policies of the limited function financial institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 16: (March 1990).

Fred C. Dent
Commissioner

RULE

**Department of Economic Development
Racing Commission**

**Title 35
HORSE RACING
Part I. General Provisions**

Chapter 7. Quarter Horse Racing

§711. Mixed Races; Distance

All racing associations in this state shall be allowed to schedule races in which quarter horses and thoroughbred horses

can participate in the same race. The length of the races provided by this Section shall be at least one turn in the track but shall not exceed a distance of 870 yards. All races scheduled under the provisions of this Section shall be conducted as races for quarter horses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148, 179 and 182.1.

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission LR 16: (March 1990).

Claude P. Williams
Executive Director

RULE

**Department of Economic Development
Real Estate Commission**

In accordance with the notice of intent published in the January 20, 1990 issue of the *Louisiana Register*, the Louisiana Real Estate Commission announces the repeal of the following rules, effective March 20, 1990.

**Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXVII. Real Estate**

Chapter 21. Trade Names and Names of Licensees

§2109. Corporate License

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435 and R.S. 37:1437.2.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 3:398 (October 1977), amended LR 4:479 (December 1978), repealed by the Department of Economic Development, Real Estate Commission, LR 16: (March 1990).

§2111. Incorporated License

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 3:398 (October 1977), amended LR 4:479 (December 1978), repealed by the Department of Economic Development, Real Estate Commission, LR 16: (March 1990).

§2113. Symbols or Trademarks

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 3:398 (October 1977), amended LR 4:479 (December 1978), repealed by the Department of Economic Development, Real Estate Commission, LR 16: (March 1990).

§2115. No Similar Trademarks

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 3:398 (October 1977), amended LR 4:479 (December 1978), repealed by the Department of Economic Development, Real Estate Commission, LR 16: (March 1990).

Chapter 25. Advertising

§2515. Valuable Consideration to Purchasers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 11:758 (August 1985), repealed by the Department of Economic Development, Real Estate Commission, LR 16: (March 1990).

Jane H. Moody
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published December 20, 1989 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:
Rule 1.12.00

The board adopted the 8(g) Strategic Long-Range Plan. Copies of the Plan may be seen in the office of the *Louisiana Register* or in the office of the State Board of Elementary and Secondary Education.

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

Appeals Council for the Providers of Psychological Services

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published December 20, 1989 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:
Rule 1.00.40.f

The board adopted an amendment to Board Policy 1.00.40 (Revised Procedures for Appeals to BESE) to include the Appeals Council for Providers of Psychological Services as

listed below:

A. Composition

An Appeals Council for Providers of Psychological Services shall be appointed by the board and shall consist of five members as follows:

- 1) one member to be recommended by the Louisiana Psychological Association;
- 2) one member to be recommended by the Louisiana School Psychological Association;
- 3) one member to be a state certified, practicing school psychologist employed full time by a local education agency in the area of school psychology;
- 4) one member to be a full-time faculty member employed in a university setting engaged in the professional training of school psychologists; and
- 5) one member to be a practicing psychologist licensed under state licensure laws to practice psychology in the state of Louisiana.

B. Duties and Responsibilities

1) The Appeals Council for Providers of Psychological Services shall perform the following duties:

- a) Evaluate the appeals of persons seeking Louisiana certification as school psychologist under the standards in Bulletin 746, *Louisiana Standards for State Certification of School Personnel* whose appeals cannot be processed according to the Guidelines in PM 1.00.40.C.
- b) Submit a written record of its findings and recommendations to an appeals committee composed of board members for its review and recommendations to the full board.

2) The responsibilities of the providers of Psychological Services shall be to:

- a) evaluate the appeals documents, including the transcripts of appellants, for consideration of Bulletin 746 (minimum requirement) waivers;
- b) interview each appellant who chooses to appear before the council;
- c) make recommendations to the BESE Appeals Committee on waivers of minimum certification standards.

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published December 20, 1989 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:
Rule 3.01.51.aa(2)(1)

The board adopted an amendment to Standard 2.099.01 of Bulletin 741 to provide that the 23 units required for graduation shall include 15 1/2 required units and 7 1/2 elective units and that the elective units can be earned at vocational-technical schools as provided in Standard 2.015.35.

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published December 20, 1989 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:
Rule 4.01.50(3)

The board adopted a new nonpublic school standard 6.065.05 concerning the controlling of hazardous wastes to be added to Page 11 of Bulletin 741 as listed below:

Chemical Redistribution Standards

“A site safety officer charged with the supervision of safe practice in storage, use, and distribution of all chemicals shall be designated in each school. The school must assess the safety of the facilities and equipment, including the location, quantities, and states of all regulated hazardous substances. A plan to redistribute the unwanted substances must be prepared and kept on file in the office. Remaining chemicals must be listed on an inventory system. A copy of the inventory must be kept on site in each school and at the local fire chief’s office.”

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published December 20, 1989 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:
Rule 3.01.51.aa(3)

The board adopted an amendment to Standard 2.090.08 of Bulletin 741 to state that beginning with the 1990-91 school year, Introduction to Algebra (Bulletin 1802) shall be required in the area of mathematics for all eighth grade students.

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published December 20, 1989 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:
Rule 3.01.12

The board adopted the revised *American History Curriculum Guide*, Bulletin 1599. The guide may be seen in the office of the *Louisiana Register* or in the office of the State Board of Elementary and Secondary Education.

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published December 20, 1989 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:
Rule 3.03.10.a and 3.03.10.b

The board deleted Board Policies 3.03.10.a and 3.03.10.b (listed below) because they are in conflict with Board Policy 4.03.05.

3.03.10.a - Any class in which there is an average daily attendance of less than seven students for a period of 90 days shall be closed.

3.03.10.b - The discontinuance of any preparatory class must be approved by the board.

Em Tampke
Executive Director

RULE

**Department of Employment and Training
Office of Labor
Community Services Block Grant Division**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and R.S. 37:3111 et seq., the Department of Employment and Training, Office of Labor, Community Services Block Grant adopts LAC 40.XVII Chapters 1-49 as follows.

Title 40

LABOR AND EMPLOYMENT

Part XVII. Community Services Block Grant

Subpart 1. CSBG Policy Manual

Chapter 1. Allocation of Funds

§101. Method of Allocation

Not less than 90 percent of the total funds appropriated for Louisiana shall be allocated to the political subdivisions of the state, as required by R.S. 23:61 through 23:66. The formula to be used for the allocation of funds shall be determined through public hearings scheduled each fiscal year to determine the use and distribution of funds. The formula adopted and the identification of the data base used to allocate funds will be included in the Annual Statewide Community Services Block Grant Plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§103. Identification of Subgrantees

A. Those organizations which were designated as a Community Action Agency or a Community Action Program under the Economic Opportunity Act of 1964 for fiscal year 1981 are qualified recipients for 90 percent of funds under the Community Services Block Grant (CSBG) Act. Not more than seven percent of these funds in each fiscal year may be used to designate other qualified community action agencies to serve areas not previously served by an existing eligible agency. After these agencies are funded for one year, they will become an eligible entity as defined by the Act.

B. Each parish governing body shall designate the eligible Community Action Agency (CAA) which shall administer the CSBG programs in the parish. This designation shall be done for each fiscal year (October 1 through September 30). A copy of the resolution designating the eligible CAA for the next year shall be mailed to the Department of Labor, Community Services Block Grant Section, so that it is received no later than August 15 preceding the beginning of the fiscal year.

C. In the event no agency can be funded within the parish, an agreement may be made with an eligible agency in any parish to provide services. A copy of this agreement, along with the resolution designating the agency, shall be mailed to the Department of Labor, Community Services Block Grant Section so that it is received by August 15 preceding the beginning of the fiscal year.

D. If no agreement can be reached with an eligible agency to provide services, the chief elected official shall notify the Department of Labor CSBG Section, in writing no later than August 15.

E. If the political subdivision does not reply to reasonable attempts to make services available within a parish, the grantor shall assume that the parish is not willing or does not want to participate.

F. If no written designation and/or agreement is received from a parish governing body by August 15, the funds allocated for that parish shall be re-distributed to those parishes which have designated an eligible agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§105. Notification of Availability of Funds

Within 30 days of receipt by the Department of Labor from the federal agency of the amount of funds available, the Department of Labor will notify those eligible agencies of the allocation by parishes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

Chapter 3. Annual Plan of CAA

§301. Date of Submission

Each eligible agency shall submit an Annual Plan for the use of CSBG funds to the Department of Labor by August 15 or within 30 days after the receipt of notification of availability of funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§303. Content of Plan

A. The Annual Plan shall be prepared in the format prescribed by the Department of Labor, and shall include (but not be limited to) the following:

1. identification of the agency, to include the corporate name, street address and contact person;
2. a complete budget, including a budget summary, a line item budget for each component, and a staffing page;
3. a complete description of the programmatic activities to be funded.

B. The format and forms for submission of the Annual Plan will be provided by the Department of Labor.

AUTHORITY NOTE: Promulgated in accordance with

R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§305. Attachments to Plan

Each plan shall contain (but not be limited to) the following attachments:

A. a list of the current board of directors, identifying the segment they represent and dates of current and preceding terms;

B. a copy of the resolution(s) designating the agency as the agent for the parish(es);

C. a copy of the charter approved by the secretary of state, if the agency is a private not for profit agency;

D. a copy of the agency's personnel policy and travel policy which has been approved by the board of directors;

E. a copy of the resolution of the board designating the person who will negotiate and sign the contract;

F. copy of newspaper article advertising the annual public hearing for designation of the community action agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§307. Review and Approval of Plan

A. The program analyst of the CSBG Section of the Department of Labor will review the plan, and make recommendations for approval or modification. The director of the CSBG Section will review the plan and recommendations. If modifications appear to be in order, the program analyst will contact the agency and provide technical assistance in modifying the plan so that it complies with the Act and state requirements.

B. The plan will be signed by the chairman of the board, and the executive director, or the person empowered to enter a subgrant on behalf of the agency.

C. A subgrant will be developed from the plan, and returned to the agency for review and signature. The signed subgrant will be returned to the CSBG Section within 15 days.

D. The subgrant will be forwarded to the Louisiana Department of Labor signatory, with the recommendation that the subgrant be signed.

E. The Community Services Block Grant Section will distribute copies of the signed subgrant to the subgrantee and director of Financial Management as soon as they are signed. Program activities can begin on or after the dates defined in the subgrant period of the subgrant document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

Chapter 5. Application for Discretionary Funds

§501. Who may Apply

Any public or private non-profit agency who has as its primary objective the elimination of poverty in the local area may submit a proposal for operating any program which meets the requirement of the Act. Proposals must be submitted to the Community Services Block Grant Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§503. Requirement of Agency

A. Any public or private not for profit agency applying for funds must be incorporated by the state of Louisiana, and must

provide a copy of the articles of incorporation with the application.

B. The agency must have a board of directors. The board membership must include members who are a part of or representative of the segment of the population to be served. These members must represent at least one-third of the board's membership. The agency must submit a list of the names and addresses of the board members and a designation of their representation on the board.

C. The agency must operate programs designed to relieve poverty, and be able to show the need for the program and the justification for that agency's operation of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§505. Proposal

A. The agency must submit a proposal to the Community Services Block Grant Section in the format developed for that purpose. The proposal must include:

1. a description of the organization and its purpose;
2. a justification of the need for the program, including the identity of the method used to survey the need;
3. a complete description of the services to be provided and the method of assuring the services are provided to the most needy in the area, the dates the program will begin and end, and the number of persons to be served;
4. an identification of the staff required to provide the services and a brief job description of each;
5. a complete line item budget for the funds required to operate the program;
6. an identification of the contact person.

B. The proposal will be reviewed by the CSBG Section, and recommendations made to the secretary of Labor or designee. The decision to fund will be made by the secretary of Labor or designee, and written notification will be made.

C. A subgrant will be developed from the proposal, and returned to the agency for signature. The subgrant must be signed by the authorized representative of the agency and the secretary of Labor or designee prior to the beginning of any activity, unless written authorization has been received to operate programs prior to that date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

Chapter 7. Governing Boards

§701. Requirements

A. Applicability

Prior to receiving any funds from Community Services Block Grant, any private not for profit agency must have a governing board; and any public agency must have an advisory board, which meets the requirements of the Act. A list of board members, their mailing address, and a designation of the interest the member represents must be submitted to the Community Services Block Grant Unit along with the request for funding.

B. Size of Board

The board shall consist of not less than 15 nor more than 31 members which broadly represent the area served by the agency.

C. Structure of Board

The board shall be constituted so that:

1. one-third of the members are elected officials currently

holding office, except that if the number of elected officials available and willing to serve is less than the one-third requirement, appointed public officials may be used to meet the requirement,

2. at least one-third of the members are representative of the poor in the area served, and

3. no more than one-third of the members are officials or members of business, industry, labor, religious, welfare, education or other major groups and interests in the community.

D. Selection of Members

1. The chief elected official of the parish(es) served shall designate the elected officials to serve on the board. Each parish served shall have an elected official on the board to represent that parish.

2. The representatives of the poor shall be chosen in accordance with democratic selection procedures. To assure that each area served is represented, members shall be chosen from each parish served.

- a. The agency shall devise the method to be used in selecting members. This method shall be documented, and a copy kept on file, and shall be available for review by the staff of the Department of Labor.

3. Members who represent officials or members of business, industry, labor, religious, welfare, education, or other major groups or interests shall be selected to provide a broad base of community involvement and support, and should be selected from each parish served. Organizations that are to have membership on the board must be selected by the Board of Directors.

E. Bylaws

1. The board shall adopt bylaws which include the length of service of its members the allowability of alternates, and the responsibilities of the board. These bylaws shall be available for review by the Department of Labor.

2. The terms of the elected public officials shall coincide with the term of their elected office. The terms of all other board members shall be no more than five years. No board member shall serve more than two consecutive terms. There shall be one inactive year before the member can be re-elected.

F. Conflict of Interest

No officer or employee of an organization who enters into a contract funded with Community Services Block Grant funds may be a member of the board.

G. Reimbursements to Board Members

1. Board members may be reimbursed for travel required to carry out their responsibility to assure compliance with the CSBG subgrant. This travel shall be in accordance with the approved travel policy of the agency, and must be documented and approved by the president of the board.

2. Board members shall not be paid any salary or expenses other than the above referenced travel from Community Services Block Grant funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

Chapter 9. Fiscal Policy

§901. Deobligation Policy (Effective October 1, 1990)

A. CSBG subgrantees are subject to deobligation of projected excess unexpended funds based on expenditures during the first five months of their subgrant period. Projected unexpended funds are total available funds less expenditures reported for the first five months and less an amount equal to the higher of the last two months' reported expenditure amounts times the number of months remaining in the subgrant or subcontract per-

iod. Expenditure amounts used for this process will be those amounts reported as of the official due date specified by the Louisiana Department of Labor's fiscal section.

B. Subgrantees will have 15 days from the date they are notified of any amount subject to deobligation to provide documentation to the Louisiana Department of Labor why they should not be subject to such deobligation. The Louisiana Department of Labor may reduce the amount to be deobligated based on acceptance of documentation of corrected expenditure amounts, significant recent obligations not reflected in current reported expenditures, or other appropriate justification.

C. This deobligation procedure does not limit the Louisiana Department of Labor's authority to unilaterally deobligate funds from subgrants and subcontractors when it is deemed necessary in order to carry out responsibilities under the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§903. Fiscal System of Subgrantee

A. Each subgrantee shall maintain an accounting system which separately identifies the expenditures of Community Services Block Grant funds, and which complies with generally accepted accounting systems for governmental agencies. This system may be reviewed by the Department of Labor prior to the award of the subgrant.

B. The accounting system shall be a modified accrual system, and shall be established in a manner to provide a clear audit trail for expenditures.

C. Fiscal control and accounting procedures must be sufficient to permit preparation of reports required by the CSBG Division and adequate to establish that such funds have not been used in violation of federal and state regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§905. Separate Bank Account

A. Each subgrantee who is a private not for profit agency or a public agency that maintains an independent accounting system shall maintain a separate bank for Community Services Block Grant funds. This account must be closed at the end of each fiscal year. Any variances from this requirement shall have prior written approval from the grant officer.

B. Public agencies or departments of a political subdivision whose receipt, recording and disbursement of all funds is by the financial department of the political subdivision may maintain CSBG funds in the same manner as all other federal funds. Receipts and disbursements of CSBG funds are to be readily identifiable and kept in a separate journal or coded. Codes are also to be changed annually so as to identify funds of each fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§907. Payment of Funds

A. Funds will be paid to the subgrantee on a cost reimbursement basis, with a maximum of a three-day cash supply limit on the amount of funds advanced.

B. The subgrantee shall prepare and submit a request for funds (LDOL 850), in duplicate, 10 days prior to the need for funds, so that the request can be processed, and funds forwarded timely. The request for funds must be approved and

signed by the signator of the subgrant or a previously approved designate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§909. Expenditure Reports

A. Each subgrantee shall submit an expenditure report in duplicate so that it is received by the fifteenth of the following month, using the forms provided by the Department of Labor.

B. The expenditure report shall reflect the expenditures for the month, including accruals, the cumulative expenditures, and the balance remaining on the subgrant for each cost category.

C. The expenditure report must be signed by the signator of the subgrant or a previously approved designate.

D. Failure to submit correct expenditure reports on time will result in a suspension of funds until reports are correct and current.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§911. Closeout of Subgrant

A. Each subgrant must be closed out within 45 days after the end of the fiscal year (September 30), or within 45 days after the termination of the subgrant, whichever occurs first.

B. All expenses encumbered prior to the end of the fiscal year must be paid prior to the closeout of the subgrant.

C. The bank account shall be closed prior to the submission of the closeout package, and the final statement reconciled. Any excess funds in the bank shall be returned to the Department of Labor with the closeout package.

D. Failure to submit the closeout package on time will result in a suspension of funds for the current fiscal year until the complete package is received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§913. Carryover Funds

A. No subgrant will be allowed to carry any funds forward from one fiscal year to the next.

B. Any excess funds at the end of the fiscal year will be returned to the Department of Labor, with the closeout report or sooner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§915. Audits

A. Performance of Audits

1. a. Each subgrant using CSBG funds must be audited annually by an independent auditing firm at the end of the agency's fiscal year.

b. This audit must be received no later than five months after the end of the agency's fiscal year.

2. Audits of subgrants shall be included in a single audit of all the agency's activities. The audit must be in accordance with the Single Audit Act of 1984, OMB Circular A-128, R.S. 24:514 and R.S. 24:517.

3. Selection of the auditing firm must be by competitive bid. The firm selected must be approved by the Department of

Labor and the legislative auditor of the state of Louisiana prior to the beginning of the work on the audit.

B. Audit resolutions

1. A copy of the complete audit will be forwarded to the CSBG section promptly upon completion.

2. Within 30 days of the receipt of the audit, the Program Analyst will review the audit and request information from the agency to resolve any questioned and/or disallowed cost.

3. Within 30 days of notification, the agency must submit to the CSBG section documentation to resolve any questioned and/or disallowed costs.

4. The CSBG section will review the documentation, and make recommendations to the secretary of Labor or designee to allow or disallow the cost.

5. The secretary of Labor or designee will make the final decision to allow or disallow the cost, and will notify the agency of the disposition.

6. Any disallowed costs must be remitted to the Department of Labor immediately upon demand. These costs may not be paid from any federal funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

Chapter 11. Allowable Costs

§1101. Allowable Costs

A. Only those costs which directly support the activities of the CSBG subgrant and are included in the approved subgrant budget are allowable.

B. Where prior written approval is required, inclusion in the approved subgrant is for convenience and in no way implies or gives such approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§1103. Non-allowable cost

CSBG funds shall not be used for the following costs:

A. any activity which consists of lobbying and/or political activities;

B. any activity to provide voters and prospective voters with transportation to the polls in connection with an election or any voter registration activity;

C. any fines and penalties resulting from violations of any federal, state or local law;

D. any discounts allowed for timely payment of invoices;

E. any bank charges resulting from overdrawn accounts;

F. any interest, penalty or additional costs for any reason;

G. any deficits in any other grants received by the agency;

H. any entertainment costs;

I. any costs prohibited by any federal or state laws and/or regulations;

J. any costs incurred by or reimbursement to persons not in positions listed in the subgrant except as otherwise noted in these rules;

K. the cost of employee benefits exceeding the percentage of salary paid;

L. the cost of employee benefits not available to all employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§1105. Costs Requiring Prior Approval

CSBG funds may be used for the following activities only if prior written approval has been received from the Department of Labor:

A. dues for any professional association;

B. any legal fees;

C. any consultant services, or service performed by personnel other than staff of the agency;

D. any indirect cost. Indirect cost rates and amounts must have the prior written approval of the federal cognizant agency of the subgrant agency, and the Louisiana Department of Labor;

E. any purchase of automobiles, furniture, and/or equipment, and any item which has a unit purchase price of \$250 or more;

F. any out-of-state travel;

G. any third party agreements for services (legal, audit, computers, etc.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

Chapter 13. Subcontractors and/or Third Party Agreements

§1301. Subcontractors and/or Third Party Agreements

A. Prior Approval

No subcontract and/or third party agreement may be executed unless the provision for the agreement is included in the approved subgrant and prior written approval has been received from the Department of Labor.

B. Contract Content

All contracts or third party agreements shall include, at a minimum, the following information:

1. name, address and federal employer identification number of the contractor or third party;

2. a description of services to be offered;

3. the maximum fee to be charged;

4. the contractor agrees to pay all taxes associated with the contract from funds received;

5. the contractor agrees to make all records available to the Legislative Auditor of the State of Louisiana;

6. the starting and ending date of the contract;

7. the signature of both parties.

C. Monitoring

The Department of Labor reserves the right to review and monitor the activities covered by any subcontract and/or third party agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

Chapter 15. Procurement Policies

§1501. Public and Private Agencies

All procurement of goods and services with Community Services Block Grant funds in whole or part shall be done in accordance with the State of Louisiana procurement and CSBG regulations. The lowest responsible and responsive bidder shall be awarded the bid. If the lowest bidder is to be bypassed, good cause must exist and prior written approval must be obtained from the Louisiana Department of Labor. Specific procurement regulations shall be issued from time to time and be substantially in compliance with R.S. 39, Chapter 17, The Louisiana Procurement Code.

AUTHORITY NOTE: Promulgated in accordance with

R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§1503. Federal Requirement

In the event federal procurement regulations are more restrictive than state or local procurement regulations, all agencies will be required to follow federal regulations in those areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§1505. State Contract Bid List

Any community action agency shall be deemed a quasi-public agency and will be allowed to utilize the state contract bid list for the purchase of supplies or equipment, only if all other requirements have been met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§1507. Ownership of Property

Ownership of any item purchased which has a unit acquisition cost of \$250 or more remains with the Department of Labor, and shall be returned to the Department of Labor within 30 days after the termination of the subgrant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§1509. Reporting Purchases

Each agency will be required to submit, to the Department of Labor, a copy of the invoice for each item purchased which has a unit acquisition cost of \$250 or more within 30 days of acquisition. The invoice must show the serial number, model number, date of delivery, and a description of the item. An invoice is needed to obtain a tag for the equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§1511. Identification

The Department of Labor will provide an identification tag to be affixed to each item, and will include the item in its inventory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§1513. Loaned Equipment

Whenever possible, the Department of Labor will provide needed equipment from its surplus property to be used by the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§1515. Sole Source or Less than Required Number of Bids

Procurements may be made with less than the required number of bids when the agency provides documentation that the number of suppliers in a reasonable distance from the agency is less than the number required, and that all suppliers in a reasonable distance were given the opportunity to bid on the item.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§1517. Leases of Space

A. Space may be leased when the cost is reasonable.

B.1. A minimum of three written bids must be obtained for space which is suitable for the requirements. If the agency is unable to obtain three written bids it must submit a written request to waive this requirement.

2. Agencies who are required by their police jury to be located in a facility owned by the police jury are exempted from this requirement.

C. Each lease must be submitted to the Department of Labor for review and approval prior to the beginning of the lease.

D. Each lease must contain a 30-day cancellation clause. The Department of Labor may not be held responsible for payments on any existing lease and/or contract which extends beyond the subgrant period. An availability of funds clause must be included.

E. A copy of each new lease agreement must be submitted to the Louisiana Department of Labor for review and approval prior to the beginning of the lease.

§1519. Procurement Procedures for Purchases not Exceeding \$5,000

A. When CSBG funds in whole or part are to be used for purchases not to exceed \$5,000, the following rules must be applied.

1. Purchases up to \$250. No competitive bidding is required; however, an agency may require that any such purchase be approved in advance by their agency purchasing office. No purchase order is necessary.

2. Purchases over \$250 up to \$1,000 shall be made by sending out written invitations for bids to at least three bona-fide, qualified bidders and purchases must be made on the basis of the lowest quotation received. Prior written approval must be granted by the Department of Labor for the selection of other than the low bidder.

3. Purchases over \$1,000 up to \$2,000 shall be made by sending out written invitations for bids to at least five bona-fide, qualified bidders and purchases must be made on the basis of the lowest quotation received. Prior written approval must be granted by the Department of Labor for the selection of other than the low bidder.

4. Purchases over \$2,000 up to \$5,000 shall be made by sending out written invitations for bids to at least eight bona-fide, qualified bidders and purchases must be made on the basis of the lowest quotation received. Prior written approval must be granted by the Department of Labor for the selection of other than the low bidder. Good cause must exist for the low bidder not to be selected.

Please note that written invitation for bids are necessary for all purchases exceeding \$250 and less than \$5,000. These bids must contain complete specifications, the quantity required as well as other pertinent information such as the delivery point and other information sufficient for a supplier to make an acceptable bid. Prior written approval is necessary for items which have a unit purchase price of \$250 or more.

B. Exceptions

No competitive bidding is required:

1. When purchases are made through the use of state contracts, it is necessary that the state contract number be placed

on your invoices.

2. Repairs and parts for equipment:

a. Repairs to equipment and/or parts associated with a specific repair job shall be obtained by either obtaining competitive bids or use of an "authorized dealer" up to a total of \$5,000. An authorized dealer is defined as a dealer certified by the manufacturer to sell or perform maintenance on their equipment.

b. Repairs of equipment which exceed \$5,000, where it is not feasible to secure competitive bids, shall be performed by an authorized dealer subject to prior approval of the chief procurement officer.

c. Vehicle repairs (except body repairs) shall be obtained by (1) state contract, (2) if no state contract exists - fleet management statewide maintenance and repair contract or, (3) use of an authorized dealer if not available from 1 or 2. The above is in no way intended to limit the use of agency repair shops.

3. Publications such as textbooks, newspapers, subscriptions, or foreign publications, when purchased directly from the publisher. All files must have documentation that the contractor is the publisher. (Subscription services must be bid.)

4. All public utilities.

5. All services provided by local government. Example: garbage pickup.

6. Wire, related equipment, time and material charges to accomplish adds, moves and/or changes to telecommunications systems up to \$1,000.

7. Training classes and memberships.

C. Written invitations for bids should be obtained for the following from at least three bona-fide, qualified bidders:

1. convention and meeting facilities;

2. gasoline and fuel purchases unless covered by a competitive state contract;

3. vehicle body repairs.

D. Sole Source Procurement

Procurement may be made with less than the required number of bids when the agency provides documentation that the number of suppliers in a reasonable distance from the agency is less than the number required, and that all suppliers in a reasonable distance were given the opportunity to bid on the item.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§1521. Equipment Lease

Agencies must request approval in writing prior to entering into any leases for equipment.

Chapter 17. Personnel

§1710. Policies

A. Establishment of Personnel Policy

Prior to funding a subgrant, the agency must submit a copy of its written personnel policy, which has board approval, to the Department of Labor for review and approval. Agency must keep policies updated.

B. Policy Compliance

Each agency will be required to comply with the provisions of its approved personnel policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

Chapter 19. Travel

§1901. Travel Policy

A. Establishment of Policy

1. Prior to funding the subgrant, each agency will be required to submit a copy of their written travel policy, which has been approved by the board, to the Department of Labor for review and approval.

2. All payments or reimbursements for travel costs shall be in accordance with State of Louisiana, Division of Administration, Policy and Procedure Memorandum 49, State General Travel Regulations.

B. Policy Compliance

Each agency will be required to comply with the provisions of its travel policy.

C. Prior Approval Required

All out-of-state travel must have prior written approval from the Department of Labor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

Chapter 21. Reporting

§2101. Reports

A. Fiscal Reports

Each agency will be required to report fiscal activities to the Department of Labor, on a monthly basis. The report will be in the format established by the Department of Labor, and will be due no later than the fifteenth day of the month following the activity.

B. Activity Reports

Each agency will be required to submit an activity report to the Department of Labor at the end of each month. The report will be in the format established by the Department of Labor, and will be due by the fifteenth of the month following the activity.

C. Penalty for Failure to Report

Failure to submit reports by the established deadlines may result in the delay of transmitting funds to the Agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

Chapter 23. Record Availability

§2301. Availability and Retention of Records

A. Right to Access Records

The Department of Labor, or its agent, shall have the right to review and/or copy all the records of the agency pertaining to the operation of this subgrant. All such records shall be made available upon request.

B. Period of Retention

All records pertaining to the operation of the subgrant shall be retained for a period of five years after the end of the subgrant, or the final resolution of any audits, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

Chapter 25. Civil Rights Policy

§2501. Affirmative Action Plan

A. To be eligible for funding, each CSBG grantee shall have an affirmative action plan approved by the secretary of the Louisiana Department of Labor or designee which shall include

at least the following.

1. a written Equal Opportunity Policy;
2. an Equal Opportunity Committee;
3. an Equal Opportunity Officer;
4. a written discrimination complaint procedure;
5. a data-collection, record-keeping and reporting system

to provide the information required by Louisiana Department of Labor.

6. a comprehensive self-analysis, which shall include a comparison of provision of benefits on the basis of race, sex and national origin population.

B. This analysis shall also include a comparison of the grantee's employment by race, sex, and national origin characteristics of the relevant workforce. Where significant disparities are found, the recipient shall determine the reasons and, if appropriate, set forth corrective actions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§2503. Implementation

A. The recipient of CSBG financial assistance is required to implement its CSBG approved affirmative action plan and to ensure compliance with this Part. At a minimum, the following requirements must be met.

1. Each grantee board shall formally adopt an Equal Opportunity Policy and establish an Equal Opportunity committee which shall reflect the composition of the board in regard to the representation of the public, private and low-income sectors.

2. The Equal Opportunity Committee shall review the determinations of the Equal Opportunity Officer (EOO) regarding complaints of discrimination and shall oversee the enforcement of the grantee's civil rights program.

3. Subgrantees shall have at least one EOO, who shall report directly to the board of directors on EOO matters with responsibility for the Civil Rights program required by this Part and such additional personnel as are necessary to carry out the requirements of this Part. EOO shall not be the executive director, deputy director or personnel officer or their equivalents. The secretary of Labor may make a recommendation that the EOO be full time or part time.

4. The EOO shall undergo training as prescribed by Louisiana Department of Labor. All expenses incurred by such training shall be borne by the grantor.

5. The EOO shall be granted the authority to carry out the following activities:

- a. receive and attempt to resolve complaints of discrimination;
- b. provide aggrieved persons with information and advise on equal opportunity procedures including local, state, and federal redress procedures, and notification of the filing deadlines for Equal Employment Opportunity Commission complaints, where applicable;
- c. take other steps which may assist in the resolution of a problem, prior to the filing of a formal complaint;
- d. assist, if requested by complainant, in preparing a formal complaint to the Louisiana Department of Labor of alleged discrimination based on race, color, creed, sex, national origin, age, handicap, political affiliation or beliefs; and
- e. provide staff leadership in developing, implementing, and evaluating the grantee's Affirmative Action Plan (AAP).

6. Grantees shall display, in conspicuous places, posters which summarize the rights of the employees, program partici-

pants and beneficiaries under Title VI, of the Civil Rights Act. Such posters shall describe the functions of the EOO and the procedures for filing complaints of discrimination, including the right to complain directly to Louisiana Department of Labor.

7. In addition to the posters, each grantee shall make available information regarding the provisions of this Part and its applicability to the program under which the grantee receives federal financial assistance and make such information available in such manner as the Secretary of the Louisiana Department of Labor or designee finds necessary to apprise such persons of the protections against discrimination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

Chapter 27. Clarification of Rules

§2701. Method for Clarification

Clarification to the rules contained in this CSBG Policy Manual and Special Clauses shall be made as required in program issuances. These program issuances will become effective upon written notification to the subgrantees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

Chapter 29. Funding

§2901. Appeal of Termination of Funding

A. Termination Notice

The Department of Labor will notify the agency in writing of the intention to terminate funding, and shall state the reasons for the termination.

B. Request for Hearing

The agency may request a hearing on the record, in writing, within five days of the notification of termination.

C. Scheduling of Hearing

1. Upon request, the Department of Labor shall schedule a hearing at the earliest possible date.

2. Written notification of the hearing shall be given the agency, to include:

- a. date and time of hearing;
 - b. place of hearing;
 - c. explicit reasons for the hearing.
- #### **D. Results of Hearing**

The hearing officer shall render a decision within 10 days after the hearing is held. Written notification of the decision shall be mailed to the interested parties. The decision will become final within 15 days unless an appeal is filed.

E. Appeal to Secretary, U.S.D.H.H.S.

The agency may appeal the decision to the Secretary of the U. S. Department of Health and Human Services within 15 days after the receipt of the decision. If no appeal is filed, the decision is final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

Subpart 2. Special Clauses

Chapter 41. General Provisions

§4101. Compliance

A. General

The subgrantee shall abide by and comply with all federal, state and local laws; all federal, state and local regulations; and all rules of the grants in the operation of programs under this

subgrant. The subgrantee shall provide assurance to the grantor that any subcontracts and/or third party agreements shall comply with all federal, state and local laws and regulations, and all rules of the grantor.

B. Laws and Regulations Incorporated by Reference

The provisions of the following acts, and any regulations promulgated pursuant to these acts, are incorporated into and made a part of this subgrant.

1. Community Services Block Grant Act, Subtitle B., Omnibus Budget Reconciliation, Public Law 97-35.
2. La. R.S. 23.61 through 23.66.
3. 45 CFR, Parts 16, 74 and 96, July 6, 1981.
4. Policy Manual for operation of Community Services Block Grant (CSBG) issued by the Louisiana Department of Labor (LDOL).

C. Amended or Revised Laws and Regulations

The subgrantee will comply with any amendments and/or revisions to the above acts and/or regulations, and any other acts which may govern the operation of the CSBG. This compliance will be effective immediately upon notification.

D. State CSBG Plan

The subgrantee shall comply with the provisions of the CSBG State Plan as approved by the U. S. Department of Health and Human Services and the governor of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

Chapter 43. Funds

§4301. Use of Funds

A. General

Funds received as a result of this subgrantee may be used only for those activities which are permitted by the CSBG Act and are included in the approved CSBG State Plan.

B. Specific Uses of Funds

Any funds received as a result of this subgrant must be used only in the activities described in the approved subgrant. All activities must be specifically described in the subgrant, and signature of the authorized individual of the subgrantee and the grant officer, secretary of Labor or designee, must be affixed to the subgrant prior to the expenditure of funds. In emergency situations, a letter of intent, signed by the grant officer and the subgrantee may serve as authorization to perform activities for a period not to exceed 30 days.

C. Limitations on Use of Funds

CSBG funds shall not be expended for the following activities:

1. the purchase and or improvement of land;
2. the purchase, construction or permanent improvement (other than low-cost residential weatherization or other energy-related home repairs) of any building or other facility;
3. any activity not specifically described in the subgrant;
4. any activity specifically denied by federal or state act or regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§4303. Obligation of Funds

A. General

The grantor shall be liable, subject to the receipt of funds from the federal government, for the actual costs incurred to perform the activities listed in the subgrant, but in no case shall

the grantor be liable for a total amount which exceeds the total amount shown on the signature page of the subgrant.

B. Cost Category Obligations

The grantor shall be liable for expenditures in any cost category which reflect actual costs to perform activities described in the subgrant, but in no case will the grantor be obligated for any costs which exceed the total listed in the subgrant for each cost category.

C. Subgrantee Documentation

The subgrant shall maintain such records as are required by the grantor, make such reports as are required by the grantor, and make accessible to the grantor such records as are required to reflect the expenditures of funds under this subgrant.

D. Indemnification

1. The subgrantee agrees to indemnify and hold harmless the grantor from all injury, damage, or destruction of property arising out of all acts of omissions, or caused in whole or in part by presumed negligence on the part of the subgrantee or its officers, agents, employees, subcontractors or program participants.

2. The subgrantee further agrees to indemnify, hold harmless, and defend the grantor and its officers, agents or employees from all claims and/or suits resulting from the misuse, misapplied or misappropriated funds which have been determined to result from the activities of the subgrantee.

E. Assignment of Interest

1. The subgrantee agrees not to assign nor transfer any interest in this subgrant without prior written approval of the grantor, except that monies due, or to become due, under this subgrant may be assigned to any bank, trust company, or other financial institution without such prior written approval.

2. Notice of any such assignment or transfer shall be furnished promptly to the Louisiana Department of Labor within 10 days.

F. Independent Contractor

1. The subgrantee shall operate under this subgrant as an independent agency and not as an officer, agency or employee of the grantor. In no event shall any person employed by the subgrantee or any subcontractor of the employee be considered to be an employee of the state of Louisiana, Louisiana Department of Labor.

2. The grantor shall not be liable to the subgrantee for any benefits or coverage as provided by the Workers' Compensation Law of the state of Louisiana, and no employee of the subgrantee shall be considered an employee of the state of Louisiana, Louisiana Department of Labor for the purpose of Workers' Compensation Coverage.

3. The subgrantee agrees to be responsible for the payment of any taxes and other costs which may be due as a result of this subgrant. The taxes could include but not be limited to state and federal income taxes and payroll taxes. All such taxes shall be paid under the federal tax identification number shown on page one, the signature page of the contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

Chapter 45. Contracts

§4501. Modification

A. Allowability

Any alterations, deletions, or additions to this contract shall become effective only after a modification to the subgrant document, properly signed by both the grantor and the subgran-

tee, has been executed, except that the grantor may give the subgrantee written permission to make certain changes immediately, and incorporate the changes into a modification within 90 days.

B. Initiation of Modification

The subgrant may be unilaterally modified by the grantor to reflect changes in the funding level from the federal office, or changes required by federal or state laws and regulations. The subgrantee may request modification to the subgrant to reflect changes in the budget and/or program operations to reflect changes in the needs of the area.

C. Method for Requesting Modification

1. By Grantor. The grantor shall notify the subgrantee in writing of any changes required in the subgrant to reflect changes in funding level or federal or state laws. The subgrantee shall prepare the required changes to the subgrant; the authorized signator for subgrant shall sign the modification; and the subgrantee shall mail the modification to the grantor for review, approval and signature of the grant officer.

2. By Subgrantee. The subgrantee shall request in writing to the grant officer, approval for modifying the subgrant. The request shall contain ample justification for making the request change. The grant officer shall notify the subgrantee in writing that approval is given or denied. The subgrantee will prepare the approved changes; the authorized signator for subgrantee shall sign the modification; and the subgrantee shall mail the modification to the grantor for review, approval and signature by the grant officer.

3. Modifications altering salaries, fringe benefits, equipment purchase and travel shall require prior written approval.

4. No modifications shall be initiated after August 31 of the fiscal year.

D. Limitations

The terms and conditions of this subgrant shall remain in effect until any modifications have been signed by the subgrantee and the grantor, or the subgrantee has received written approval for changes from the grantor which will be incorporated into the subgrant within 90 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§4503. Contract Termination

A. Terminations

This contract may be terminated by the grantor, in whole or in part, for cause or convenience in compliance with this clause.

B. Termination for Cause

This contract may be terminated by the grantor, in whole or in part, when it has been determined that the subgrantee has failed to comply with the provisions of federal or state laws and regulations or the terms of this contract. If the subgrantee fails to perform the terms of this contract, in whole or in part, or fails to make sufficient progress so as to endanger the performance, the grantor shall notify the subgrantee of such failure to perform in writing. The subgrantee shall provide the grantor a written plan to correct the deficiencies in performance within 10 days. If the subgrantee fails to provide an acceptable plan to correct the deficiencies in performance, within the time allowed, the grantor will serve a written Notice of Termination on the subgrantee, advising that the contract will be terminated at the end of 30 days. The grantor shall be liable for payment only for those services which were performed prior to the termination date of the subgrant,

provided those services complied with federal and state laws and regulations and with the provisions of this subgrant.

C. Termination for Convenience

The grantor or the subgrantee may request termination of this subgrant for convenience. Either party shall give a 30-day written notice of their intent to terminate. The grantor shall be liable only for payment for those services performed prior to the termination date, provided the services comply with federal and state laws and regulations, and with the provisions of this subgrant.

D. Notice of Termination

A. When the grantor determines that termination is necessary for any reason, the grantor shall deliver to the subgrantee a notice of termination, specifying whether the termination is for cause or for convenience, the extent to which the activities are to be terminated, and the date the termination will be effective. The grantor shall determine the amount due the subgrantee, but such sum shall in no instance exceed the total shown on the signature page of the subgrant.

2. In the event partial termination is effected, the total obligation of the subgrant shall be adjusted by agreement between the grantor and the grantee, and the subgrant shall be modified to reflect this agreement.

E. Contingency Fees

The subgrantee shall not employ any person or firm to solicit or secure this subgrant under agreement for any commission, percentage, brokerage or contingent fee. Failure to comply with this provision shall give the grantor the right to terminate this subgrant, or to deduct the amount of such commission, percentage, brokerage or contingency fee.

F. Prevention of Fraud and Abuse

To ensure the integrity of the CSBG Programs, the subgrantee shall establish, maintain and utilize internal management procedures sufficient to prevent fraud and other program abuses.

G. Definitions

1. *Fraud* means deliberate actions which would result in deceitful practices and intentional misconduct.

2. *Abuse* means to make wrong use of or to violate the provisions of the federal and state laws and regulations, the provisions of this subgrant, and the policies of the grantor.

H. Conflict of Interest

1. The subgrantee shall ensure that no employee of the subgrantee, no member of its board, nor any person involved in the review and approval of the subgrant shall participate in any decisions regarding any activity which would result in monetary gain for that individual.

2. The subgrantee certifies that none of its employees or its offices has an interest, direct or indirect, which would conflict with the activities of this subgrant, and that no person having such interest shall be employed by the subgrantee.

3. The subgrantee shall establish safeguards to prevent its employees, officers, agents, or subcontractors from using their position in a way which would appear to be motivated by a desire of private gain for themselves, their family or business with which they have ties.

4. The subgrantee shall require all subcontractors to comply with this clause as a condition of award.

§4505. Political Activities

A. The subgrantee shall ensure that no funds provided under this subgrant shall be used for any political or lobbying activity.

B. The subgrantee shall prohibit any activities to provide voters and prospective voters with transportation to the polls, or

provide similar assistance in connection with an election, or any voter registration activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§4507. Charging of Fees

No individual participating in any activity resulting in obtaining employment shall be required to pay a fee to the subgrantee, its agents or any other firm as a condition of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§4509. Child Labor Laws

The subgrantee shall comply with all provisions of federal and state Child Labor Laws when providing employment opportunity to an individual under the age of 17.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

Chapter 47. Fiscal Documentation

§4701. Fiscal Requirements

A. The subgrantee shall have a fiscal system which will provide adequate documentation to reflect expenditures for this subgrant, provide a clear audit trail, and provide assurance that fraud or abuse of the funds are prevented.

B. Special Bank Account

1. Prior to the advance or any other payment of CSBG funds to the subgrantee, who is a private, not for profit agency, the subgrantee shall provide the grantor, upon request, a written certification that a special bank account has been established for this subgrant. The written certification shall be made a part of this subgrant. The bank account must be established with member bank of the Federal Reserve System, or an "insured" bank within the meaning of the Federal Deposit Insurance Corporation Act of 1950 (872 USC 265).

2. Funds may be withdrawn from this bank account by the subgrantee only for the purpose of making payments for allowable costs within the terms of federal and state laws, and this subgrant, or to reimburse the grantor in compliance with the closeout procedures of this subgrant.

3. The grantor reserves the right to attach the bank account established by the subgrantee for the purpose of recouping funds advanced under this subgrant, and the right to seal the bank account in the event of termination of the subgrant.

C. Special Bank Account: Public Agency

1. The subgrantee who is a department or unit of a political subdivision and received records and disburses its own funds, through its own set of books shall follow the procedures described in §4701.B above.

2. The subgrantee who is a department or unit of a political subdivision and the political subdivision receives, records and disburses all funds in support of the subgrantee shall follow the procedure described in §4701.B above or the following: CSBG funds may be maintained by the same financial unit as all other departments of the political subdivision. CSBG funds shall be accounted for and recorded in a separate journal or coded so as to distinguish or separate them from all other funds. CSBG funds may be kept in the same bank account as all other federal funds.

D. Three day Cash Supply

The subgrantee agrees that funds received under this subgrant will be expended within three days of receipt of the funds, and that no funds received under this subgrant will be held longer than three days.

E. Commingling of Funds

Commingling or mixing of funds received under this subgrant with funds received from any other subgrant from LDOL or any other source is specifically prohibited. Only CSBG funds may be deposited into the CSBG bank account.

F. Accounting System

1. The subgrantee shall establish an accounting system which contains completed and accurate records that will justify and document all expenditures, reflect all accruals, and provide a clear audit trail to the point of origin. The costs shall be segregated as directed by the budget of this subgrant.

2. Financial accounting may be performed by an accounting firm other than the subgrantee provided prior written approval has been received from the grantor.

G. Indirect Cost

The subgrantee will not be reimbursed for any indirect cost unless the indirect cost rate has been approved by a federal cognizant agency and the subgrantee has received prior written approval from the grantor to charge the indirect cost to the CSBG subgrant.

H. Cost Allocation

The subgrantee will be reimbursed only for the actual costs incurred in any line item in the budget. Cost allocation may be used only if the subgrantee has documentation for the formula to be used for that purpose, and the other sources of funds and amounts are noted on the invoice or other instrument authorizing payments.

I. Transfer of Funds

1. The subgrantee may transfer funds not to exceed \$500, from one line item to another within a cost category, but in no case may funds be transferred from one cost category to another nor include salary, fringe benefits, equipment purchase or travel without written prior approval from the grantor.

2. In the event funds are moved from one line item to another, the subgrantee shall immediately notify the grantor and the changes shall be incorporated in the next modification to the subgrant.

J. Payments

1. Payments will be made to the subgrantee on a cost reimbursement basis, as agreed to by the subgrantee and the grantor. Debts are considered paid when incurred, thus the subgrantee may request reimbursement.

2. Payments or reimbursements are conditioned on the full and satisfactory performance of its obligations by the subgrantee under this subgrant.

3. It is understood and agreed that if the subgrantee fails to timely submit any reports (including audits) required by the grantor, the grantor reserves the right to withhold any or all payments due to the subgrantee until such time as the required reports are received.

K. Bonding

1. Prior to an advance or any other payment, the subgrantee shall furnish the grantor proof that each employee and officer of the subgrantee who is responsible for the receipt, custody or disbursement of funds are covered by a fidelity bond. Such bond shall be issued by a corporate surety licensed to do business in Louisiana.

2. The fidelity bond shall agree to indemnify the subgran-

tee against any direct loss of money or other personal property for which the subgrantee is responsible under the terms of this subgrant. The bond shall be in the amount of \$100,000, or the maximum amount expected to be received in any month, whichever is the less. Written notice shall be given to the grantor immediately in the event of cancellation of the fidelity bond or the inability to obtain such coverage.

L. Closeout Procedures

1. The subgrantee shall submit a closeout package at the end of each grant period to the grantor as required by the established policies of the grantor. The closeout package must be received by the grantor no later than 45 days after the ending date of the subgrant.

2. The closeout package shall include, but not be limited to, an expenditure report marked "FINAL" and reflecting all costs related to the subgrant, a clear copy of the final bank statement, a check for all carryover funds, and a letter certifying that all obligations have been met.

3. Any monies advanced to the subgrantee and not spent at the time the closeout package is submitted shall be returned to the grantor with the closeout package. Failure to submit payment of unspent funds may result in failure to enter into a subgrant for later fiscal years and/or the suspension of payments due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§4703. Audits and Audit Resolution

A. Audits

The subgrantee shall provide the grantor with a single audit (Single Audit Act of 1984) of all activities of the subgrantee annually. The audit shall be performed by an independent audit firm which has been selected by competitive bids and has received the approval of the grantor and the Legislative Auditor of the state of Louisiana. This audit shall be done in accordance with OMB Circular A-128. Bids can be let and accepted for multiple years audits up to three years.

B. Resolution of Audits

The subgrantee shall provide the grantor with any evidence to refute the disallowance of any questioned and/or disallowed costs within 30 days of the completion of the audit. The grantor shall review the evidence, and make a determination to allow or disallow the costs, within 30 days after receiving the evidence. The subgrantee shall be notified in writing of the determination, and of the total amount to be repaid by the subgrantee.

C. Repayment of Disallowed Costs

The subgrantee shall, within 30 days, repay to the grantor, from funds other than those received from the grantor, any costs which have been disallowed. Failure to repay disallowed costs will result in the suspension of funds under any subgrant which may be in operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§4705. Reports, Records, Policies

A. Reports

The subgrantee shall submit to the grantor such reports as are required to account for the compliance with the federal and state acts, and the provisions of this subgrant. Such reports shall be submitted in the format and by the dates established by the grantor. Failure to comply with the reporting requirements may

result in the suspension and/or delay of funds being forwarded to the subgrantee.

B. Request for Funds

The subgrantee shall complete a request for funds for submission to the grantor 10 days prior to the date of the funds are required. The request for funds shall reflect only the amount which will be expended in a three-day period. The original of the request for funds shall be submitted to the Fiscal Section of LDOL, and a copy shall be sent to the assigned Program Analyst of CSBG.

C. Monthly Report of Expenditures

The subgrantee shall submit a monthly Report of Expenditures so that it is received by the grantor no later than the fifteenth day of the following month. The Expenditure Report shall reflect the actual and accrued expenditures. The original of the expenditure report shall be mailed to the Fiscal Unit of LDOL, and a copy shall be submitted to the assigned Program Analyst of CSBG. The expenditure reports shall include such attachments as are required by the grantor to substantiate the use of the funds.

D. Activity Reports

The subgrantee shall submit to the grantor such activity reports as are required. The reports shall be in the format as established by the grantor. The activity reports shall be submitted at the end of each month of the subgrant, and shall be received by the grantor no later than 15 days after the end of the month.

E. Policies

The subgrantee shall establish personnel, travel and procurement policies which comply with the requirements of federal and state laws and regulations and the policies of the grantor. Subgrantee shall submit a copy of these policies to the grantor for review for compliance prior to the funding of the subgrant. The approved policies shall become a part of this subgrant, and the grantor shall reserve the right to review compliance to the policies as a part of the review of the operation of the subgrant.

F. The subgrantee shall maintain such records as are required to establish fiscal accountability and participant eligibility, and to make such records available to the grantor, or its agent, for review and evaluation.

G. Fiscal Records

The subgrantee shall maintain the original source documents to substantiate the expenditure of all funds under this subgrant and any other fiscal records required by the grantor.

H. Participant Records

The subgrantee shall maintain the records required to document the eligibility of any participant who received services under this subgrant. The records shall contain the information required by the policy of the grantor.

I. Accessibility of Records

All records, fiscal, administrative, and programmatic, shall be available for review by the grantor, or its agent, to assure compliance to the federal and state laws and regulations and the provisions of this subgrant. The grantor reserves the right to copy any records of this subgrant for the purpose of assuring compliance.

J. Maintenance of Records

The subgrantee agrees to maintain all the original fiscal, administrative and participant records of this subgrant for a period of five years after the ending date of the contract or the final resolution of any audits, whichever is the later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§4707. Insurance

A. Policies

The subgrantee shall provide the grantor proof that insurance policies are in effect to provide coverage for employees, automobiles and buildings are required by the state of Louisiana.

B. Motor Vehicle Insurance

The subgrantee shall furnish proof that all motor vehicles owned/or leased by the grantee are covered by liability insurance as required by the state of Louisiana. The subgrantee shall maintain documentation that all motor vehicles used by its employees and/or agents in the performance of duties of this subgrant, and reimbursed for travel from this subgrant, are covered by liability insurance as required by Louisiana State law. All insurance policies shall be procured from vendors who are licensed to do business in the state of Louisiana.

C. Workers' Compensation

The subgrantee will furnish proof to the grantor that workers' compensation insurance coverage is maintained for all the employees of the subgrantee as required by the state of Louisiana. The subgrantee may, with prior written approval of the grantor, maintain a self-insurance program for workers' compensation. Any workers' compensation insurance plan must meet the requirements of the laws of the state of Louisiana.

D. Other Insurance

The subgrantee shall provide any other insurance for its employees, or for participants in the activities under this subgrant as required by the state of Louisiana.

E. Duration of Policies

All insurance policies shall be in effect for the entire period of the subgrant. The grantor shall not be liable for the payment of premiums for coverage which extends beyond the ending date of the subgrant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§4709. Income

A. Program Income

1. Any income produced as a result of an activity funded under this subgrant shall be considered as program income. Records shall be maintained to document the amount of income earned, and the use of that income.

2. Monies generated from program income shall be used to offset the cost of the activity which produced the income. Use of program income to fund any other activity which is allowable under the CSBG Act must have the prior written approval of the grantor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

Chapter 49. Personnel Provisions

§4901. Performance Evaluation

A. Performance Standards

The subgrantee shall establish goals for each program activity performed. These goals shall be included in the subgrant. The subgrantee shall be required to meet the goals established with no more than a 15 percent deviation from the goals. Progress toward meeting those goals will be assessed at least quarterly.

B. Evaluation

The grantor shall conduct an evaluation of the operation of each subgrantee no later than the end of the third quarter of

the grant year. This evaluation shall assess the effectiveness of the subgrant in meeting the requirements of the federal and state laws and regulations, and the provisions of the subgrant. The activities of the subgrant will be evaluated in each of the four areas, administrative, fiscal, programmatic and EEO, and will be an objective evaluation of actual operations. The result of the evaluation may be used in the distribution of available funds for the next fiscal year by the grantor.

C. Nondiscrimination Provisions

The subgrantee will not discriminate against employees or applicants for employment or training because of race, color, national origin, religion, political affiliation, sex, handicap, or age (except where age, sex or physical requirements constitute a bona fide occupational qualification necessary to proper and efficient function in the job or training). The subgrantee will take affirmative action to insure that applicants are employed and that employees are treated during their employment without regard to their race, color, religion, sex, age, handicap or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, apprenticeship or services.

D. Affirmative Action

1. The subgrant shall develop an Affirmative Action Plan to cover both staff and participants of this subgrant. The Affirmative Action Plan will include a comparison of the subgrantee employees and participants by race, sex, and national origin to the racial, sexual and national origin characteristics of the relevant workforce and eligible participants. The Affirmative Action Plan must be approved by the subgrantor and will become a part of this subgrant. The LDOL's Human Resources and Development Unit will be available for providing technical assistance to subgrantees in drafting their Affirmative Action Plans. A copy of the subgrantee's Affirmative Action Plan must be approved by the secretary of the Louisiana Department of Labor, or a designee.

2. Within 30 days of the termination of this subgrant, a report describing the activities and actions taken under this subgrant, including but not limited to changes in employee makeup, agency rules, effects of layoffs, and demotions and promotions, must be submitted to the grantor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§4903. Disputes and Appeals

A. Disputes

Any disputes which may arise in the negotiation of subgrants or the operation of activities as described in the subgrant, shall be brought to the attention of the state director of the CSBG programs. All efforts will be made to resolve the disputes, and the director shall provide a decision in writing to the subgrantee.

B. Appeals

In the event the subgrantee does not agree with the determination of the director of CSBG programs, a written appeal may be filed to the secretary of Labor or designee. The appeal must be in writing, and must be filed within 15 days after the receipt of a determination from the director of CSBG programs. The appeal must contain the reasons for the appeal, and a description of the relief sought. The grant officer shall, within 30 days of the receipt of the appeal, issue a written decision. This decision shall be final.

C. Changes to Special Clauses

The special clauses may be changed and/or amended by the grantor to comply with changes in federal and state laws and regulations or changes in operational policies of the grantor. Changes shall be provided to the subgrantee in writing, and shall become effective on the date of notification.

D. Legal Remedies

In the event of either party's breach or default, the other party shall be entitled to exercise all rights and pursue all remedies available under Louisiana law.

E. Access to Documentation

The subgrantee hereby agrees to the provisions of granting access to any books, documents, paper, and records of the subgrantee which are directly pertinent to this particular contract to the owner, federal grantor agency, the comptroller general of the United States, or any of their duly authorized representatives. Also, the subgrantee agrees to maintain all required records for five years after the state makes final payment and all other pending matters are closed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§4905. Energy Policy and Conservation Act

A. Standards

The contractor hereby recognizes the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with Energy Policy and Conservation Act (P.L. 94-163).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§4907. Legislative Auditor

A. Accounts

It is hereby agreed that the legislative auditor of the state of Louisiana shall have the option of auditing all accounts of subgrantee which relate to this contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§4909. Taxes

A. Payment of Taxes

Subgrantee hereby agrees that the responsibility for payment of taxes from the funds thus received under this agreement shall be said subgrantee's obligation. All federal taxes shall be paid under the federal tax identification number shown on page 1, the signature page of this document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

§4911. Travel Expenses and Reimbursement

A. Travel and other reimbursable expenses shall constitute part of the total maximum payable under this subgrant. Travel expenses shall be reimbursed in accordance with Administrative Policy and Procedure Memorandum 49, the State General Travel Regulations.

B. No more than the amount identified in the travel line items which is included in the total amount payable under this contract shall be paid or received as reimbursement for travel and other reimbursement expenses. Travel shall be reimbursed in

accordance with Division of Administration Policy and Procedure Memorandum 49.

C. If the grantor (the Louisiana Department of Labor) desires to allow the subgrantee to reimburse its employees other than in accordance with rates established in the Division of Administration Policy and Procedure Memorandum 49, The State General Travel Regulations, such reimbursement must be approved in writing by the Louisiana Department of Labor as a waiver of the requirements of PPM 49.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

Chapter 49

§4913. Purchase Requirements

A. All purchases of good and services must comply with R.S. 39, the State Procurement Code, CSBG regulations and all amendments.

B. All purchases of goods and services must be competitive. These purchases may be made directly from the State Contract Bid List or by competitive bid. When the competitive bid is used, the lowest responsive and responsible bidder shall be awarded the contract for services or be the vendor for said purchases. Competitive bid requirements shall be made known through program issuances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 16: (March 1990).

Phyllis C. Mouton
Secretary

RULE

**Department of Environmental Quality
Office of Solid and Hazardous Waste
Hazardous Waste Division**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Louisiana Hazardous Waste Regulations, LAC 33:V., Conformity Regulations III.

This proposed rule corrects omissions and deletes unnecessary words, and makes necessary additions to LAC 33:V.; Sections 105.D.10; 105.D.29; 109; 1109.E.4; 3707.F.1.a.iv, b.ii; b.iv; 3719.F.5; 4105.A; 4377.B; 4377.B.2; 4377.B.3; 4399.A.6.i; 4403.B.4.b; 4403.D.5; 4403.E.1.a.ii; 4403.E.1.a.iv; and 4901.D so that Louisiana Hazardous Waste Regulations will conform to federal regulations.

Title 33

ENVIRONMENTAL QUALITY

**Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality -
Hazardous Waste**

Chapter 1. General Provisions and Definitions

§105. Program Scope

D. Exemptions, Exceptions and/or Modifications to Otherwise Applicable Provisions of These Regulations

10. Household waste, including household waste that has been collected, transported, stored, treated, disposed of, recovered (e.g., refuse-derived fuel) or reused. "Household waste" means any waste material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). A resource recovery facility managing municipal solid waste shall not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under LAC 33:V.105.D if such facility:

- a. receives and burns only household waste (from single and multiple dwellings, hotels, motels, and other residential sources); and
- b. receives and burns solid waste from commercial or industrial sources that does not contain hazardous waste; and
- c. does not accept hazardous wastes and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility.

* * * * *

29. In accordance with the standards and criteria below and the procedures in LAC 33:V.105.K, the administrative authority may determine on a case-by-case basis that the following recycled materials are not solid wastes. The administrative authority may grant requests for a variance from classifying as a solid waste those materials that are reclaimed and then reused as feedstock within the original primary production process in which the materials were generated if the reclamation operation is an essential part of the production process. This determination will be based on the following criteria:

- a. how economically viable the production process would be if it were to use virgin materials, rather than reclaimed materials;
- b. the prevalence of the practice on an industry-wide basis;
- c. the extent to which the material is handled before reclamation to minimize loss;
- d. the time periods between generating the material and its reclamation and between reclamation and return to the original primary production process;
- e. the location of the reclamation operation in relation to the production process;
- f. whether the reclaimed material is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;
- g. whether the person who generates the material also reclaims it;
- h. other relevant factors.

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§109. Definitions

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Solid Waste Definition

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3. Inherently waste-like materials. The following materials are solid wastes when they are recycled in any manner:

* * * * *

b. The administrative authority will use the following criteria to add wastes to that list:

* * * * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 14:791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16: (March 1990).

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Chapter 11. Generators

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§1109. Pre-transport Requirements

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E. Accumulation Time

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4. A generator may accumulate as much as 55 gallons of hazardous waste listed in LAC 33:V.4901.B, C, D, F, or LAC 33:V.4903 or one quart of acutely hazardous waste listed in LAC 33:V.4901.E in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with LAC 33:V.1109.E.1 of this Section provided he complies with LAC 33:V.2103, 2105, 2107.A and marks his containers either with the words "Hazardous Waste" or with other words that identify the contents of the containers.

* * * * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, in LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 16: (March 1990)

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Chapter 37. Financial Requirements

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§3707. Financial Assurance for Closure

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F. Financial Test and Corporate Guarantee for Closure

1. An owner or operator may satisfy the requirements of this Part by demonstrating that he passes a financial test as specified in this Section. To pass this test the owner or operator must meet the criteria of either of the following:

a. The owner or operator must have:

- i. two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and
- ii. net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates; and
- iii. tangible net worth of at least \$10 million; and
- iv. assets in the United States amounting to at least 90 percent of his total assets or at least six times the sum of the current closure and post-closure cost estimates, and the current plugging and abandonment cost estimates.

b. The owner or operator must have:

- i. a current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and
- ii. tangible net worth at least six times the sum of the

current closure and post-closure cost estimates, the current plugging and abandonment cost estimates; and

iii. tangible net worth of at least \$10 million; and

iv. assets located in the United States amounting to at least 90 percent of his total assets or at least six times the sum of the current closure and post-closure cost estimates, and the current plugging and abandonment cost estimates.

2. The phrase current closure and post-closure cost estimates as used in LAC 33:V.3707.F.1 refers to the cost estimates required to be shown in Paragraphs 1-4 of the letter from the owner's or operator's chief financial officer (see LAC 33:V.3719.F) and the current plugging and abandonment cost estimates.

* * * * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, in LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 14:791 (November 1988), LR 16: (March 1990).

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§3719. Wording of the Instruments

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F. Closure Guarantee

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5. This firm is the owner or operator of the following UIC facilities for which financial assurance for plugging and abandonment is required under applicable Louisiana Department of Natural Resources (LDNR) regulations. The current closure cost estimates as required by applicable Louisiana Department of Natural Resources (LDNR) regulations are shown for each facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, in LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:686 (July 1985), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 16: (March 1990).

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Chapter 41. Recyclable Materials

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§4105. Requirements for Recyclable Material

Recyclable materials are subject to additional regulation as follows:

A. Hazardous wastes that are recycled are subject to the requirements for generators, transporters, and storage facilities of Subchapter A (Group I) of this Chapter except for the materials listed in Subsections B and C of this Section. Hazardous wastes that are recycled will be known as "recyclable materials."

* * * * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, in LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August, 1987), LR 16: (March 1990).

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Chapter 43. Interim Status

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§4377. Applicability

Except as LAC 33:V.105.D provides otherwise:

A. LAC 33:V.4379 through 4387 (which concerns closure) apply to the owners and operators of all hazardous waste management facilities; and

B. LAC 33:V.4389 through 4395 (which concerns post-closure care) apply to the owners and operators of

1. all hazardous waste disposal facilities and

2. waste piles, and surface impoundments for which the owner or operator intends to remove the wastes at closure to the extent that these sections are made applicable to such facilities in LAC 33:V.4457 and 4475, and

3. tank systems that are required under LAC 33:V.4441 to meet the requirements for landfills.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, in LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 16: (March 1990).

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§4399. Definitions of Terms as Used in This Subpart

A. General Terms

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6.i. current plugging and abandonment cost estimate

Current plugging and abandonment cost estimate means the most recent of the estimates prepared in accordance with the applicable Louisiana Department of Natural Resources (LDNR) regulations.

* * * * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, in LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 16: (March 1990).

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§4403. Financial Assurance for Closure

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B. Surety Bond Guaranteeing Payment Into a Closure Trust Fund

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4.b. fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin final closure is issued by the administrative authority or a U.S. district court or other court of competent jurisdiction; or

* * * * *

D. Closure Insurance

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5. After beginning final closure, an owner or operator, or any other person authorized to perform closure may request reimbursement for closure expenditures by submitting itemized bills to the administrative authority. The owner or operator may request reimbursements for partial closure only if the remaining value of the policy is sufficient to cover the maximum costs of closing the facility over its remaining operating life. Within 60 days after receiving bills for closure activities, the administrative authority will determine whether the closure expenditures are in accordance with the closure plan or otherwise justified, and if so, he will instruct the insurer to make reimbursement in such amounts as the administrative authority specifies in writing. If the

administrative authority has reason to believe that the cost of closure will be significantly greater than the face amount of the policy, he may withhold reimbursement of such amounts as he deems prudent until he determines, in accordance with LAC 33:V.4403.H, that the owner or operator is no longer required to maintain financial assurance for closure of the facility. If the administrative authority does not instruct the insurer to make such reimbursements, he will provide to the owner or operator a detailed written statement of reasons.

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E. Financial Test and Corporate Guarantee for Closure

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1.a the owner or operator must have:

i. two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

ii. net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates, the current plugging and abandonment cost estimates; and

iii. tangible net worth of at least \$10 million; and

iv. assets in the United States amounting to at least 90 percent of his total assets or at least six times the sum of the current closure and post-closure cost estimates, and the current plugging and abandonment cost estimates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, in LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 14:791 (November 1988), LR 16: (March 1990).

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Chapter 49. Lists of Hazardous Wastes

§4901. Category I Hazardous Wastes

* * * * *

D. Discarded Commercial Chemical Products, Off-Specification Species, Container Residues, and Spill Residues Thereof:

The following materials or items are hazardous wastes if and when they are discarded or intended to be discarded as described in LAC 33:V.109 (definition of solid waste), when they are mixed with waste oil or used oil or other material and applied to the land for dust suppression or road treatment, when they are otherwise applied to the land in lieu of their original intended use or when they are contained in products that are applied to the land in lieu of their original intended use, or when, in lieu of their original intended use, they are produced for use as (or as a component of) a fuel, distributed for use as a fuel, or burned as a fuel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, in LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:320 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16: (March 1990).

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Timothy W. Hardy
Assistant Secretary

RULE

**Department of Environmental Quality
Office of Solid and Hazardous Waste
Hazardous Waste Division**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Louisiana Hazardous Waste Regulations, LAC 33: V., HSWA Cluster I.

This amendment is necessary so that Louisiana Hazardous Waste regulations will conform to the federal HSWA regulations. These rules may be viewed in their entirety at the Office of the State Register, 900 Riverside North (Room 512, Capitol Annex Building), Baton Rouge, LA.

Paul Templet
Secretary

RULE

**Department of Environmental Quality
Office of Solid and Hazardous Waste
Hazardous Waste Division**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Louisiana Hazardous Waste Regulations, LAC 33:V.2241.

This amendment is intended to provide for an exemption to allow land disposal of a prohibited waste by inclusion of approved land treatment as a treatment alternative. This change will incorporate the statutory exemption contained in R.S. 30:2193.D.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality -

Hazardous Waste

Chapter 22. Prohibitions on Land Disposal

* * * * *

§2241. Exemptions to Allow Land Disposal of a Prohibited Waste Except by Deep Well Injection

A. Any person seeking an exemption to allow land disposal except by deep well injection of a prohibited hazardous waste in a particular unit or units must submit a petition to the administrative authority that meets the following requirements:

1. The petition must show that no economically or environmentally reasonable alternative to land disposal is available, and the waste has undergone treatment by being stabilized, solidified, encapsulated, or through approved land treatment technique. No exception shall be granted to a generator for the land disposal of a waste stream if the waste stream can reasonably be eliminated or significantly reduced through waste reduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste,

Timothy W. Hardy
Assistant Secretary

Timothy Hardy
Assistant Secretary

RULE

**Department of Environmental Quality
Office of Solid and Hazardous Waste
Hazardous Waste Division**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Louisiana Hazardous Waste Regulations, LAC 33:V.Chapter 22.

This amendment will redefine "land disposal" so that the definition will coincide with the definition in Act 485 of the 1989 Legislature and 40 CFR 268.2. It will also correct a minor error in format by renumbering Section 2242.D.1.c to 2242.D.2 and 2242.D.2 to 2242.D.3 with no change in wording or text.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality -

Hazardous Waste

Chapter 22. Prohibitions on Land Disposal

§2203. Definitions Applicable to this Chapter

A. When used in this Chapter the following terms have the meanings given below:

Land Disposal - placement in or on the land and includes, but is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt-dome formation, salt-bed formation, underground mine or cave, or placement in a concrete vault or bunker intended for disposal purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16: (March 1990).

§2242. Exemptions to Allow Land Disposal of a Prohibited Waste by Deep Well Injection

D. The demonstration required in Paragraph A.2 of this Section must include sufficient information to assure the administrative authority of the following:

2. Any migration due to diffusion shall be accounted for in the demonstration required under Subparagraph D(1)(a).

3. For each well the petitioner has done the following:

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of

RULE

**Office of the Governor
Division of Administration
Community Development Section**

Louisiana Community Development Block Grant
(LCDBG) Program

(Editor's Note): This is to publish Appendix 3 and Appendix 4 that was inadvertently omitted from the final rule published in the Vol. 16, February 20, 1990 issue of the *Louisiana Register*.

APPENDIX 3

1989 Median Family Income
By Parish and MSA

Parish	1989 Median Family Income	Low/Mod Income* Limit	Low Income* Limit
Acadia	\$ 22,300	\$ 18,700	\$ 11,700
Allen	23,500	18,800	11,750
Ascension	See MSA - Baton Rouge		
Assumption	27,900	22,300	13,600
Avoyelles	17,900	18,700	11,700
Beauregard	26,100	20,900	11,950
Bienville	21,800	18,700	11,700
Bossier	See MSA - Shreveport		
Caddo	See MSA - Shreveport		
Calcasieu	See MSA - Lake Charles		
Caldwell	19,600	18,700	11,700
Cameron	30,800	24,650	13,900
Catahoula	19,100	18,700	11,700
Claiborne	22,900	18,700	11,700
Concordia	22,700	18,700	11,700
DeSoto	23,500	18,800	11,750
East Baton Rouge	See MSA - Baton Rouge		
East Carroll	16,100	18,700	,700
East Feliciana	31,000	24,800	12,500
Evangeline	18,900	18,700	11,700
Franklin	18,500	18,700	11,700
Grant	20,800	18,700	11,700
Iberia	29,200	23,350	14,600
Iberville	33,200	26,550	12,500
Jackson	21,600	18,700	11,700
Jefferson	See MSA - New Orleans		
Jefferson Davis	26,500	21,200	11,950
Lafayette	See MSA - Lafayette		
Lafourche	See MSA - Houma-Thibodaux		
LaSalle	22,800	18,700	11,700
Lincoln	26,300	18,950	11,850
Livingston	See MSA - Baton Rouge		
Madison	16,600	18,700	11,700
Morehouse	20,100	18,700	11,700
Natchitoches	21,000	18,700	11,700
Orleans	See MSA - New Orleans		
Ouachita	See MSA - Monroe		
Plaquemines	31,200	24,950	15,600
Pointe Coupee	28,600	22,900	12,350
Rapides	See MSA - Alexandria		
Red River	19,700	18,700	11,700
Richland	18,800	18,700	11,700

1989 Median Family Income
By Parish and MSA
(Continued)

PARISH	1989 Median Family Income	Low/Mod Income* Limit	Low* Income Limit
Sabine	\$21,300	\$18,700	\$11,700
St. Bernard	See MSA - New Orleans		
St. Charles	See MSA - New Orleans		
St. Helena	21,800	18,700	11,700
St. James	33,900	27,100	15,600
St. John	See MSA - New Orleans		
St. Landry	20,900	18,700	11,700
St. Martin	See MSA - Lafayette		
St. Mary	31,300	25,050	15,650
St. Tammany	See MSA - New Orleans		
Tangipahoa	22,800	18,700	11,700
Tensas	16,200	18,700	11,700
Terrebonne	See MSA Houma - Thibodaux		
Union	21,700	18,700	11,700
Vermilion	24,000	19,200	12,000

Parish	1989 Median Family Income	Low/Mod Income* Limit	Low Income* Limit
Vernon	18,400	18,700	11,700
Washington	21,700	18,700	11,700
Webster	23,500	19,500	12,200
West Baton Rouge	See MSA - Baton Rouge		
West Carroll	16,800	18,700	11,700
W. Feliciana	27,400	21,900	12,350
Winn	18,600	18,700	11,700

*For those parishes which have a median family income less than the State nonmetropolitan median family income (\$23,400), the low/mod income and the low income limits were based on the State nonmetropolitan median family income.

MSA-Metropolitan Statistical Areas

MSA Alexandria ¹	26,500	21,200	13,250
MSA Baton Rouge, LA ²	31,800	25,450	15,900
MSA Houma-Thibodaux, LA ³	29,700	23,750	14,850
MSA Lafayette, LA ⁴	33,800	27,050	16,900
MSA Lake Charles, LA ⁵	32,700	26,150	16,350
MSA Monroe, LA ⁶	27,000	21,600	13,500
MSA New Orleans, LA ⁷	32,600	26,100	16,300
MSA Shreveport, LA ⁸	30,400	24,300	15,200

Footnotes:

- ¹Includes Rapides Parish only.
- ²Includes East Baton Rouge, West Baton Rouge, Livingston, and Ascension Parishes.
- ³Includes Terrebonne and Lafourche Parishes.
- ⁴Includes St. Martin and Lafayette Parishes.
- ⁵Includes Calcasieu Parish only.
- ⁶Includes Ouachita Parish only.
- ⁷Includes Jefferson, Orleans, St. Tammany, St. Bernard, St. John the Baptist, and St. Charles Parishes.
- ⁸Includes Caddo and Bossier Parishes.

Source: Income data provided by U. S. Department of Housing and Urban Development, December 1, 1988.

APPENDIX 4

1980 Median Family Income
By Parish and MSA

Parish	1980 Median Family Income	LOW/MOD INCOME LIMIT		LOW INCOME LIMIT	
		Families	Unrelated Individuals	Families	Unrelated Individuals
Acadia	\$ 15,792	\$12,634	\$ 8,844	\$ 7,896	\$ 5,527
Allen	15,685	12,548	8,784	7,842	5,489
Ascension	21,572	17,258	12,080	10,786	7,550
Assumption	17,334	13,867	9,707	8,667	6,067
Avoyelles	11,987	9,590	6,713	5,994	4,196
Beauregard	17,417	13,934	9,754	8,709	6,096
Bienville	13,850	11,080	7,756	6,925	4,848
Bossier	See MSA-Shreveport				
Caddo	See MSA-Shreveport				
Calcasieu	See MSA-Lake Charles				
Caldwell	12,624	10,099	7,069	6,312	4,418
Cameron	20,562	16,450	11,515	10,281	7,197
Catahoula	12,770	10,216	7,151	6,385	4,470
Claiborne	14,538	11,630	8,141	7,269	5,088
Concordia	15,208	12,166	8,516	7,604	5,323
DeSoto	14,887	11,910	8,337	7,444	5,211
E. Baton Rouge	See MSA-Baton Rouge				
East Carroll	10,388	8,310	5,817	5,194	3,636
East Feliciana	16,184	12,947	9,063	8,092	5,664
Evangeline	12,540	10,032	7,022	6,270	4,389
Franklin	11,937	9,550	6,685	5,969	4,178
Grant	See MSA-Alexandria				
Iberia	19,268	15,414	10,790	9,634	6,744
Iberville	17,340	13,872	9,710	8,670	6,069
Jackson	13,919	11,135	7,795	6,960	4,872
Jefferson	See MSA-New Orleans				
Jefferson Davis	17,657	14,126	9,888	8,829	6,180
Lafayette	See MSA-Lafayette				
Lafourche	19,947	15,958	11,170	9,974	6,982
LaSalle	15,250	12,200	8,540	7,625	5,338
Lincoln	16,660	13,328	9,330	8,330	5,831
Livingston	See MSA-Baton Rouge				
Madison	10,679	8,543	5,980	5,340	3,738
Morehouse	12,949	10,359	7,251	6,475	4,533
Natchitoches	13,343	10,674	7,472	6,672	4,670
Orleans	See MSA-New Orleans				
Ouachita	See MSA-Monroe				
Plaquemines	19,884	15,907	11,135	9,942	6,959
Pointe Coupee	14,913	11,930	8,351	7,457	5,220
Rapides	See MSA-Alexandria				
Red River	12,482	9,986	6,990	6,241	4,369
Richland	12,112	9,690	6,783	6,056	4,239
Sabine	13,519	10,815	7,571	6,760	4,732

1980 Median Family Income
By Parish and MSA
(Continued)

Parish	1980 Median Family Income	LOW/MOD INCOME LIMIT		LOW INCOME LIMIT	
		Families	Unrelated Individuals	Families	Unrelated Individuals
St. Bernard	See MSA - New Orleans				
St. Charles	\$23,223	\$18,578	\$13,005	\$11,612	\$8,128
St. Helena	11,370	9,096	6,367	5,685	3,980
St. James	21,044	16,835	11,785	10,522	7,365
St. John the Baptist	21,818	17,454	12,218	10,909	7,636
St. Landry	13,893	11,114	7,780	6,947	4,863
St. Martin	16,612	13,290	9,303	8,306	5,814
St. Mary	20,688	16,550	11,585	10,344	7,241
St. Tammany	See MSA - New Orleans				
Tangipahoa	14,315	11,452	8,016	7,158	5,011
Tensas	10,447	8,358	5,850	5,224	3,657
Terrebonne	20,918	16,734	11,714	10,459	7,321
Union	14,027	11,222	7,855	7,014	4,910
Vermilion	16,951	13,561	9,493	8,476	5,933
Vernon	12,951	10,361	7,253	6,476	4,533
Washington	13,641	10,913	7,639	6,821	4,775
Webster	See MSA - Shreveport				
West Baton Rouge	See MSA - Baton Rouge				
West Carroll	10,807	8,646	6,052	5,404	3,783
West Feliciana	14,289	11,431	8,002	7,145	5,002
Winn	12,445	9,956	6,969	6,223	4,356

MSA-Metropolitan Statistical Areas

Alexandria, LA ¹	\$15,741	\$12,593	\$8,815	\$7,871	\$5,510
Baton Rouge, LA ²	21,301	17,041	11,929	10,651	7,456
Lafayette, LA ³	21,472	17,178	12,024	10,736	7,515
Lake Charles, LA ⁴	21,316	17,053	11,937	10,658	7,461
Monroe, LA ⁵	17,140	13,712	9,598	8,570	5,999
New Orleans, LA ⁶	19,196	15,357	10,750	9,598	6,719
Shreveport, LA ⁷	18,158	14,526	10,168	9,079	6,355

Footnotes:

- ¹Includes Rapides and Grant Parishes.
- ²Includes East Baton Rouge, West Baton Rouge, Livingston, and Ascension Parishes.
- ³Includes Lafayette Parish only.
- ⁴Includes Calcasieu Parish only.
- ⁵Includes Ouachita Parish only.
- ⁶Includes Jefferson, Orleans, St. Bernard, and St. Tammany Parishes.
- ⁷Includes Bossier, Caddo, and Webster Parishes.

Source: 1980 Census and Formula provided by U. S. Department of Housing and Urban Development.

Dennis Stine
Commissioner

RULE

**Department of Health and Hospitals
Board of Veterinary Medicine**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1511 et seq., notice is hereby given that the Louisiana Board of Veterinary Medicine adopted rules as follows:

Title 46

**PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXXXV. Veterinarians**

Chapter 1. Board of Veterinary Medicine

§101. Information, Agency Office, Request for Rules or Action

A. The board shall maintain its principal office in Baton Rouge, Louisiana, where the records of the board shall be maintained for public inspection by any interested parties during regular office hours.

B. Persons requesting information concerning board activities; wishing to request adoption, amendment or repeal of rules; seeking to institute disciplinary proceedings; having other business of whatever kind or character before the board may do so at the principal office of the board in writing or in person during regular business hours.

C. Notices of board meetings, proposed rules, and all other information concerning the activities, functions and actions of the board shall be available for public inspection at the principal office of the board during regular business hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:66 (February 1982), amended LR 16: (March 1990).

§103. Meetings

A. The annual meeting of the Louisiana Board of Veterinary medicine shall be on the fourth Friday in May of each year, at a time and place to be announced by posting public notice of the time and place of said meeting 24 hours in advance of such meeting at the permanent office of the Louisiana Board of Veterinary Medicine in Baton Rouge, Louisiana.

B. Additional meetings of the board may be called by the president or any three members of the board and may be announced by posting a notice of the date, time and place of such meeting, at least 24 hours in advance thereof, at the permanent office of the board located in Baton Rouge, Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:65 (February 1982), amended LR 16: (March 1990).

§105. Appeals and Review

A. Any applicant desiring to review his or her national examination and/or the master answer sheet and/or the examination questions shall make arrangements with the National Board of Veterinary Medical Examiners and/or any person, firm, corporation or entity charged with the preparation, grading and/or administration of the national examination by the National Board of Veterinary Medical Examiners for such review. The Louisiana Board of Veterinary Medicine shall not conduct reviews of the questions contained on the national examination, the answers to the questions contained on the national examination, or any applicant's score on the national examination.

B. 1. Any person aggrieved by a decision of the board, other than a licensee against whom disciplinary proceedings have been brought pursuant to R.S. 37:1526, may, within 30 days of notification of the board's action or decision, petition the board for a review of the board's actions.

2. Such petition shall be in the form of a letter, signed by the person aggrieved, and mailed to the board at its principal office.

3. Upon receipt of such petition, the board then may proceed to take such action as it deems expedient or hold such hearings as may be necessary, and may review such testimony and/or documents and/or records as it deems necessary to dispose of the matter, but the board shall not, in any event, be required to conduct any hearings or investigations, or consider any offerings, testimony or evidence unless so required by statute or other rules or regulations of the board.

C. Any licensee against whom disciplinary proceedings have been instituted and against whom disciplinary action has been taken by the board pursuant to R.S. 37:1526 shall have

rights of review and/or rehearing and/or appeal in accordance with the terms and provisions of the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:66 (February 1982), amended LR 16: (March 1990).

Chapter 3. Licensure Procedures

§301. Applications for License

A. The application for licensure to practice veterinary medicine in the State of Louisiana shall be in writing, signed by the applicant, contain the information set forth in R.S. 37:1520(A), and shall include a sworn affidavit that the applicant has not practiced veterinary medicine in this state without a license, temporary permit, or exception from licensure as provided by R.S. 37:1514 for the two-year period immediately prior to the date of application.

B. In addition to the above requirements, the board may also require that any applicant furnish the following information:

1. a current passport-type photograph of the applicant;

2. an official transcript of the applicant's veterinary school records;

3. a copy of the applicant's diploma from an accredited veterinary medical school;

4. a certificate by the applicant that the applicant has not been arrested or indicted for or been convicted, pled guilty, or pled nolo contendere to either a felony or misdemeanor, other than minor traffic violations; and, in the event that the applicant is unable to so certify, the board may require the applicant to explain in full and/or provide further documentation;

5. a certificate that the applicant has never had his or her license to practice veterinary medicine revoked, suspended or denied in any state, territory, or district of the United States; and, in the event that the applicant is unable to so certify, the board may request or require full explanation and/or documentation concerning such revocation, suspension, or denial;

6. a list of the veterinary licenses which the applicant currently holds;

7. the certified score on any previous national examinations or state examinations (whether Louisiana state examinations or state examinations from other states) previously taken by the applicant;

8. a list of licensed veterinarians for reference and/or letters of recommendation from licensed veterinarians, furnished for the purpose of determining the applicant's professional capabilities and ethical standards;

9. a certificate that the applicant has received and read the Louisiana Veterinary Practice Law and the rules and regulations promulgated by the board; and

10. in order for a foreign veterinary school graduate to be admitted to take an examination, a copy of an "Educational Commission for Foreign Veterinary Graduates" or "ECFVG" certificate.

C. The board may require such application to be sworn to by the applicant, notarized, or attested to by the applicant under penalty of perjury.

D. The board may reject any application which does not contain full and complete answers and/or information as requested, and may reject any application if any of the information furnished in the application is fabricated, false, misleading or incorrect.

E. The board shall reject the application of an applicant

who has practiced veterinary medicine in this state without a license, temporary permit, or exception from licensure as provided by R.S. 37:1514, during the two-year period immediately prior to the date of application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:66 (February 1982), amended LR 10:464 (June 1984), LR 16: (March 1990).

Chapter 4. Continuing Veterinary Education

§401. Purpose

The Louisiana Board of Veterinary Medicine, recognizing that a veterinarian's competency is a safeguard for public health and the safety and welfare of the citizens of the State of Louisiana, hereby adopts the following continuing veterinary education requirements as a prerequisite for veterinary re-licensure. All such educational programs shall be designed to keep the members of the profession abreast with current learning and scholarship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§403. Definitions

A. "Continuing veterinary education" is defined herein as accredited experiences obtained from participation in post-graduate veterinary studies, institutes, seminars, lectures, conferences, workshops, and other authorized forms of educational experiences so as to maintain and improve professional competencies for the health, welfare, and safety of the citizens of the State of Louisiana.

B. "Continuing veterinary education units" are units of measure adopted by the American Veterinary Medical Association and approved by the Louisiana Board of Veterinary Medicine for the purpose of accreditation of various continuing veterinary education activities. One continuing veterinary education unit is equivalent to 10 hours of activity.

C. "American Veterinary Medical Association (AVMA)" is the recognized organization for veterinary education standards.

D. "Contact participation" consists of physical attendance at seminars, lectures, conferences, or workshops.

E. "Graduate licensee" shall mean a person whose first license to practice veterinary medicine was granted by the Louisiana Board of Veterinary Medicine on or after July 1, 1988.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§405. Continuing Veterinary Education Requirements

A minimum of 16 continuing veterinary education units (16 actual hours) is required each year as a prerequisite for re-licensure on and after the third anniversary of the licensure of each graduate licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§407. Courses

All courses accredited by the American Veterinary Medi-

cal Association (AVMA) and/or approved by the Louisiana Board of Veterinary Medicine which are veterinary oriented may be accepted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§409. Limitation on Continuing Veterinary Education Qualifications

All continuing veterinary education units must be obtained during the fiscal year prior to re-licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§411. Approved Continuing Education Programs

It shall be the duty of the Louisiana Board of Veterinary Medicine to approve all continuing veterinary education programs for which credit shall be given to Louisiana licensed veterinarians, as follows:

A. All contact participation programs accredited by the American Veterinary Medical Association and/or approved by the Louisiana Board of Veterinary Medicine may be accepted as follows:

1. Seminars
2. Lectures
3. Conferences
4. Workshops

B. Programs offered by the Louisiana Veterinary Medical Association and approved by the Louisiana Board of Veterinary Medicine may be accepted.

C. All programs must be approved by the Louisiana Board of Veterinary Medicine prior to presentation.

D. Programs requiring approval should be submitted to the Louisiana Board of Veterinary Medicine at least 90 days prior to proposed presentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§413. Responsibility

A. Each veterinarian shall certify that he has completed the minimum requirements of continuing veterinary education for re-licensure under this Chapter on the forms provided by the Louisiana Board of Veterinary Medicine.

B. Each veterinarian shall maintain individual records of personal continuing veterinary education activities. Such records shall include AVMA or other program identification, program title, date of program completion, and credit claimed. This continuing veterinary education file shall be maintained by each individual veterinarian for a period of not less than three years. Each veterinarian must produce this file as evidence of continuing veterinary education when required by the Louisiana Board of Veterinary Medicine.

C. In the event a veterinarian is unable to achieve continuing veterinary education as required due to extraordinary circumstances, he or she shall submit to the Louisiana Board of Veterinary Medicine a written notarized explanation of the circumstances for approval or disapproval by the Louisiana Board of Veterinary Medicine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§415. Certification

The board may appoint the Louisiana Veterinary Medical Association (LVMA) as its agent to certify compliance with the continuing education requirement and may authorize the LVMA to charge a reasonable fee for its services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§417. Fees

Each license holder must fulfill his annual education requirements at his own expense. Any registration fee(s) for his annual continuing veterinary education requirements is not included in the annual license fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§419. Non-Compliance

A. Complete compliance with these rules (Chapter 4) is a prerequisite for renewal of a veterinarian's license on and after July 1, 1989.

B. Non-compliance with these rules shall be considered to be a violation of R.S. 37:1526(14).

C. Failure to maintain proper records of continuing veterinary education or falsifying certification shall be considered a violation of R.S. 37:1526(14) and (15).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

Chapter 7. Veterinary Practice

§701. Record Keeping

A. It shall be considered unprofessional conduct within the meaning of Section 1526(14) for a licensed veterinarian to keep improper records. Records should be established and maintained as follows:

1. Each Louisiana licensed veterinarian shall maintain an individual record on each animal to include, but not limited to, the following:

a. Name, breed, sex, description, permanent identification (if available), tattoos or other identifying marks, name of owner, complaint, diagnosis, therapy, surgical procedures and disposition of the case.

b. Records shall be maintained for at least five years, including records of large animal and/or herd type practice.

2. Radiographs shall be kept in the following manner:

a. Marker must have name of hospital and/or clinician.

b. Marker must have identification of the animal, i.e.; number and/or owner's name.

c. Marker must have date radiograph was made.

d. Radiograph must be properly identified with "L" for left and "R" for right.

e. Radiograph must be kept for at least three years.

B. Patient records shall be maintained for a period of five

years and are the responsibility and property of the veterinarian. The veterinarian shall maintain such records and shall not release the records to any person other than the client or a person authorized to receive the records for the client.

C. Nothing herein contained is intended to repeal, modify, or otherwise affect existing rules and regulations of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 6:71 (February 1980), amended LR 16: (March 1990).

§702. Direct Supervision

The board's position on non-licensees performing chiropractic, acupressure, acupuncture, and equine dentistry ("defined as extracting wolf teeth from horses and as floating the teeth of horses") treatments on animals is:

The foregoing may be performed by a non-licensee only under the direct supervision of a licensed veterinarian. "Direct Supervision" includes:

a. The licensed veterinarian must have established a valid veterinarian-client-relationship.

b. The treatment must be performed on the order or prescription of a licensed veterinarian.

c. The licensed veterinarian must be available on the premises, and

d. The licensed veterinarian must assume liability for any treatment performed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§703. Consultant

The term "consulting" as used in Section 1514(4) does not include any acts which constitute the practice of veterinary medicine as defined in Section 1513(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:65 (February 1982), amended LR 16: (March 1990).

§705. Prescribing and Dispensing Drugs

A licensed veterinarian shall not prescribe or dispense, deliver, or order delivered any of the following:

A. Any drug or medicinal agent carrying the legend "Federal (USA) law restricts this drug to use by or on the order of a licensed veterinarian" to be administered to animals with which he has not established a veterinarian-client-patient relationship.

B. Any controlled substance, as defined by the U.S. Food and Drug Administration, without first having established a veterinarian-client-patient relationship by having personally examined the individual animal, herd, or a representative segment or a consignment lot thereof, and determined that such controlled substance is therapeutically indicated following said examination.

C. "Veterinarian-client-patient relationship" means that:

1. The veterinarian has assumed the responsibility for making medical judgments regarding the health of the animal(s) and the need for medical treatment, and the client (owner or duly authorized agent) has agreed to follow the instructions of the veterinarian.

2. The veterinarian has sufficient knowledge of the animal(s) to initiate at least a general or preliminary diagnosis of the

medical condition of the animal(s). This means that the veterinarian or associate veterinarian has recently seen and is personally acquainted with the keeping and care of the animal(s) by virtue of an examination of the animal(s), and/or the animal's records, and/or by medically appropriate and timely visits to the premises where the animal(s) is (are) kept.

3. The practicing veterinarian is readily available for follow-up in the event of adverse reactions or the failure of the regimen of therapy.

D. Records shall be maintained in accordance with LAC 46:LXXXV.701.

E. Any veterinarian who violates this rule shall be guilty of unprofessional conduct within the meaning of §1526(14).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 6:71 (February 1980), amended LR 16: (March 1990).

§706. Labelling of Medications Dispensed

It is the responsibility of the veterinarian to label all medications and/or other veterinary products as dispensed. This label must include:

- a. name, address and telephone number of clinic;
- b. name of veterinarian dispensing medication;
- c. patient name;
- d. name of medication and/or other veterinary product dispensed;
- e. quantity and strength of product;
- f. directions for administration;
- g. date dispensed; and
- h. precautionary statements as required by law i.e., not for human consumption, poisonous, etc.

It is the obligation of the veterinarian to maintain these records for a period of five years, and such records must be maintained in the patient's file or in a separate file exclusively for drugs, chemicals or medications sold and/or dispensed by the veterinarian with the exception of bona fide samples dispensed at no cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

Chapter 8. Registered Veterinary Technicians

§801. Applications for Certificates of Approval

A. The application for a certificate of approval for a registered veterinary technician in the State of Louisiana shall be in writing, signed by the applicant, contained the information set forth in R.S. 37:1543 and shall include a sworn affidavit that the applicant has not practiced veterinary medicine in this state without a license, temporary permit, or exception from certification as provided by R.S. 37:1543.

B. In addition to the above requirements the board may also require that any applicant furnish all of the following information:

1. a current passport-type photograph of the applicant;
2. an official transcript of the applicant's high school records;
3. an official transcript of the applicant's veterinary technology school records;
4. a copy of the applicant's diploma from the veterinary technology school of graduation;
5. a certificate by the applicant that the applicant has not

been arrested or indicted for or been convicted, pled guilty, or pled nolo contendere to either a felony or misdemeanor, other than minor traffic violations; and, in the event that the applicant is unable to so certify, the board may require the applicant to explain in full and/or provide further documentation;

6. a certificate that the applicant has never had his or her certificate as a registered veterinary technician in veterinary medicine revoked, suspended or denied and, in the event that the applicant is unable to so certify, the board may request or require full explanation and/or documentation concerning such revocation, suspension, or denial;

7. a list of all certificates or licenses that the applicant currently holds and/or has held;

8. the certified score on any previous national examinations or state examinations (whether Louisiana state examinations or state examinations from other states) previously taken by the applicant;

9. a list of licensed veterinarians for reference and/or letters of recommendation from licensed veterinarians, furnished for the purpose of determining the applicant's professional capabilities and ethical standards;

10. a certificate that the applicant has received and read the Louisiana Veterinary Practice Law and the rules and regulations promulgated by the board.

C. The board may require such application to be sworn to by the applicant, notarized, or attested to by the applicant under penalty of perjury.

D. The board may reject any applications which do not contain full and complete answers and/or information as requested and may reject any application if any information furnished in the application is fabricated, false, misleading, or incorrect.

E. The board shall reject the application of an applicant who has practiced veterinary medicine or veterinary technology in this state without a license, temporary permit, exception, or certificate of approval as provided by R.S. 37:1543, during the two-year period immediately prior to the date of application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1549.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§803. Examinations

A. The Louisiana Board of Veterinary Medicine hereby adopts the examination prepared by the Veterinary Technicians Testing Committee and the AVMA (hereafter referred to as the "veterinary technician national examination" or VTNE), and hereby requires that all applicants for licensure to practice as registered veterinary technicians in the State of Louisiana shall pass this national examination in addition to any and all state examinations (herein defined as such written examinations, oral interviews, and/or practical demonstrations as the board may request or require.)

B. A passing score on the VTNE shall be deemed to be the correct answering of 70 percent of the questions contained on the examination, less than one standard deviation. The standard deviation shall be based upon the so called "nationwide criterion group," as the group is defined by Professional Examination Service or such other firm, corporation, or entity as may be charged by the American Veterinary Medical Association with the duty of formulating, administering, and grading the VTNE. The standard deviation shall be computed separately for each group of examinees taking the VTNE. The definition of the na-

tionwide criterion group as applied by Professional Examination Service or such other person, form, or entity as may be charged by the AVMA with the formulation, administration and grading of the national exam is hereby adopted by the board; and the calculation of the standard deviation by Professional Examination Service or such other person, firm, or entity as may be charged by the AVMA with the formulation, administration, and grading of the VTNE, shall be conclusive.

C. A passing score on the state practical for veterinary technicians shall be deemed to be the correct answering of at least 70 percent of the questions on the state examination.

D. The administration of the VTNE shall be in accordance with rules, practices, policies or procedures prescribed by the Veterinary Technician Testing Committee or by the designees of the Veterinary Technician Testing Committee or by any person or persons with whom the American Veterinary Medical Association may have contracted to administer said exam. The VTNE may be administered by members of the Louisiana Board of Veterinary Medicine or any of the agents, employees, or designees of the board.

E. The state practical examination for veterinary technicians may be prepared, administered and graded by the members of the Louisiana Board of Veterinary Medicine or may be prepared, administered, and/or graded, in whole or in part, by any person, firm, corporation or other entity selected, requested or designated to do so by the Louisiana Board of Veterinary Medicine.

F. In order to receive a certificate to practice as a registered veterinary technician in the State of Louisiana, an applicant must pass both the VTNE and the state practical.

G. A passing score on either required examination will be given effect for a period of three years. Should an applicant pass one of the required examinations but fail to pass the other required examination for a period of three years, such applicant will thereafter be required to pass both examinations notwithstanding such applicant's previous passing of one of the required examinations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1549.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§805. Certificates Without Examination

The board shall not issue certificates of approval without examination under any circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1549.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§807. Temporary Permits

The board shall not issue temporary permits for certificates of approval under any circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1549.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§809. General Fees

The board hereby adopts and establishes the following fees for Veterinary Technicians:

A. Examination fee, per examination, state or national \$125

B. Original registration fee \$ 25

C. Annual renewal of certificate fee \$ 25

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1549.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§811. Certificate Renewal; late charge

A. All certificates of approval shall expire annually at midnight June 30th of each year and shall be renewed by making application for renewal of a certificate of approval with the board and by payment of the annual registration renewal fee established by the board. On or before April 1st of each year, the secretary-treasurer shall mail a notice to each registered veterinary technician that his certificate will expire on June 30th and provide him with a form for re-registration. The secretary-treasurer shall issue a new certificate of approval to any person renewing his certificate under this Chapter.

B. The annual renewal registration must be countersigned by the employing licensed veterinarian.

C. Any request of application for renewal of a certificate of approval and/or any payment of the annual registration renewal fee established by the board, which is received after midnight June 30th of each year, shall be subject to all accrued fees and an additional charge of \$10 for renewal of a certificate of approval per fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1549.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§813. Revoked Certificate

A. A registered veterinary technician whose certificate has been revoked under the provision of §1544(B) may be reinstated by the board after proof that the failure to renew was not a willful or evasive act upon payment of the accrued fees and a penalty imposed by the board not exceeding twice the amount of delinquent fees.

B. Any certificate that was revoked for those causes enumerated in §1544(1-12) shall be brought before the board.

C. The identifying number of a revoked certificate of approval shall not be issued to any person other than the original applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1549.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§815. Appeals and Review

A. Any applicant for a certificate of approval desiring to review his or her national examination and/or the master answer sheet and/or the examination questions shall make arrangements with the Veterinary Technicians Testing Committee and/or any person, firm, corporation or entity charged with the preparation, grading and/or administration of the Veterinary Technicians National Examination by the Veterinary Technicians Testing Committee for such review. The Louisiana Board of Veterinary Medicine shall not conduct reviews of the questions contained on the national examination, the answers to the questions contained on the national examination, or any applicant's score on the national examination.

B. Any person aggrieved by a decision of the board, other than a holder of certificate of approval against whom disci-

plinary proceedings have been brought pursuant to R.S. 37:1544-48 may, within 30 days of notification of the board's action or decision petition the board for a review of the board's actions.

C. A petition shall be in the form of a letter, signed by the person aggrieved, and mailed to the board at its principal office located in Baton Rouge, Louisiana.

D. Upon receipt of such petition, the board then may proceed to take such action as it deems expedient or hold such hearings as may be necessary, and may review such testimony and/or documents and/or records as it deems necessary to dispose of the matter, but the board shall not, in any event, be required to conduct any hearings or investigations, or consider any offerings, testimony, or evidence unless so required by statute or other rules or regulations of the board.

E. Any registered veterinary technician against whom disciplinary proceedings have been instituted and against whom disciplinary action has been taken by the board pursuant to R.S. 37:1544-48, shall have rights of review and/or rehearing and/or appeal in accordance with the terms and provisions of the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1549.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

Chapter 9. Peer Assistance Program for Impaired Veterinarians

§901. Purpose

The purpose of the program is to identify and assist licensed veterinarians and para-professionals impaired by chemical dependency on drugs or alcohol or by mental illness and to establish a peer assistance program in conjunction with a state or national professional association and to report findings to the Louisiana Board of Veterinary Medicine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§903. Terms used in the Program

The following terms are used in the program of impaired veterinarians:

A. "Impaired veterinarian" means a veterinarian licensed by the Louisiana Board of Veterinary Medicine whose ability to perform professional services is impaired by chemical dependency on drugs or alcohol or by mental illness.

B. "Para-professional" means a registered veterinary technician or a certified euthanasia technician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§905. Reporting Instances of Impairment

A. If a person knows or suspects that an individual is impaired by chemical dependency on alcohol or drugs or by mental illness, the person may report the individual's name and any relevant information to an approved peer assistance program.

B. An approved peer assistance program shall report to the Louisiana Board of Veterinary Medicine in writing the name of a veterinarian or para-professional that the program knows or

suspects to be impaired and any relevant information concerning that veterinarian or para-professional.

C. An approved peer assistance program that receives a report of referral under this Section may intervene to assist the impaired veterinarian or para-professional to obtain and complete successfully a course of treatment and rehabilitation.

D. If the Board of Veterinary Medicine receives an initial complaint relating to an impaired veterinarian or para-professional, the board:

1. may refer the veterinarian or para-professional to an approved peer assistance program or;

2. may require the veterinarian or para-professional to participate in or complete successfully a course of treatment or rehabilitation;

3. shall maintain separate records on all inquiries and referrals in connection with the peer assistance program in accordance with L.R.S. 37:1518(B) of the Louisiana Veterinary Practice Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§907. Enrollment in Program

An impaired veterinarian or para-professional who enrolls in an approved treatment program shall enter into an agreement with the board authorizing appropriate board action if the veterinarian or para-professional does not remain in the program. The professional's license shall be suspended or revoked; but enforcement of the suspension or revocation may be stayed for the length of time the professional remains in the program and makes satisfactory progress to completion, complies with the terms of the agreement, and adheres to any limitations on his or her practice imposed by the board to protect the public. Failure to enter into such an agreement shall disqualify the veterinarian or para-professional from the peer assistance program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

Chapter 10. Rules of Professional Conduct

§1001. Purpose and Scope

The Rules of Professional Conduct shall govern the professional conduct of the members of the veterinary profession in the State of Louisiana. These rules of professional conduct shall be cumulative of all laws of the State of Louisiana relating to the professional conduct of veterinarians and to the practice of veterinary medicine in this state.

If any provision of these rules or the application thereof to any person or circumstances is held invalid, this invalidity shall not affect other provisions or applications of the rules which can be given effect without the invalid provisions or applications; and to this end, the provisions of these rules are declared severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1003. Conflicting Interest

It is unprofessional conduct and a violation of these rules to represent conflicting interests, except by express consent of all concerned given after a full disclosure of the facts. Within the

meaning of this rule, a veterinarian represents conflicting interests if, when employed by a buyer to inspect an animal for soundness, he accepts a fee from the seller. Acceptance of a fee from both the buyer and seller shall be deemed prima-facie evidence of fraud.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1005. Encroachments Upon Another's Practice

Any effort, direct or indirect, which in any way encroaches upon the practice of another veterinarian is a violation of these rules. It is the right of any veterinarian, without fear or favor, to give proper advice to those seeking relief against unfaithful or neglectful veterinary services, generally after communication with the veterinarian of whom complaint is made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1007. Corrupt or Dishonest Conduct

Veterinarians shall expose, without fear or favor, before the proper tribunal or the Louisiana Board of Veterinary Medicine corrupt or dishonest conduct in the profession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1009. Professional Responsibility

A veterinarian upon his own responsibility must decide what employment he will accept in his professional capacity and what course of treatment will be followed once he has accepted employment. The responsibility for advising questionable or unusual treatments rests upon the veterinarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1011. Service Under the Law

No veterinarian shall render any service or advice involving disloyalty under the law. A veterinarian must also observe and advise his client to observe the statutory law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1013. Corruption, Deception, or Betrayal of the Public

A veterinarian shall not render any service or advice directed toward the corruption of any person or persons exercising a public office or private trust or directed toward the deception or betrayal of the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1015. Partnerships

In the formation of partnerships for the practice of veteri-

narian medicine, no person shall be admitted as a partner who is not a member of the veterinarian profession, duly licensed to practice in this state, and amenable to professional discipline. No person shall be held out as a practitioner of veterinary medicine or a member of the firm who is not so admitted. In the selection and use of a firm name, no false misleading name shall be used. Partnerships between veterinarians and members of other professions or nonprofessional persons shall not be formed or permitted if a part of the partnership employment consists of the practice of veterinary medicine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1017. Professional Services

The professional services of a veterinarian shall not be controlled or exploited by any lay agency, personal or corporate, which intervenes between the client and the veterinarian. A veterinarian's responsibilities and qualifications are individual. He shall avoid all relations which direct the performance of his duty by or in the interest of such intermediary. A veterinarian's relation to his client is personal, and his responsibility shall be direct to the client or his authorized agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1019. Employment

It shall be dishonest for a licensed veterinarian to accept employment from a nonlicensed person, company, firm, or corporation for the purpose of the sale of his professional services to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1021. Display of License

Each veterinarian shall have posted or displayed at his office in full view of his clients, his original Louisiana license to practice veterinary medicine and his current year's license renewal certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1023. Degree of Treatment

Veterinarians shall exercise the same degree of care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in the locality or community in which they practice or in similar communities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1025. Display of Degree

A licensed veterinarian shall not use or display any college degree, certificate, or title granted by any institution not

approved by the Louisiana Board of Veterinary Medicine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1027. Use of Titles

A licensed veterinarian shall not use any certificate, college degree, or title to which he is not entitled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1029. Promoting Unlicensed Person; Unethical Activity

A licensed veterinarian shall not promote, aid, or abet the practice of veterinary medicine by an unlicensed person, or any illegal or unethical act on the part of any veterinarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1031. Direct Supervision of Laymen

A. A licensed veterinarian shall not allow an unlicensed person to issue certificates with the veterinarian's signature affixed thereto, nor shall he permit an unlicensed person to inoculate or treat animals unless the issuance of the certificate and the inoculation or treatment is done under the direct supervision of the licensed veterinarian; provided however, an unlicensed individual shall not perform the following health care services: surgery; diagnosis and prognosis of animal diseases, prescribing of drugs, medicine, and appliances for domestic animals.

B. "Direct Supervision" shall mean the supervision of those tasks or procedures that do not require the presence of a licensed veterinarian in the room where performed, but require the presence on the premises and availability for prompt consultation and treatment.

C. "Direct Visual Supervision" shall mean the supervision of those tasks or procedures that do require the presence of a licensed veterinarian in the room where performed.

D. "Intern/Preceptee" are those individuals who are unlicensed veterinarians or full-time students of an accredited college of veterinary medicine who are on a board approved or a college intern or preceptee program and who may perform surgery; diagnose and make prognoses of animal diseases; prescribe drugs, medicine, and appliances for domestic animals if done under the direct visual supervision of the licensed veterinarian employing the individual, but only for the period of time allotted for the intern or preceptee program by the board or college of veterinary medicine which the student attends.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1033. Certificate of Health

A licensed veterinarian in this state shall not issue a certificate of health unless he shall know of his own knowledge by actual inspection and appropriate tests of the animal that said animal meets the requirements for the issuance of such certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1035. Assurances to Clients

It is professionally dishonest for a licensed veterinarian to guarantee a cure. A veterinarian must avoid bold and confident assurances to clients, especially where the employment may depend upon such assurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1037. Humane Treatment and Care

A licensed veterinarian shall treat all animals entrusted to him by his clients in keeping with the professional standards of humane treatment and care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1039. Conduct of one's Practice

A licensed veterinarian shall conduct his practice on the highest plane of honesty, integrity, and fair dealing with his clients in time and services rendered and in the amount charged for his services, facilities, appliances, and drugs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1041. Confidential Relationship

A licensed veterinarian shall not violate the confidential relationship between himself and his client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1043. Testimonials

A licensed veterinarian shall not write testimonials as to the virtue of or endorse proprietary remedies, instruments, equipment, or food except to report the results of properly controlled experiments of clinical studies, such reports to be submitted only to scientific journals and/or meetings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1045. Solicitors

Utilization of the services of solicitors is reprehensible in the veterinary profession. A licensed veterinarian shall not participate in arrangements which share the proceeds from professional services with individuals who may have been instrumental in his having been selected to perform the particular service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1047. Professional Advantage

Any veterinarian who uses present or past position or office of trust deliberately to create for himself any individual professional advantage or to coerce, or to deceive the public shall be in violation of the rules of professional conduct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1049. Sanitation Requirements

A licensed veterinarian is required to maintain his entire premises in such state of sanitation as to comply with the Public Health requirements of the city and/or parish in which located and/or the Public Health laws of the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1051. Removal of Accreditation

A licensed veterinarian whose accreditation has been or is subject to being revoked or removed by State or Federal authority may be subject to disciplinary action by the Louisiana Board of Veterinary Medicine upon proof of the acts or omissions constituting the grounds for removal or revocation of his accreditation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1053. Corporate Names

The following provisions shall govern the selection and use of corporate or assumed names in the veterinary profession:

A. The name shall include a combination of words, "animal or veterinary" in connection with the words, "hospital or clinic".

B. The name shall exclude the advertising of special services such as: boarding, grooming, clipping, or any special service, professional or nonprofessional.

C. In the event the clinic is incorporated without a change of name (with the exception of including the words, "incorporated or incorporation") or in the event the name is protected under the assumed name statutes of this state, then in either event the corporate name will be acceptable if used prior to the effective date of the Professional Incorporation Act or in use of assumed names, if in compliance with the assumed name statutes prior to the effective date of this rule.

D. In instances where a clinic is limited exclusively in its practice to emergency service, the word "emergency" may be included in the name.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1055. Controlled Substances

It is unprofessional conduct for a licensed veterinarian to prescribe or dispense, deliver or order delivered any controlled substance without first having established a veterinarian-client-patient relationship by having personally examined the individual animal and determined that such controlled substance is therapeu-

apeutically indicated following said examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1057. Advertising

A. "Advertising" means newspaper, magazine, and periodical announcements and listings, radio and television; professional cards; professional announcement cards; office and other signs; letterheads; telephone and other directory listings; and any other form of communication designed to inform the general public about the availability, nature, or prices of products or services or to attract clients.

B. "Solicitation" means advertising intentionally directed to specific individuals.

C. A veterinarian shall not, on behalf of himself, his partner, his associate, or any other veterinarian:

1. seek to attract clients as a private practitioner by any form of solicitation through the exertion of undue influence; or

2. communicate with any nonclient who has given the veterinarian notice that he does not want to receive communications from the veterinarian; or

3. use or participate in the use of any form of advertising or solicitation which contains a false, deceptive, or misleading statement or claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1059. Particular Acts, Statements, or Situations Constituting "False, Deceptive, or Misleading Claim"

A "false, deceptive, or misleading statement or claim" includes, without limitation, a statement or claim which:

A. Contains a prediction of future success or guarantees that satisfaction or a cure will result from the performance of professional services;

B. Contains a testimonial about or endorsement of a veterinarian or a combination of a veterinarian's name or photograph and his identity as a veterinarian as part of a testimonial, endorsement, or sales promotion of a veterinary or nonveterinary product or service except that this prohibition does not apply to endorsements of valid, nonprofit charitable organizations whose purpose is to promote veterinary medicine and animal health;

C. Refers to secret methods of treatment or special services which characterize the ways of a charlatan;

D. Concerns illegal transactions;

E. Is not identified as a paid advertisement or solicitation unless it is apparent from the context that it is a paid advertisement or solicitation;

F. Contains statistical data or other information based on past performance or case reports;

G. Contains a statement of opinion as to the quality of professional services or a representation regarding the quality of professional services which is not susceptible of verification to the public;

H. States or implies that a veterinarian is a certified or recognized specialist unless he is board certified in such specialty;

I. Is intended or is likely to create an inflated or unjustified expectation;

J. Contains a material misrepresentation of fact;

K. Omits to state any material fact necessary to make the statement not misleading in light of the circumstances under which it is made.

L. Would result in the violation of any law or regulation or a contractual or other obligation of any person through whom the veterinarian seeks to communicate;

M. Contains a representation or implication that is likely to cause an ordinarily prudent layman to misunderstand or be deceived or fails to contain reasonable warnings or disclaimers necessary to make a representation or implication not deceptive; or

N. Relates to professional fees other than:

1. A statement of the fixed fee charged for a specific professional service, provided that the description of such services would not be misunderstood or be deceptive and that the statement indicates whether additional fees may be incurred for related professional services which may be required in individual cases; or

2. A statement of the range of fees for specifically described professional service, provided that there is reasonable disclosure of all relevant variables and considerations affecting the fees so that the statement would not be misunderstood or be deceptive, including, without limitation, an indication whether additional fees may be incurred for related professional services which may be required in individual cases.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1061. Advertising Time Requirements

Any advertisement of price for routine veterinary services permitted under board rule shall be valid and binding on the advertising veterinarian for not less than six months following the date it is last offered, and the veterinarian offering same shall honor all client requests for such veterinary service made by veterinary clients within the six-month period following the last date such advertisement was presented to the public unless there is contained in the advertisement a specific time limitation on the availability of the service or product at the advertised price; further, all such services must be completed within a reasonable time from the first patient appointment or such patient's request for veterinary service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1063. Speciality List

A veterinarian holding a current certificate of special competence in a particular field of veterinary medicine issued by the board, recognized by the American Veterinary Medical Association, may state in reputable veterinary directories and veterinary lists, notices mailed to veterinarians, clients, former clients, personal friends and relatives, the yellow pages of telephone directories distributed in the geographical area or areas in which the veterinarian resides or maintains offices or has his primary practice, and on professional cards or letterhead that he is certified in a particular field.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of

Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

Chapter 11. Intern Program

§1101. Purpose

The major purpose of the program is to acquaint the applicant prior to licensure with the scope and pace of a clinical practice and to teach the applicant aspects of management, finances, client relations, personnel supervision, and housekeeping as can only be found in an actual practice situation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1103. Definitions

A. "Intern program" shall mean a preceptorship program approved by the Louisiana Board of Veterinary Medicine which involves not less than five nor more than ten weeks.

1. On the effective date, and for a period of one year thereafter, the preceptorship program shall consist of five weeks of classroom hours in an accredited school of veterinary medicine consisting of a subject matter which is not required for graduation and is commonly referred to as an elective course, or training in a viable clinical practice situation under the direct supervision of a practicing licensed veterinarian or approved by the board.

2. On and after February 1, 1989, the program shall consist of:

a) Not less than five weeks in training in a viable clinical practice situation under the direct supervision of a practicing licensed veterinarian together with five weeks of classroom hours in an accredited school of veterinary medicine consisting of a subject matter which is not required for graduation, or

b) Ten weeks in training in a viable clinical practice situation under the direct supervision of a practicing licensed veterinarian or approved by the board.

B. "Preceptor" shall be defined as a practitioner who is a licensed veterinarian, a member in good standing of his or her state association and of the American Veterinary Medical Association and approved by the board.

C. "Preceptee" is defined as an applicant for the preceptorship program. The preceptee is not to be considered a substitute employee and should not be represented as a licensed veterinarian unless the preceptee holds a temporary license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1105. Applicants

On and after the effective date of these provisions, every applicant for a license to practice veterinary medicine in the State of Louisiana must complete a preceptorship program during the senior year in an accredited school of veterinary medicine or after graduation. The board shall have the discretionary right to waive the compliance with the preceptorship program when the applicant has been licensed in another state or is eligible for a license without examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1107. Preceptorship Committee

A. The board may appoint a committee composed of not less than five nor more than eight veterinarians. Only two members of the veterinary board may be eligible to serve on the committee, one member from the faculty of Louisiana State University, School of Veterinary Medicine, and the other members from the Louisiana Veterinary Medical Association, with all members serving a five year term. Whenever a vacancy occurs under this section, the board shall nominate three or more qualified persons for each vacancy and vote on the nomination at the next regular meeting of the board.

B. A person shall be qualified to serve on the committee if he is a graduate of a veterinary school, a resident of this state, and has been licensed to practice veterinary medicine in this state for five years immediately preceding the time of his nomination.

C. Any member of the committee may be removed by a majority vote of the board.

D. The committee shall meet at least 30 days prior to the administration of the state examination. Other meetings of the committee may be called by the president of the board by giving notice. Except as may otherwise be provided, a majority of the committee constitutes a quorum.

E. The committee shall administer the preceptorship program pursuant to these rules and policies provided by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1109. Preceptor's Responsibilities

The preceptor shall have the following responsibilities:

A. To assume the responsibility of an instructor during the training period with the primary objective of training the applicant.

B. To insure that the degree of responsibility delegated to the applicant shall in no way conflict with the veterinary practice act of his/her state or those where work might be done.

C. To conduct oneself in a professional and ethical manner.

D. To extend the same privileges to the preceptee as afforded other practice employees.

E. To never consider the preceptee as a substitute employee or to represent him/her as being a licensed veterinarian.

F. To provide a written job description, on forms provided by the board, as a part of the preceptee-preceptor contract so that the preceptee will have an understanding of his/her responsibilities.

G. To assure that the preceptee's assignments, as much as possible, cover all aspects of the practice including office management, bookkeeping, and economics.

H. To be subject to unscheduled on-site visits by a member of the preceptorship committee or the board during the preceptorship period.

I. To evaluate the preceptee's performance by completing and submitting the forms necessary for evaluation and licensure in the State of Louisiana.

J. To verify the applicant's preceptorship log as requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1111. Preceptee's Responsibilities

A. The failure of the preceptee to comply with all requirements of preceptorship assignment, such as log maintenance, work schedules, or return for final evaluation seminar, can result in an additional preceptorship assignment and/or delay in licensure.

B. The applicant's responsibilities are the following:

1. to regard the host veterinary practitioner as an instructor;

2. to conduct oneself in an ethical and professional manner;

3. to be responsible for keeping all professional matters confidential as in the true veterinarian-client-patient relationship;

4. to maintain a personal appearance and attitude befitting a professional - neat, clean, congenial, and loyal;

5. to be responsible for personal clothing and footwear unless other arrangements are made with the host preceptor;

6. to complete evaluation questionnaires at the end of the training period and return them to the preceptorship committee;

7. to maintain a daily activities log of his/her practice experience and return them to the preceptorship committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1113. Practice Assessment Forms and Job Description Forms

A. All practitioners who express an interest in participating in the preceptorship program must complete the following:

1. Practice Assessment Form

This form is used to determine if the practice meets the standards required by the American Veterinary Medical Association and a,

2. Job Description Form

This form is to insure that both parties understand in advance what is to be expected from the other.

B. Applicants may request that forms be provided to practitioners with whom they have talked about the requirements for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1115. Preceptorship Practice Requirements

A. The completed Practice Assessment Form and the Job Description Form shall be returned within 10 days to provide adequate time for approval and for applicant-practitioner negotiations prior to time the preceptorship begins.

B. Approval of a preceptor shall include the following:

1. Practices providing small animal services must adhere to high standards of surgical service including a separate prep room; availability of gas anesthesia; and use of gowns, caps, and masks for orthopedic and other involved surgeries. Standards for large animal surgery must be consistent with good modern surgical techniques and provide for the performance of aseptic operative procedures.

2. The practice must be equipped or have the availability to provide a full radiographic service without hazardous exposure and comply with all state and federal radiological standards.

3. Clinical pathology diagnostic services must be conveniently available.

4. The case load must be of such nature as to provide good exposure for the preceptee while allowing adequate time for preceptor/preceptee interaction.

5. The preceptor must be willing to provide supervised hands-on experience.

C. A firm commitment must not be made between the preceptee and the preceptor before the practice is approved by the preceptorship committee and the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1117. Financial Arrangements and Agreements

A. Financial arrangements are negotiated by the practitioner and the applicant. It should be borne in mind that the main objective of the preceptorship should be educational rather than remunerative. The primary and perhaps only concern should be to supply funds for living or other costs encountered by the preceptor.

B. A written agreement setting forth the responsibilities of the student and the practitioner should be agreed to by both parties at the time the commitment is made. The agreement should include the starting and termination dates, duty hours, after duty hours, free time, salary and fringe benefits. This type of written agreement reduces possible misunderstandings and enhances the learning experience.

C. All written agreements are carried out between the preceptee and the preceptor. A firm commitment must not be made between the preceptee and the preceptor before the practice is approved by the committee and the board. Premature commitments to practices that were not approved will not be tolerated. When this occurs in the future, that particular practitioner will be denied for the applicant involved.

D. Splitting of the preceptorship between two practices will be permitted. In practices with satellite clinics, the preceptee is expected to be under the direct supervision of the preceptor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1119. Preceptorship Activity Log

Each preceptee shall be required to keep a daily log of his activities and evaluations for the duration of the program and forms reviewed and signed weekly by the preceptor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1121. Evaluations

At the conclusion of the preceptorship program the preceptor and preceptee shall complete an evaluation form provided by the preceptorship committee and return the completed form to the board within 10 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

§1123. Effective Date

These rules and regulations shall take effect upon publica-

tion in the March 20, 1990 issue of the *Louisiana Register* and shall be complementary to all other rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16: (March 1990).

Dr. Ronny J. Hampton
President

RULE

Department of Health and Hospitals Office of Human Services

Jefferson Parish Mental Health,
Mental Retardation and Substance Abuse Authority

The Department of Health and Hospitals, Office of Human Services, in accordance with Act 458 of the 1989 Regular Session of the Louisiana Legislature is adopting the following rules and regulations for the Jefferson Parish Mental Health, Mental Retardation and Substance Abuse authority:

I. Function and Responsibilities

A. The Jefferson Parish Mental Health, Mental Retardation and Substance Abuse Authority (herein referred to as the authority) is a management organization. While constituted in law as a state entity, it functions solely on a parochial level in the provision of appropriate services. Its members are commissioned by the governor. As an authority, it has the responsibility to perform the functions of the state with regard to the full spectrum of services and continuity of care for the citizens of Jefferson Parish in the following categories:

1. persons with mental and/or emotional illness;
2. persons with developmental disabilities;
3. persons with substance abuse problems.

To be eligible for services, the person must meet the applicable state and federal guidelines and regulations appropriate for each category. Families of such persons shall also be eligible for applicable services.

B. The services to be provided shall include the full array as mandated in current state law for each category enumerated in Paragraph A above and shall include, but are not limited to the following:

1. prevention;
2. detection;
3. diagnosis;
4. treatment;
5. training;
6. rehabilitation;
7. case management;
8. follow-up care
9. education (when not provided by Jefferson Parish Public School System).

C. The services outlined in B above shall to the maximum extent possible be afforded in a community setting with the goal of maintaining the person in the community. These services shall be maintained at no less than the same level as the state maintains in other parishes or regions of the state.

D. While it is the primary duty of the authority to direct

the operation and management of the services in B above, it shall also have the following powers to accomplish its mandate:

1. possession and operating control, but not title to, all real and personal state property dedicated to the provision of mental health, mental retardation, and substance abuse services in Jefferson Parish;

2. enter into appropriate contracts within the provisions of state and parish law;

3. acquire personal and real property;

4. coordination through formal letters of agreement with other local, parish, state or federal entities to reduce the duplication of services, and enhance the quality and quantity of services offered;

5. collection of all monies due for the provision of services pursuant to statutory provisions.

D. The Jefferson Parish Council shall have the authority to levy taxes and issue bonds or other obligations to meet the requirements for services as provided for in applicable law and regulations.

II. Board of Governors

A. The governing body of the authority shall be a 12-member Board of Governors (herein referred to as the board). The board shall be constituted in accordance with the applicable law, and shall conduct its business in keeping with its bylaws, and the applicable local, state and federal laws and regulations.

B. While the law requires equal representation from the three areas of service, mental health, mental retardation (including all developmental disabilities) and substance abuse (with representation of professionals, consumers and/or their families, or advocacy groups), individual members of the board shall take action to ensure that a coordinated service delivery system is administered without regard to individual constituency.

C. It shall be incumbent upon each member of the board and each employee of the authority to conduct the business of the authority in such a manner that will not bring discredit to the authority. Each board member or employee shall take whatever action that is appropriate to resolve ethical or conflict of interest questions in a timely manner.

III. Planning and Evaluation

A. As soon as possible after the completion of the process of adopting the authority's bylaws and rules and regulations, the board shall begin the process of reviewing the appropriate regional and state plans pertinent to its area of responsibility. After this review, the board shall then formulate its own plan to accomplish its legislated mandate. The authority's plan shall be negotiated with the appropriate state agencies and shall be the formal vehicle for the delivery of services in accord with the state plan.

B. The plan adopted by the board shall be consistent with regional and state plans and should emphasize the advantages of delivery of services on a local level. Particular attention shall be given to the authority's ability to maximize service by its inherent advantage of being able to coordinate on a local level, and to facilitate the process of revenue enhancement.

C. Realizing that there are never enough funds available to implement a service delivery system which will meet all the legitimate needs of Jefferson Parish's citizens, the board, in its plan, shall adopt priorities to meet most pressing needs determined by the board.

D. The board shall also adopt a long range plan with financing options to correct the deficiencies identified in its service delivery plan.

E. The board shall develop and adopt performance indicators to evaluate the effectiveness of its services. The perform-

ance indicators shall be evaluated no less than annually by comparison with the most current base line data available, and are applied to the services and quality of life of the consumers for whom the authority provides services. These indicators shall include, but are not limited to the following:

1. Has the public education and relations activity of the Authority met the needs of the Jefferson Parish community by increasing their acceptance of the clients of the authority as functional and contributing members of our community?

2. Have more persons become employed?

3. Have all students transitioned from the educational service system to the appropriate adult service program without a break in services?

4. Has transportation been made available to persons requiring it in such a manner as to foster maximum independence?

5. Has the implementation of the authority's plan increased the productivity of its employees? (More services provided per employee?)

6. How many persons are being maintained in a community environment in Jefferson Parish?

7. Have more local funds become available to provide services?

8. Have more services become available?

9. Have services traditionally available to one category now become available for all categories?

10. Are provisions for services been made available in the more remote areas of the parish? (Ex. Grand Isle)

11. Have the Jefferson Parish Sheriff's department and the Jefferson Parish Office of Emergency Management incorporated the unique needs of the clients into their plans for evacuation and/or rescue?

12. Have procedures been implemented with the Jefferson Parish Judicial System to ensure the unabridged rights of the authority's clients?

13. Have persons availing themselves of chemical dependency services been provided with adequate follow-up care to enable them to stay employed and free from their particular dependency?

14. Has there been an increased awareness in the community of the activities of the authority?

15. Has the waiting list decreased?

16. Are appropriate emergency services unique to each category available on a 24-hour basis?

IV. Financial Accountability

A. Since all the members of the authority have experience in the human service field, they are uniquely aware of the chronic shortage of funds and services for persons with disabilities. Therefore there is an overriding concern that for the funds expended, there be the largest quantity of the best and most appropriate services available to the most people.

B. In its bylaws, the board has very explicit responsibilities for its treasurer and Fiscal Committee. Budget development, alternative fund raising, contract review, program monitoring, and an outside audit are all part of its bylaws and are methods of ensuring the fiscal integrity of the authority.

C. The authority shall develop procedures in cooperation with the Finance Department of Jefferson Parish for the flow of funds from the state and federal government. These procedures shall be designed to ensure that funds appropriated for the delivery of human services are used only for that purpose.

D. In addition to the previously stated controls, the board shall coordinate with the Finance Department of Jefferson Parish to maximize the use of all funds available.

E. In accordance with the procedures established in Jefferson Parish, the board shall make recommendations for enhancement of revenues. The board shall take an active part in the process of justifying to the parish administration, council, and the citizens of Jefferson Parish the need for increased revenues to fund new or lacking services.

F. In preparation for reauthorization, and at any other appropriate time, the authority shall solicit the cooperation of the Legislative Auditor in the preparation of necessary financial documentation to present to the Louisiana Legislature and other interested parties.

V. Reauthorization

A. The enabling legislation creating the authority includes a sunset provision which calls for it to cease operation on July 1, 1992 unless reauthorized by the Legislature prior to that date. Since Jefferson Parish is the first parish in the state to be offered the opportunity to provide the appropriate human services on a parochial level, it is the sincere intent of the members of the board that the authority should not only meet the goals of the enabling legislation, but exceed them to the extent that reauthorization can be accomplished without difficulty.

B. Using the performance indicators outlined in Paragraph III. F. above, and others to be developed, a system of data collection shall be instituted from which factual information may be compiled to present an objective report indicating the success and failures of the authority. This report should include recommendations for changes in the enabling legislation or other procedures which would facilitate the functioning of the authority.

David L. Ramsey
Secretary

RULE

Department of Health and Hospitals Office of Public Health

In accordance with the Administrative Procedure Act, as amended, the Department of Health and Hospitals, Office of Public Health has adopted instructions for the preparation of the Report of Induced Termination of Pregnancy Performed in Louisiana form prescribed in accordance with R.S. 40:64. The promulgation of rules is authorized by R.S. 40:33C.

Title 48

PUBLIC HEALTH - GENERAL

Part V. Preventive Health Services

Subpart 45. Vital Records

Chapter 123. Preparation of Certificates

§12313. Preparation of Report of Induced Termination of Pregnancy Performed in Louisiana (PHS 16-ab)

A. SECTION -- Facility

1. Facility -- Name (Item 1a). Enter the name of the facility. If not a hospital or clinic, enter the street address.

2. City, Town or Location of Pregnancy Termination (Item 1b). Enter the name of the city, town or location. Do not abbreviate.

3. Parish of Pregnancy Termination (Item 1c). Enter the name of the parish where the termination occurred.

B. SECTION -- Patient Information

1. Patient Identification Number (Item 2a). Enter the pa-

tient identification number.

2. Age of Patient (Item 2b). Enter the age of the patient in years.

3. Married? (Item 2c). Check the appropriate block.

4. Date of Pregnancy Termination (Item 3). Enter the date in month, day, year format using either alpha or numeric characters.

5. Medical Condition at Time of Abortion (4a). Enter the medical condition of the patient at the time of the abortion.

6. Rh Type (4b). Enter "+" or "-" to indicate the presence or absence of Rh factors.

7. Type of Contraception at Time of Pregnancy (4c). Indicate the type of contraception used at the time of conception. If none, enter "none."

8. Date of Last Live Birth (4d). Enter the date of last live birth in month, day, year format using either alpha or numeric characters.

9. Race (5). Check the appropriate block.

10. Education (6). Specify only the highest grade completed. As an example, if the patient completed high school but did not complete one or more years of college, enter "12" under "Elementary or Secondary." If the patient completed one or more years of college, enter the appropriate number under "College" and leave the "Elementary and Secondary" block blank.

11. Previous Pregnancies Now Living (7a). Enter the number or check "none." Do not include this pregnancy.

12. Previous Pregnancies Now Dead (7b). Enter the number or check "none." Do not count this pregnancy.

13. Previous Pregnancies Spontaneously Aborted (7c). Enter the number or check "none."

14. Previous Pregnancies, Induced Terminations (7d). Enter the number or check "none." Do not count this pregnancy.

C. SECTION -- Information on Father of Fetus

1. Father's Age (Item 8a). Enter the father's age in years.

2. State of Residence (Item 8b). Enter the state of residence in full or enter a standard abbreviation for the state of residence.

3. Parish of Residence (Item 8d). Enter the name of the parish or county of residence in full.

4. Father Married? (Item 8e). Check the appropriate block.

D. SECTION -- Termination, Post Termination Procedures

1. Procedure that Terminated Pregnancy (Item 9a). Check only one box. If "other," specify method.

2. Additional Procedures Used for this Termination (Item 9b). Check all boxes that apply.

3. Complication of Pregnancy Termination (Item 9c). Check all boxes that apply. If "other," specify.

4. Reason for Pregnancy Termination (Item 9d). Check only one box.

5. Type of Procedure Performed after Abortion (Item 9e). Check appropriate box. If other, specify the type of procedure.

E. SECTION -- Fetal Information

1. Date Last Normal Menses Began (Item 10a). Enter the date the patient's last menses began in alpha or numeric format.

2. Physician's Estimate of Gestation (Item 10b). Enter the physician's estimate of gestation in weeks.

3. Fetal Length (Item 10c). Enter the length of the fetus in centimeters.

4. Fetal Weight (Item 10d). Enter the weight of the fetus in grams.

5. Other Significant Conditions of Fetus (10e). Enter

other significant conditions of the fetus. If none, enter "none."

6. Type of Post Abortion Procedure (10f). Specify type of post abortion procedure. If none, enter "none."

7. Result of Pathological Examination (10g). Enter the result of the pathological examination.

F. SECTION - Physician

1. Type of Family Planning Recommended to Patient (Item 11a). Indicate the type of family planning recommended to patient.

2. Type of Additional Counseling Given to Patient (Item 11b). Enter any additional counseling given to patient.

3. Signature and Address of Physician (Item 11c). Enter the signature and address of the physician.

4. Physician's License Number (Item 11d). Enter the license number of the physician who performed the induced termination of pregnancy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:32 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Preventive and Public Health Services, LR 16: (March 1990).

David L. Ramsey
Secretary

RULE

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following rule in the Title XIX (Medicaid) Program effective March 20, 1990. The rule was implemented via emergency rule-making on October 18, 1989 and published in the *Louisiana Register* on November 20, 1989 (Volume 15, Number 11, page 946) and reimplemented effective February 5, 1990 and published in the *Louisiana Register* on February 20, 1990 (Volume 16, Number 2, page 92). The rule was published as a notice of intent on December 20, 1989 (Volume 15, Number 12, page 1131).

Rule

Provision of follow-up prenatal visits shall be allowed for adequate and necessary medical treatment of Title XIX-eligible recipients.

David L. Ramsey
Secretary

RULE

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following rule in Title XIX (Medicaid) Program effective March 20, 1990. The rule was implemented via emergency rulemaking

on July 28, 1989 and published in the *Louisiana Register* on August 20, 1989 (Volume 15, Number 8, page 607) and reimplemented effective November 25, 1989 and published in the *Louisiana Register* on December 20, 1989 (Volume 15, Number 12, page 1033). The rule was published as a notice of intent on January 20, 1990 (Volume 16, No. 1, page 58).

RULE

The Medicaid Program shall implement the provisions of the Medicare Catastrophic Coverage Act of 1988 to expand coverage for certain persons aged 65 years and over, as well as disabled persons, who:

1. are eligible for Medicare Part A coverage;

2. have incomes less than 85 percent of the federal poverty level (in Calendar Year 1989);

3. have countable resources worth less than twice the level allowed for Supplemental Security Income (SSI) applicants; and

4. meet the general nonfinancial requirements or conditions of eligibility for Medical Assistance (i.e., filing of application, residency, citizenship, assignment of rights, etc.).

The annual income limit for 1989 for one individual would be \$5,980, while that for a couple would be \$8,020. The resource amount allowed in 1989 may not exceed \$4,000 for an individual or \$6,000 for a couple. Medicaid benefits provided to eligible individuals differ depending on which of the two categories noted below that the person would qualify for based on eligibility for Medicaid in another category of assistance (i.e., SSI, medically needy, or long term care eligible). These categories and their benefits are outlined below:

1. DUAL QMB ELIGIBLES are individuals who: are over age 65 or disabled; are eligible for Medicare Part A; meet the income and resource limits noted above; and are eligible for Medicaid in another category (i.e., SSI, medically needy, or long term care). Benefits for these individuals include:

a. payment of Medicare Part A premium if not eligible for "free" premium as a result of work history;

b. payment of Medicare Part B premium;

c. payment of Medicare deductibles and co-insurance for all Medicare covered services; and

d. payment of services covered by Medicaid which are not covered by Medicare.

2. QUALIFIED MEDICARE BENEFICIARIES (QMB Only) are individuals who: are over age 65 or disabled; are eligible for Medicare Part A; meet the income and resource limits noted above; and are otherwise not eligible for Medicaid under any other category of assistance. Benefits for these individuals are the same as those noted above for dual eligibles with the exception of payment for Medicaid only services (d.). QMB's are only eligible for Medicare cost-sharing expenses, not other Medicaid benefits outside of Medicare coverage.

Those services for which an individual is eligible as either a dual eligible or qualified medicare beneficiary shall be denoted on the Medicaid identification card issued to these individuals. Currently eligible recipients for whom Medicaid will pay the Medicare Part A premium become eligible for Medicare Part A effective July 1, 1989, provided they enroll by March 31, 1989.

Providers of service to these eligibles have the right to accept the patient as Medicare only, QMB only, or as a dual (Medicare/Medicaid) eligible, but must advise the patient as to his payment status to ensure that the patient is aware of his potential liability for payment of the services. If a provider accepts a patient as a QMB only, and accepts Medicare assignments, he may not bill the patient for any difference between his

charge for the services and Medicare's allowable rate for the service. If a provider does not accept Medicare assignment for treating a QMB only, he may bill the patient for the difference between his charge for the service(s) and Medicare's allowable rate for the service. In either instance, for a QMB only, the provider may not bill the patient for any difference between the Medicare deductible or co-insurance amount and the amount paid by Medicaid for these Medicare cost-sharing benefits. In the case of dual eligibles, as Medicaid requires that Medicare assignment be accepted in order to bill Medicaid, no amount may be charged to the patient for any difference between billed charges and the combined payment of Medicare and Medicaid. Medicaid reimbursement for deductible and co-insurance amounts shall not exceed the state maximum payment for the service. Medicaid only covered services provided to dual eligibles shall be reimbursed in accordance with current payment standards. All providers of service must be duly enrolled Medicaid providers whether billing for dual eligibles or QMB's only. Providers choosing to bill only for QMB's should denote this on their enrollment forms, but will not be permitted to bill for dual eligibles or Medicaid only patients.

David L. Ramsey
Secretary

RULE

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following rule in the Title XIX (Medicaid) Program effective March 20, 1990. The rule was implemented via emergency rule-making on October 1, 1989 and published in the *Louisiana Register* on October 20, 1989 (Volume 15, Number 10, page 805) and reimplemented effective January 29, 1990 and published in the *Louisiana Register* on February 20, 1990 (Volume 16, Number 2, page 95). The rule was published as a notice of intent on January 20, 1990 (Volume 16, Number 1, page 62).

Rule

Spousal impoverishment under Title XIX shall apply to institutionalized individuals with a spouse living in the community. Eligibility under Title XIX shall be determined under the mandatory provisions of P.L. 100-360 utilizing the interpretations of the Health Care Financing Administration set forth in its State Medicaid Manual publication, Sections 3260 - 3262.6, 3700 - 3701, and 3710.

David L. Ramsey
Secretary

RULE

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the

following rule in the Title XIX (Medicaid) Program effective March 20, 1990. The rule was implemented via emergency rule-making on October 1, 1989 and published in the *Louisiana Register* on October 20, 1989 (Volume 15, Number 10, page 805) and reimplemented effective January 29, 1990 and published in the *Louisiana Register* on February 20, 1990 (Volume 16, Number 2, page 95). The rule was published as a notice of intent on January 20, 1990 (Volume 16, No. 1, page 63).

Rule

Transfer of resources under Title XIX shall apply to all applications for Medical Assistance in accordance with the Health Care Financing Administration's State Medicaid Manual publication, §§3250 - 3255.

David L. Ramsey
Secretary

RULE

**Department of Social Services
Office of Eligibility Determinations**

The Department of Social Services, Office of Eligibility Determinations, adopts the following rule in the Aid to Families with Dependent Children (AFDC) Program.

This rule is mandated by federal regulations as published in the *Federal Register* of Friday, October 13, 1989, Vol. 54, No. 197, pages 42146-42267. Regulations mandate the provision of transitional child care and transitional Medicaid benefits. The rule for transitional Medicaid benefits will be published by the Department of Health and Hospitals.

RULE

Effective April, 1990, transitional child care assistance will be provided to eligible families.

I. Eligibility Requirements

A family is eligible for transitional child care provided the following conditions are met:

1. the family must have ceased to be eligible for AFDC as a result of increased hours of, or increased income from, employment, or the loss of income disregards due to the time limitations;
2. the family must have received AFDC in at least three of the six months immediately preceding the first month of ineligibility;
3. the family requests transitional child care benefits, provides the information necessary for determining eligibility and fees, and meets appropriate application requirements established by the state; and
4. the family ceased to be eligible for AFDC on or after April 1, 1990.

The state agency must guarantee child care for a child who: is under age 13; is physically or mentally incapable of caring for himself or herself, as verified by a state based on a determination of a physician or a licensed or certified psychologist; or is under court supervision, and who would be a dependent child, if needy (and for a child who would be a dependent child except for the receipt of benefits under Supplemental Security Income under Title XVI or foster care under Title IV-E), to the extent that such care is necessary to permit a member of an AFDC family to accept or retain employment.

Transitional child care assistance begins with the first

month for which the family is ineligible for AFDC, and continues for 12 consecutive months.

Families may begin to receive child care in any month during the 12-month eligibility period. The family will lose eligibility for transitional child care if at any point the caretaker relative (usually, the parent) terminates employment without good cause or fails to cooperate with the state in establishing payments and enforcing child support obligations. If the family re-establishes eligibility for AFDC during this period, it could qualify for a new 12-month eligibility period if it met the necessary conditions of eligibility, including the three-of-six-months requirement.

II. Provision of Child Care

The caretaker relative will be given the opportunity to choose the child care arrangement.

III. Fee Requirements

Each family shall contribute toward the payment of transitional child care based on the family's ability to pay. The sliding fee scale is as follows:

Monthly Gross Earnings	% of Cost Paid by Client	% Paid by Agency
\$ 0 - 700	10%	90%
701 - 950	30%	70%
951 - 1250	50%	50%
1251 - 1500	70%	30%
1501 and above	100%	-0-

These fees will be paid by the caretaker to the provider of the child care. Individuals who fail to cooperate in paying required fees will, subject to appropriate notice and hearing requirements, lose eligibility for benefits as long as back fees are owed, unless satisfactory arrangements are made to make full payment.

IV. Child Care Payments

The caretaker relative will be paid by the state for verified child care expenses less the required fee.

Maximum transitional child care payment levels will be based on the maximum AFDC disregard for child care expenses of \$175 per month per child age two or older and \$200 per month per child under age two.

May Nelson
Secretary

Notices of Intent

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Seed Commission**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and R.S. 3:1433, notice is

hereby given that the Department of Agriculture and Forestry, Seed Commission, intends to amend the following rule and regulation:

**Title 7
AGRICULTURE AND ANIMALS
Part XIII. Seeds**

**Chapter 87. Seed Certification Standards
§8719. Labeling of Seed**

G. No seed shall be sold or offered for sale from any bag or container bearing a germination label more than nine months prior to the time such seed is offered for sale. For all vegetable seed packaged in hermetically sealed containers, this period shall be extended to 24 months. The owner shall be responsible for the relabeling after expiration of the germination test date period. Under the provisions of this regulation, any person, firm or corporation possessing a seedsmen's permit shall have the right to label such seed after it has been retested, stating the true germination thereof. A new tag or label shall be used to bring the germination up-to-date. The original tag shall not be changed in any way.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1436, R.S. 3:1444 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), repealed and readopted LR 12:825 (December 1986), amended LR 16:

Interested persons may submit comments through May 9, 1990 to Eric Gates, Director, Department of Agriculture and Forestry, Box 1108, Baton Rouge, LA 70821-1108.

Bob Odom
Commissioner

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Labeling of Seed**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
N/A
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
N/A
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

This proposed amendment will allow seed dealers to take advantage of early delivery premiums on soybeans, varying from \$.50 - \$1 per bag and then conceivably pass this savings on to farmers.

If, in the case of soybeans, early delivery premiums were received by seed dealers, then the farmers purchasing these seed lots should realize a substantial savings.

- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendment should not impact employment but could possibly affect competition by the price difference of soybeans sold by seed dealers taking or not taking advantage of the early delivery premiums on soybeans.

Richard Allen
Assistant Commissioner

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Marketing
State Market Commission

Fruits and Vegetables

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) and R.S. 3:543, the Department of Agriculture and Forestry, State Market Commission, is hereby giving notice of its intention to adopt the amendment detailed below. All comments should be forwarded to Frank Millican, Office of Marketing, Box 3334, Baton Rouge, LA 70821-3334. Comments will be accepted in writing through March 27, 1990.

Amend LAC 7:V.1511C to read as follows:

§1511. Contractor's Obligations

C. The costs of all examination and certification services shall be paid by the vendor in accordance with the U.S. Department of Agriculture, AMS (Agricultural Marketing Service) Poultry Grading Branch rate for each hour required to conduct the examination, provided that no specific charge shall be made for certification of product when inspection is simultaneously performed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

Bob Odom
Commissioner

Fiscal and Economic Impact Statement
For Administrative Rules

Rule Title: Cost Per USDA-AMS Poultry Grading

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation cost or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will allow the Department of Agriculture and Forestry to charge the USDA rate for poultry examinations and inspections, however, according to the department, the USDA rate is currently being charged, therefore there will be no additional impact on revenues. The difference between the current USDA rate of \$24.12 per exam and the rate promulgated by the Department of Agriculture and Forestry of \$20.76 is \$3.36 per hour per exam.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule will allow the Department of Agriculture and Forestry to charge the USDA rate for poultry examinations and inspections. Any future rate change by the USDA will automatically be reflected in the rates charged by the Department of Agriculture and Forestry.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect in competition or employment.

Richard Allen
Assistant Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Civil Service
Civil Service Commission

The Civil Service Commission will conduct a public hearing to consider amending Civil Service Rules 6.14; 8.16(d); and 17.14. The hearing will be conducted on Wednesday, April 4, 1990, in the Commission Hearing Room in the DOTD Annex Building at 1201 Capitol Access Road, Baton Rouge, LA. Consideration will be given to the following proposals:

ADOPT RULE 6.14(l)

6.14(l) Merit Increases

- (a) . . .
(b) . . .
(c) . . .
(d) . . .
(e) . . .
(f) . . .
(g) . . .
(h) . . .
(i) . . .
(j) . . .
(k) . . .

(l) When an employee has been detailed with pay to a higher job and is promoted to that same job directly for the detail, his pay eligibility on promotion shall not be less than he received on detail.

EXPLANATION

This new Subsection to Rule 6.14 is proposed to prevent pay reduction when an employee is promoted directly to the same job to which he has been detailed.

AMEND RULE 8.16(d)

- 8.16 (a) Reassignment ***
(b) Change in Hours of Work ***
(c) Change in Duty Station ***
(d) Detail to Special Duty

1. When, in the discretion of the appointing authority, the services of an employee are temporarily needed in a position within the department other than the position to which he is regularly assigned, he may be detailed to perform the duties of such position for a period not to exceed one month without change in title, status or pay.

2. ...

EXPLANATION

The proposed adding of the words "or pay" to the end of Subsection (d)1 makes explicit that a detail to special duty that does not exceed one month does not have to be compensated for at a higher rate. Also, the first month of a longer detail does not have to be compensated for at a higher rate.

AMEND RULE 17.14

17.14 Notification and Authority for Layoff

- ...
(a) ...
(b) ...
(c) ...

(d) There shall be at least five calendar days between notification to employees whose positions are proposed for abolishment and approval of the layoff plan by the director.

(e) There shall be at least ten calendar days between the last displacement offer, or layoff notification if there is no offer to make, and the effective date of layoff.

EXPLANATION

Subsections (d) and (e) are proposed to be added to Rule 17.14 to insure a specified minimum notice to employees affected by layoff or displacement in lieu of layoff. Civil Service has been required these notice times through policy, but now proposes to put these provisions in the rules.

Persons interested in making comments relative to these proposals may do so at the public hearing or by writing to the Director of State Civil Service at Box 94111, Baton Rouge, LA 70804-9111.

Herbert L. Sumrall
Director

NOTICE OF INTENT

Department of Economic Development Board of Examiners of Certified Shorthand Reporters

The Louisiana Board of Examiners of Certified Shorthand Reporters is hereby amending Part XXI, Chapters 1, 3, 5 and 7 of the Louisiana Administrative Code as follows:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part XXI. Certified Shorthand Reporters

Chapter 1. Certification

§101. Application for Certification

An applicant for a certificate shall file an application on a form provided by the board (Board of Examiners of Certified Shorthand Reporters), accompanied by any applicable fees, and such evidence, statements or documents required by said form. If an examination is required, said application must be filed with the board at least 30 days prior to an examination date. A new application is required for each examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters in LR 9:678 (October 1983), amended LR 14:529 (August 1988), LR 16:

Chapter 3. Examinations

§301. Applications for Examination

A. Examinations shall be held at such times and places as the board may designate.

B. Applications must be received by the board at least 30 days prior to the examination date.

C. Applicants must furnish written proof from a licensed court reporting school that he has passed a qualifying test consisting of five minutes of two voice Q & A at 200 wpm with 95 percent accuracy or participate in an equivalent qualifying test administered by the board on a date designated by the board. Proof of passing said qualifying test must accompany the application or examination.

D. Applicants who have been found to be qualified for the examination shall be notified in writing of the time and place of their assigned examination.

E. An applicant who fails to timely appear for examination after being notified of his eligibility shall be deemed to have abandoned his application and shall forfeit his application fee. In order again to become eligible for an examination, such person

shall file a new application, and otherwise comply in all respects with the provisions of the Act and these regulations in the same manner as required of an original applicant.

F. An applicant who commences but does not finish his assigned examination, or who otherwise fails such examination, shall not be eligible for any future examination except upon filing a new application and otherwise complying in all respects with the provisions of the Act and these regulations in the same manner as required of the original applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters in LR 9:678 (October 1983), amended LR 14:529 (August 1988), LR 16:

§307. Content of Examination

A. The examination shall consist of

1. written knowledge test;

2. dictated tests at the following speeds:

a. five minutes at 180 WPM (Literary, one voice)

b. five minutes at 200 WPM (Jury charge, one voice)

c. five minutes at 225 WPM (Q & A, two voices)

B. The written knowledge test will consist of 100 multiple choice questions which will include 50 questions on English, grammar, spelling and word comprehension, 25 questions on medical terms and 25 questions on legal terms. The use of reference material will not be allowed.

C. Completion time for the written knowledge test is one and one-half hours. Four hours are allowed for transcribing the three segments of the dictated test. Transcripts must be typed.

D. Candidates may be required to read aloud any part of the dictated matter required by the board.

E. No candidate will be allowed to use electronic recording equipment, except stenomask, during the examination.

F. Upon completion of the examination all shorthand notes, stenomask tapes, transcripts, and other examination papers shall become the property of the board.

G. Stenomask applicants will also be tested according to NSVRA standards for silence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters in LR 9:678 (October 1983), amended LR 14:529 (August 1988), LR 16:

§309. Grading of Examination

A. Each candidate's examination will be graded on the basis of his ability to accurately transcribe his notes, the time occupied in the transcription, his knowledge of court reporting procedure, and its related terminology, spelling, and punctuation, and the general style of the transcript.

B. Seventy-five percent accuracy is required on the written knowledge test with a maximum of 25 errors.

C. Ninety-five percent accuracy is required on the dictated and transcribed portions of the test. The maximum number of errors allowed to pass the dictated and transcribed portions of the skills test is 57 errors on the Q & A portion; 50 errors on the jury charge portion; and 45 errors on the literary portion.

D. If an examinee passes the written knowledge portion of the test but fails the dictated and transcribed portions, he will be exempt from taking the written knowledge portion of all subsequent tests.

E. If an examinee fails any portion of the dictated and

transcribed portions of the test, all portions of the dictated and transcribed portions must be taken at subsequent tests.

F. For the purpose of grading stenotype tests, errors will be assessed in accordance with the guidelines accepted by the National Shorthand Reporters Association. For the purpose of grading stenomask tests, errors will be assessed in accordance with the National Stenomask Verbatim Reporters Association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters in LR 9:678 (October 1983), amended LR 14:529 (August 1988), LR 16:

Chapter 5. Certificates

§503. Temporary Certificates

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters in LR 9:678 (October 1983), amended LR 14:529 (August 1988), Repealed LR 16:

Interested persons may comment on these proposed rules by contacting Rose Marie Bye, Board of Examiners of Certified Shorthand Reports, 325 Loyola Avenue, Suite 306, New Orleans, LA 70112, Telephone (504) 523-4306.

Justice James L. Dennis
Chairman

Fiscal and Economic Impact Statement

For Administrative Rules

Rule Title: Certification Examinations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no cost or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Board of Examiners will collect approximately \$2,000 less annually because the board will no longer issue temporary certificates at a fee of \$50 each.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Court reporters will not be paying \$50 to obtain temporary certificates. Persons seeking initial employment will be prohibited from working for 30 to 90 days until he can sit for an exam. (Louisiana exam given in February and August and National exam given in May and November). The actual loss of income from this delay will depend on the circumstances of the individual reporter.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment other than reporter must be certified prior to practicing.

Rose Marie Bye
Treasurer

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to amend the following rule.

Title 35

HORSE RACING

Part I: General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1719. Masking Agents

The use of any drug or substance, regardless of how harmless or innocuous it might be, which by its very nature might mask or screen the presence of a prohibited drug as provided in the Rules of Racing is prohibited.

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

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission in 1971, repromulgated LR 2:449 (December 1976), LR 3:44 (January 1977), LR 4:287 (August 1978), amended LR 16:

The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Claude P. Williams, Executive Director, or Tom Trenchard, Administrative Services Assistant at (504) 483-4000 or LINC 635-4000 holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Friday, April 6, 1990 to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Claude P. Williams
Executive Director

Fiscal and Economic Impact Statement

For Administrative Rules

Rule Title: LAC 35:I.1719 "Masking Agents"

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs to implement this rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule change benefits horsemen and horses by including "substances" which could mask an illegal drug. Previously, only the term "drug" was indicated which was not all-inclusive. This change provides protection against abusing questionable substances.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule change has no effect on competition nor employment.

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to amend the following rule.

**Title 35
HORSE RACING**

Part I: General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1763. Taking Blood/Urine Sample

A. If after a horse remains one and one half hours in the detention area and a urine specimen has not been taken from the horse, the state veterinarian may take a blood sample.

B. Except as provided in Subsection A, the state veterinarian may, at any time, be directed by the state steward to take random equine blood samples.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 & 148.

HISTORICAL NOTE: Promulgated by the Racing Commission LR 2:450 (December 1976), repromulgated LR 3:46 (January 1977), LR 4:288 (August 1978), amended LR 16: *****

The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Claude P. Williams, Executive Director, or Tom Trenchard, Administrative Services Assistant at (504) 483-4000 or LINC 635-4000 holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Friday, April 6, 1990 to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Claude P. Williams
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: LAC 35:I.1763 "Taking Blood/Urine Sample"

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

An additional \$5,000 will be paid to the state chemist to allow for two random blood samples to be taken per race day per track until the end of the fiscal year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule benefits horsemen by allowing the taking of random blood samples in horses to further assure that no illegal substances are being administered to horses, as well as assuring that legal substances (phenylbutazone and oxyphenylbutazone) do not exceed allowable limits (no more than five micrograms per milliliter).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment.

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

8(g) Annual Program and Budget

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the following 8(g) Annual Program and Budget for FY 1990-91.

**8(g) Annual Program and Budget
FY 1990-91**

I. Exemplary Competitive Programs Designed to Improve Student Academic Achievement or Vo-Tech Skills

- A. Pre-K - 3rd Grade \$1,000,000
- B. Student Enhancement (Grades 4 - 12) 1,000,000
- C. Vocational Education 1,500,000
(Public Postsecondary)

II. Exemplary Block Grant Programs Designed to Improve Student Academic Achievement or Vo-Tech Skills

- A. Elementary and Secondary Education 4,000,000
 - 1. Early Childhood Education (Pre-K - 3rd Grade)
 - 2. Student Enhancement (Grades 4-12)
 - 3. Educational Technology
- B. Vocational Education 650,000
 - 1. Extension
 - 2. Apprenticeship
 - 3. Quickstart
 - 4. SACS Accreditation

III. Exemplary Statewide Programs Designed to Improve Student Academic Achievement or Vo-Tech Skills

- A. Administrative Leadership Academy 550,000
- B. Teacher Tuition Exemption Program 3,000,000
- C. Louisiana Writing Project 250,000
- D. Star Schools Telelearning Project 340,000
- E. Talent Improvement Program for Gifted and Talented Students 80,000
- F. Vocational Education 100,000
 - 1. Curriculum Upgrade 30,000
 - 2. Occupational Competency Testing 60,000
 - 3. VTIE Tuition Exemption Program 800,000
 - 4. Statewide Quickstart 400,000
- G. Mini Grant Awards of Excellence 3,000,000
- H. Statewide Distance Learning Network 200,000
- I. Teacher Institute for the Humanities 2,000,000
- J. Model Early Childhood Program 80,000

IV. Research or Pilot Programs Designed to Improve Student Academic Achievement

- A. Louisiana Educational Assessment Program 1,316,000
- B. Parent Education Project 300,000
- C. Governor's Reform Initiatives
 - 1. Teacher Internship Program/Teacher Evaluation Program 268,000
 - 2. School Incentive Program 200,000
 - 3. Model Career Options Program 356,000
 - 4. Statewide Dropout ID and Intervention Program 800,000
- D. Spalding Phonics Program 200,000
- E. Joining Forces for "At Risk" Youth 261,827
- F. Instructional Enhancement Through the Arts 150,000

V. Purchase of Superior Textbooks, Library Books, Supplemental and/or Reference Materials	2,000,000
VI. Remediation Programs	
A. Extended Programs for Students Failing the High School Graduation Test	500,000
VII. Teaching of Foreign Languages in Elementary and Sec- ondary Schools	
A. Foreign Language Model Program	175,000
VIII. Scholarships or Stipends to Prospective Teachers	
A. Education Majors Program	2,000,000
B. Post-Baccalaureate Scholarship Program	500,000
IX. Management and Oversight	
A. BESE Administration (1%)	285,580
B. BESE Fiscal/Programmatic Evaluation (1%)	<u>285,580</u>
TOTAL	<u>\$28,557,987</u>

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., May 8, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: 8(g) Allocation by BESE for FY 1990-91**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The Board of Elementary and Secondary Education has adopted its Louisiana Quality Education Support Fund budget for FY 1990-91. This budget is funded with 8(g) dedicated funds. If the Legislature appropriates these funds as allocated by BESE, the additional costs over the 1989-90 budget will be \$972,311. Of this amount, statewide funding will increase by \$938,151, vo-tech funding will increase \$15,000, and funding for administration/evaluation will increase \$21,160.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Revenues to local education agencies for competitive projects and block grant awards will not exceed \$6,000,000. This amount may be reduced to the extent that funding is provided to approved nonpublic schools not part of an LEA.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Up to \$6,000,000 will be available for exemplary competitive projects and block grants for programs designed to improve student academic achievement.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Em Tampke
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amendment to Bulletin 741 - Integrated Algebra/Geometry

In accordance with the R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved a revision to Standards 2.099.01 and 2.105.15 of Bulletin 741 to provide that credit in Integrated Algebra/Geometry can count as one of the three units in mathematics required for high school graduation.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., May 8, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Integrated Algebra/Geometry**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The minimum estimated cost to the state is \$1,245,200 to develop, print, pilot, revised, reprint and disseminate curriculum guides, to purchase additional textbooks, inservice teachers, pay for substitute teachers, to supply supplementary materials and teaching aids and to reprint and distribute pages to Bulletin 741. Costs are estimated at \$75,200 for 1989-90, \$535,000 for 1990-91 and \$635,000 for 1991-92.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effects on revenue collections of state and local governmental units is expected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
No direct cost is anticipated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Since this is a new course, which replaces existing courses, no drastic effect on competition and employment is anticipated. It may provide additional jobs for teachers who have mathematics certification, since it can be used in place of Consumer Mathematics or Business Mathematics to meet graduation requirements and these two courses can be taught by business certified teachers.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amendment to Bulletin 1706, page 107
Noncategorical Preschool Handicapped

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved an amendment to Bulletin 1706, page 107 to read:

“Noncategorical Preschool Handicapped is an exceptionality in which children three through five, but not enrolled in a state approved kindergarten, are identified as having a handicapping condition which is described according to functional and/or developmental levels, as mild/moderate or severe/profound”.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., May 8, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Amendment to Bulletin 1706, pg. 107

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There would be no additional cost, since students would continue to be eligible to be counted under P.L. 99-457, Section 619. Federal funds are presently provided on a per-child count basis for handicapped students who are three, four, and five years old. Local and state costs should not be affected because students affected are in special education classes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections or state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There is no effect or economic benefit which can be calculated as a result of this rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment as a result of this rule change.

Graig Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amendment to Bulletin 1706
Regulations for the Implementation of the
Exceptional Children's Act

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the following amendment to Section 103, Bulletin 1706, Regulations for the Implementation of the Exceptional Children's Act, Rev. 1983, pages 2-3:

1. Rewrite Paragraph A of Section 130 to read:

“A. The state board of Elementary and Secondary Education, pursuant to R.S. 17:1954, shall appoint an eleven-member Special Education Advisory Council to advise the board on the education of exceptional children, including the development of rules and regulations governing the Louisiana Education of Exceptional Children Act (LA R.S. 17:1941-1958); to conduct fiscal reviews and to make recommendations on the allocation and expenditure of P. L. 94-142 discretionary funds only.

2. Amend Paragraphs C(2) and C(3) of Section 130 as follows:

“C(2) Comment publicly and make recommendations to the state board on the State Annual Program Plan, on rules or regulations proposed for issuance by the board regarding the education of exceptional children, and on the procedures for distribution of funds under P.L. 94-142 as indicated in BESE Policy 5.00.50.f.

C(3) Assist the board and the Department of Education in developing and reporting such information and evaluations as may assist the U. S. Commissioner of Education in the performance of his responsibilities under P. L. 94-142,1 Section 618.”

3. Amend Paragraph D(1) and D(3) of Section 130 to read:

“D(1) The Advisory Council in the conduct of its business shall follow the procedures adopted by the state board for all advisory councils. (BESE Policy 1.00.30.C) It shall meet as often as is necessary to conduct business assigned by the board.

D(3) Official minutes must be kept on all Council meetings and these shall be made available for public viewing on request.

The membership on the council is currently appointed by the state superintendent with approval of the governing authority. The terms of the currently seated council will expire in April, 1990. Therefore, the board also adopted this amendment as an emergency rule in order to be effective for the appointment of new members in April.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., May 8, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: Amendment to Bulletin 1706 relative to the
Special Education Advisory Council**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No savings or additional costs will be incurred by the change in this rule. The rule change refers only to who will make the appointments of membership on this Advisory Council and provides clarification or reporting requirements. The change provides for the appointment of the council membership by the State Board of Elementary and Secondary Education

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no effect on revenue collection of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

The estimated continuing costs would be approximately \$14,000 annually for reimbursement of travel expenses incurred by the council members for attendance at council meetings.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOY-
MENT (Summary)**

There is no discernible effect on competition or employment.

Graig Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Policy for Implementing Act 465
(pupil/teacher ratio)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the Department of Education's policy for implementing Act 465 of 1989 (pupil/teacher ratio) as stated below:

PROCEDURES FOR IMPLEMENTING ACT 465

Add as Standard 1.038.03 to Bulletin 741:
The systemwide pupil-classroom-teacher-ratio in kindergarten through grade three shall be 20 pupils to one classroom teacher.

Refer to R. S. 17:151.B (1) and to the
Procedures for Implementation.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30, May 8, 1990 at the following address: State Board of Elementary and Second-

ary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: K-3 Pupil-Classroom-Teacher Ratio
of 20 to 1**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The Minimum Foundation Program presently contains approximately \$30 million to reduce pupil/teacher ratio in grades K through 3 to twenty pupils to one teacher. The legislature annually provides an appropriation for this purpose. Therefore there will be no additional implementation costs or savings to local governmental units from the state level. It must be noted that additional teachers hired under this provision do incur costs at the local school board level in providing local salary supplements.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no effect on revenue collections of state or local governmental units other than amounts of funding received by local school systems through the Minimum Foundation Program for implementation of the rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

The provisions of Act 465 of the 1989 Regular Legislative Session placed into the Louisiana Revised Statutes provisions which have already been funded through the Minimum Foundation Program. The economic benefits accrue to additional teachers which have been hired in order to reduce the pupil/teacher ratios.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOY-
MENT (Summary)**

The effect on competition and employment includes the additional jobs which were created for elementary education teachers. Local school systems are responsible for the hiring of these individuals.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Education
Council for the Development of French in Louisiana
(CODOFIL)**

Bilingual Writing Assistance Fee Schedule

In accordance with the Administrative Procedure Act (R.S. 49:950-970), the Department of Education, Council for the Development of French in Louisiana (CODOFIL), is hereby giving notice of its intention to adopt the fee schedule described below for bilingual writing assistance. The bilingual writing assist-

ance includes French-English and English-French translation, proofreading, and copywriting. Upon submission of proposal or text, CODOFIL shall evaluate the feasibility of said project, based upon the following criteria: appropriateness, availability of personnel, expertise or technical knowledge required, availability of research materials, and estimated amount of time required to complete the work. Once CODOFIL and the contractee have agreed to the conditions described in the contract, an hourly fee of \$15 shall be charged to recover operating expenses.

Bilingual Writing Assistance

1. Any public or private party may submit a proposal or text for bilingual writing assistance to CODOFIL.
2. Requests for bilingual writing assistance must be submitted in writing, using the following contract proposal.
3. The contract proposal must be completed and signed in order to be considered. Incomplete forms will be automatically rejected.
4. The contract proposal will contain the following information: name, address, organization, and telephone number of the requesting party, a legible copy of the proposal or text, an estimate of the number of hours required to complete said work, and a projected date of completion.
5. CODOFIL will make an evaluation of the feasibility of said proposal based on the following criteria: appropriateness, availability of personnel, expertise or technical knowledge required, availability of research materials, and amount of time required for preparation research, copywriting, and translation.
6. Once both parties have reached an agreement of conditions, they will sign the contract and CODOFIL will lend the bilingual writing assistance for a fee of \$15 per hour. This fee has been designated to recover operating expenses.

CODOFIL Bilingual Writing Assistance Contract

CODOFIL will review the work proposal and decide if it fits within its objectives and whether or not the service can be completed within a time frame acceptable to the contractee. Once CODOFIL agrees to perform the bilingual writing assistance, the contractee agrees to pay CODOFIL a fee of \$15 per hour for this service. This service may include bilingual writing assistance in the form of translation, copywriting, and/or editing. Both parties, CODOFIL and the contractee, must sign this contract in order for the agreement to be valid.

To be completed by the contractee:

Name _____ Association _____
 Address _____ City _____ Zip _____
 Daytime phone () _____
 Date of submission ____ / ____ / ____
 Nature of document _____ Number of pages _____
 Type of assistance requested _____
 Requested date of completion ____ / ____ / ____

I, the undersigned, understand and accept the terms of this agreement:

Signature of contractee _____ Date of signature ____ / ____ / ____

To be completed by CODOFIL:

Work proposal approved? yes _____ no _____
 Total cost of services \$ _____
 Completed work approved by:

Signature of Director _____ Date of signature ____ / ____ / ____

Comments may be submitted in writing to Jacques Henry, Acting Director, Council for the Development of French

in Louisiana, 217 West Main Street, Lafayette, LA 70501, until March 28, 1990.

Jacques Henry
Acting Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Bilingual Writing Assistance**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The initial implementation cost to CODOFIL is minimal. The cost of the hours of planning by the staff is estimated at \$100. The cost of following official procedures required to put the proposed rules into effect is estimated at \$15 (postage, telephone, copies). This amounts to a total implementation cost of \$115.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The anticipated sum of \$1,500 in self-generated revenue will be used to recover the expenses incurred by CODOFIL in providing 100 hours of bilingual writing assistance services at a cost of \$15 per hour. The estimate of 100 hours is based upon previous requests made to CODOFIL for such services.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
A fee of \$15 will be charged for each hour of service rendered.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposed rule has no effect on employment and on competition given the limited volume of assistance requests expected.

Jacques Henry
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Employment and Training
Office of Employment Security**

The Department of Employment and Training, Office of Employment Security, intends to amend LAC 40.361(C) to delete from the definition of "interim employment" language which limits the term to 90 days. This action is being taken because the agency finds that the limitation does not comport with traditional employment practices.

**Title 40
LABOR AND EMPLOYMENT
Part IV. Employment Security
Chapter 3. Employment Security Law
§361. Types of Employment**

C. *Interim Employment* is employment performed by individuals who are on temporary layoff or are otherwise separated

from their full-time regular employment and expect to return to their full-time regular employment within a reasonable time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Employment Security, LR 16: (March 1990).

Bernard J. Francis, Sr.
Assistant Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: LAC 40:361(C) Types of Employment

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that there will be no implementation costs or savings to state or local governmental units as a result of promulgation of this rule. The proposed rule change in defining the term "interim employment" will result in individuals who are on temporary layoff drawing unemployment benefits for a period to be determined reasonable by the agency according to the nature of the particular industry involved. It is not possible to estimate the magnitude of additional benefits to be paid out under this rule. There are no printing or distribution costs involved.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There shall be no effect on revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The affected persons are individuals who are on temporary layoff or otherwise separated from their full-time regular employment and expect to return to their full-time regular employment within a reasonable time. The economic benefits to them shall be a result of a more liberal application of the rule allowing them U.I. Benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no effect upon competition and employment.

Bernard J. Francis, Sr.
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Environmental Quality
Office of Solid and Hazardous Waste**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Regulations, LAC 33:V.105, 1101, and 2201.

These proposed amendments correct references to LAC 33:V.105.D.5, 1101.A and C, and 2201.G in order to allow Louisiana to maintain equivalency with federal regulations.

These amendments are required by *Federal Register*, Volume 53, pages 27164 - 27165, of July 19, 1988.

These proposed regulations are to become effective on May 20, 1990, or as soon as thereafter practical upon publication in the *Louisiana Register*.

A public hearing will be held on April 3, 1990, at 1:30 p.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Wednesday, April 4, 1990, at 4:30 p.m., to Joan Albritton, Enforcement and Regulatory Compliance Division, Box 44066, Baton Rouge, LA, 70804. Commentors should reference this proposed regulation by the Log Number HW14.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality - Hazardous Waste

Chapter 1. General Provisions and Definitions

* * * *

§105. Program Scope

* * * *

D. Exemptions, Exceptions and/or Modifications to Otherwise Applicable Provisions of These Regulations

* * * *

5. A farmer disposing of waste pesticides from his own use which are hazardous wastes is not required to comply with the standards in this Chapter or other standards in the LAC 33:V.Subpart 1 for those wastes, provided he triple rinses each emptied pesticide container in accordance with the provisions of LAC 33:V.109.3, Empty Container, and disposes of the pesticide residues in a manner consistent with the disposal instructions on the pesticide label.

* * * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, in LR 10:200 (March 1984), amended LR 10:496 (July 1984) LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:

* * * *

Chapter 11. Generators

§1101. Applicability

A. A generator who treats, stores, or disposes of hazardous waste on-site is not required to comply with the requirements of this Chapter except for the following with respect to that waste: LAC 33:V.1101.C, 1103, 1105, 1109.E, 1111.A.3, 1111.A.4, 1111.D, 1115, 1117, 1119, and 1121.

* * * *

C. A farmer who generates waste pesticides which are hazardous waste and who complies with all of the requirements of LAC 33:V.105.D.5 is not required to comply with other standards in this Chapter or LAC 33:V.Subpart 1 with respect to such pesticides.

* * * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, in LR 10:200 (March 1984), as amended in LR 16:

* * * *

Chapter 22. Prohibitions on Land Disposal

§2201. Purpose and Applicability

* * * *

G. The prohibitions contained in this Chapter do not apply to farmers disposing of waste pesticides in accordance with LAC 33:V.105.D.5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, in LR 15:378 (May 1989), as amended LR 16:

* * * *

Timothy W. Hardy
Assistant Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: HSWA Cluster I-A Amendments Amendments to LAC 33:V.

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no significant implementation costs or savings to state or local governments as the proposed regulations will simply correct state regulations to conform to existing federal regulations.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no significant effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no significant costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no significant effect on competition or employment.

Timothy W. Hardy
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Environmental Quality Office of Solid and Hazardous Waste

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et

seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Regulations, LAC 33:Part V.

These proposed amendments will change LAC 33:V. §§109, 517, 534, 1503, 1529, 3105, 3301, 3317, 3319, 3325, 3507, 3511, 3515, 3521, 3523, 3705, 3709, 3715, 3201, 3203, 3205, 3207, 3715, 3719, 4411, and 4901 to conform to existing federal regulations.

These amendments are required by *Federal Register*: Volume 52, pages 46946 - 46965 of December 10, 1987; Volume 52, pages 44314 - 44321 of November 18, 1987; Volume 52, page 26012 of July 10, 1987; Volume 52, pages 25942 - 25953 of July 19, 1987; and Volume 53, pages 13382 - 13393, of April 22, 1988.

These proposed regulations are to become effective on May 20, 1990, or as soon as thereafter practical upon publication in the *Louisiana Register*.

A public hearing will be held on April 3, 1990, at 1:30 p.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Wednesday, April 4, 1990, at 4:30 p.m., to Joan Albritton, Enforcement and Regulatory Compliance Division, Box 44066, Baton Rouge, LA, 70804. Commentors should reference this proposed regulation by the Log Number HW13. Copies of the proposed regulations are also available for inspection at the following locations from 8 a.m. until 4:30 p.m.

Department of Environmental Quality, Commerce Building, 6th Floor, 333 Laurel Street, Baton Rouge, LA.

Department of Environmental Quality, 804 31st Street, Monroe, LA, 71203.

Department of Environmental Quality, State Office Building, 525 Fairfield Avenue, Shreveport, LA 71101.

Department of Environmental Quality, 1150 Ryan Street, Lake Charles, LA 70601.

Department of Environmental Quality, 2945 North I-10 Service Road West, Metairie, LA 70002.

Department of Environmental Quality, 100 Eppler Road, Lafayette, LA 70505.

Timothy W. Hardy
Assistant Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Non-HSWA Cluster IV Amendments to LAC 33:V.

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no significant implementation costs or savings to state or local governments as the proposed regulations will simply correct state regulations to conform to existing federal regulations.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no significant effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no significant costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no significant effect on competition or employment.

Timothy W. Hardy
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Environmental Quality
Office of Solid and Hazardous Waste**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Regulations, LAC 33:V.4901.C.

These amendments will remove the "Beville Amendment" suspension and relist the referenced "K" wastes as hazardous wastes. This relisting will make this subsection equivalent to corresponding federal regulations. These amendments are required by *Federal Register*, 40 CFR 261.32.

These proposed regulations are to become effective on May 20, 1990, or as soon as thereafter practical upon publication in the *Louisiana Register*.

A public hearing will be held on April 3, 1990, in the Mineral Board Hearing Room, State Land and Natural Resources Building. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Wednesday, April 4, 1990, at 4:30 p.m., to Joan Albritton, Enforcement and Regulatory Compliance Division, Box 44066, Baton Rouge, LA, 70804. Commentors should reference this proposed regulation by the Log Number HW15.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality - Hazardous Waste

Chapter 49. Lists of Hazardous Wastes

§4901. Category I Hazardous Wastes

* * * *

C. Hazardous Wastes from specific sources are listed in Table 2.

Table 2. Hazardous Wastes From Specific Sources

* * * *

Industry and EPA hazardous waste no.	Hazard code	Hazardous waste
K064	(T)	Acid plant blowdown slurry/sludge resulting from the thickening of blowdown slurry from primary copper production.
K065	(T)	Surface impoundment solids contained in and dredged from surface impoundments at primary lead smelting facilities.
K066	(T)	Sludge from treatment of process wastewater and/or acid plant blowdown from primary zinc production.
K088	(T)	Spent potliners from primary aluminum reduction.
K090	(T)	Emission control dust or sludge from ferrochromium-silicon production.
K091	(T)	Emission control dust or sludge from ferrochromium production.

* * * * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality in LR 10:200 (March 1984) as amended in LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:320 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), as amended, LR 16:

* * * * *

Timothy W. Hardy
Assistant Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Relisting of Waste Codes (K064, K065, K066, K088, K090, and K091)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs or savings to state or local governments as the proposed amendments will amend the existing regulations in order to allow the Louisiana Hazardous Waste Regulations (LHWR) to conform to federal regulations. There will be no apparent impact on industry or any other segment of the private sector. The regulated community is presently subject to the federal regulations in which these amendments (rules) are intended to conform.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no apparent effect on revenue collections of state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no apparent cost or savings to directly affected persons or non governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No apparent effect on competition or employment.

Timothy W. Hardy
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Risk Management**

The Office of Risk Management has the responsibility in accordance with the provisions of R.S. 39:1527 et seq., to manage all state insurance except as specifically otherwise provided to the contrary, and in accordance with R.S. 39:1527 et seq., the Office of Risk Management proposes to adopt the following rules:

**Title 37
INSURANCE**

Part I. Risk Management

Subpart 2. Insurance and Related Matters

**Chapter 33. Law Enforcement Officers and Firemen's
Survivor Benefit Review Board**

§3301. Survivor's Benefits

A. Purpose

1. To establish an effective and efficient mechanism for fulfilling the provisions of R.S. 39:1533(A), 33:1981, 33:1947, and 33:2201(B).

2. To govern the submission, evaluation and determination of claims submitted pursuant to R.S. 33:1947, 33:2201, and 33:1981.

B. Application

The rules will apply to all claims arising from LRS 33:1947, 33:2201, and 33:1981.

C. Definitions

1. *Act* - refers to Act 308 of 1989

2. *Law Enforcement Officer* shall have the meaning defined in LRS 33:2201(B)(1) through 33:2201 (B)(17).

3. *Fireman* - shall have the meaning defined in LRS 33:1981(B).

4. *Line of Duty* - means any activity performed in which a Law Enforcement Officer suffers death as a result of:

a. an injury arising out of and in the course of the performance of his official duties or

b. arising out of any activity while on or off duty, in his official enforcement capacity, involving the protection of life or property.

5. *Spouse* - shall have the meaning defined in 33:1947(C)(1).

6. *Child* - shall have the meaning defined in 33:1947(C)(1).

7. *Board* - shall mean the Law Enforcement Officers and Firemen's Survivors Benefit Board.

8. *Qualifying Claim* - those claims meeting the criteria of claims request documentation, and the meaning ascribed to line of duty.

D. Board Membership and Domicile

1. The board's official domicile will be located in Baton

Rouge. All claims hearings, presentations etc. will be held in the board's official domicile. Claimant expenses related to claim preparation and presentation are not allowable for reimbursement. Board members serve on a gratuitous basis. The chairman of the board shall be on a rotation basis as follows: attorney general, legislative auditor, and state risk director. The term of each chairman is limited to two years. The attorney general's term shall begin effective September 19, 1989.

2. The board will be comprised of those individuals or their designees as stated in R.S. 33:1947(A).

E. Claims Requests

1. All claims shall be submitted by certified mail to the chairman of Louisiana Law Enforcement and Firemen's Survivors Benefit Board through the Department of Justice - Attorney General.

2. All claim requests must include the following documentation:

a. notarized affidavit of event(s), reference by the claimant, of the appointing authority of the jurisdiction involved;

b. original death certificate of law enforcement officer or firemen involved;

c. validated marriage license of spouse;

d. validated birth certificate of children or judgment of adoption;

e. validated investigative report of the event generating the claim;

f. affidavit of employment from the appointing authority;

g. affidavit of divorce existed at the time of the law enforcement officer's or fireman's death.

F. Procedures for Hearings

1. Upon receipt of a claim the chairman will schedule the claim for board hearing within 60 days after all required documentation is received. Each claim shall be assigned a sequential number claim code which shall be utilized for official references.

2. The chairman shall notify the board members, claimant and appointing authority of the claimant of the claim items up for consideration no later than 10 days prior to hearing.

3. At the hearing date described the board shall officially receive and act upon all claims received.

4. The board may at its discretion entertain additional oral presentations from outside parties regarding the claim.

5. The board shall have the following options with regards to the claim action:

a. approval of the qualifying claim;

b. denial of the claim;

c. deferral pending receipt of additional data.

6. The board shall inform the claimant in writing of its determination.

7. If approved the board chairman shall certify to the commissioner of administration and request payment in accordance with 39:1533.

G. Appeals

There shall be no right of appeal to the board of any decision rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:1947, R.S. 33:1981, R.S. 33:2201, and R.S. 39:1533.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 16:

Interested persons may submit written comments concerning the proposed rules until March 31, 1990 to: Whitman J.

Kling, Jr., Acting State Risk Director, Office of Risk Management, Box 94095, Baton Rouge, LA 70804-9095.

Dennis Stine
Commissioner of Administration

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Survivor's Benefits**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Although total expenditures will not be affected, the payments will come from ORM's Self Insurance Fund and be reimbursed by the Legislature.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no anticipated effect on Revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
No costs associated with adoption. Rule provides a mechanism for the administration of the Law Enforcement Officers and Firemen's Survivors Benefit Board.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This rule does not affect competition nor employment.

Whitman J. Kling, Jr.
Acting Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Risk Management**

The Office of Risk Management has the responsibility in accordance with the provisions of R.S. 39:1527 et seq., to manage all state insurance except as specifically otherwise provided to the contrary, and in accordance with R.S. 39:1527 et seq., the Office of Risk Management proposes to adopt the following rules:

**Title 37
INSURANCE**

Part I. Risk Management

Subpart 2. Insurance and Related Matters

Chapter 31. Reporting of Claims

§3107. Reporting of Worker's Compensation and Maritime Claims

A. The state of Louisiana provides insurance coverage for Worker's Compensation and Maritime Claims.

B. All accidents or occupational diseases involving state employees while in the course and scope of their employment with the state are to be reported to the Office of Risk Management within five days from the date of injury or knowledge. The forms used for this purpose are the Employer's Report of Occupational Injury or Disease Form (E-1, completed at the time of

the accident), and the Pre-existing Condition Form (E-2, which was completed when hired).

C. Employer's Report of Occupational Injury or Disease Forms can be obtained from Forms Management, Box 94095, Baton Rouge, LA 70804-9095 and the Pre-existing Condition Form can be obtained from the Office of Risk Management, Claims Section, Box 94095, Baton Rouge, LA 70804-9095.

D. A copy of the Employer's Report of Occupational Injury or Disease Form and a copy of the Pre-existing Condition Form for a claim in which lost time exceeds seven days, is to be submitted to the Office of Worker's Compensation, 910 North Bon Marché Drive, Baton Rouge, LA 70806 within 10 days of actual knowledge of injury or death.

E. All Employer's Report of Occupational Injury or Disease Forms and Pre-existing Condition Forms are to be accurately and completely filled out.

F. Information required to be submitted when a worker's compensation claim is reported on the Employer's Report of Occupational Injury or Disease Form includes:

- 1. Agency's FACS Cost Center Number (located in a block below the Employer's Federal Tax I.D. Number).
- 2. The occupation of the employee, inclusive of his/her classified or unclassified job title. A classified job title is to include the civil service job classification code number.
- 3. An injured employee's monthly wages are to be reported on the Employer's Report of Occupational Injury or Disease Form under "Other Wages."

G. Information which is to be contained on the Pre-existing Condition Form includes:

- 1. complete name, age, Social Security Number, address and civil service position being applied for;
- 2. check list of possible pre-existing diseases, disabilities and/or conditions before employment;
- 3. description of particulars relative to any checked pre-existing permanent disabilities;
- 4. name and address of employer at time of previous injury;
- 5. witnessed and dated signature of applicant as to the completeness, accuracy and validity of the information contained on the Pre-existing Condition Form.

H. If an injured employee returns to work after having lost time, the Office of Risk Management, Worker's Compensation Claims Unit, is to be notified immediately by telephone and an Employer's Supplemental Report of Injury is to be submitted confirming the return to work date. Also, an Employer's Supplemental Report of Injury Form is to be submitted to the Office of Risk Management at any time the injured employee's work status changes.

I. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim are to be forwarded immediately to the Office of Risk Management's Claim Office for further handling.

J. Any objects and/or products which may have caused, contributed to, or which are suspected of causing any accident are to be retained and preserved as evidence.

K. Any claim paid by legislative appropriation is to be reported to the Office of Risk Management by Appropriations Control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1208.1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 16:

Interested persons may submit written comments concerning the proposed rules until March 31, 1990 to: State Risk Director, Office of Risk Management, Box 94095, Baton Rouge, LA 70804-9095.

Dennis Stine
Commissioner

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Reporting of Claims**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be an undetermined savings to the Office of Risk Management and subsequently to state agencies, boards, and commissions by reducing Worker's Compensation and second injury fund payments due to the possible denial of benefits to persons who fail to respond truthfully on the form E-2 PRE-EXISTING CONDITIONS. There will be an approximate cost of \$1260 annually for copying costs of form E-2 PRE-EXISTING CONDITIONS at agency personnel offices.

There will be an undetermined savings to the Office of Risk Management and subsequently to the various state agencies, boards, and commissions by possible denial of Worker's Compensation benefits to persons who fail to respond truthfully on the form E-2 PRE-EXISTING CONDITIONS. In addition, there will be a savings because persons that are currently paid full Worker's Compensation benefits will be paid out of the second injury fund (i.e Pre-existing conditions would be known) which could substantially reduce the total payout on any particular claim. It is not possible to determine the number of persons who would be untruthful on form E-2 PRE- EXISTING CONDITIONS and consequently denied both full Worker's Compensation and second injury fund benefits.

There will be an annual copy cost of approximately \$1260 based on 18,000 job appointments including transfers at an estimated cost of \$.07 per copy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections of state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The implementation of this rule will have the effect of possibly denying Worker's Compensation benefits to persons who fail to respond truthfully on form E-2 PRE-EXISTING CONDITIONS.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no effect on competition or employment. Implementation will not be a bar to employment or used for any type of discrimination.

Whitman J. Kling, Jr.
Acting State Risk Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Risk Management**

**Title 37
INSURANCE**

Part I. Risk Management

Subpart 3. Worker's Compensation Fee Schedule

Chapter 51. Fee Schedule

The director, Office of Risk Management, Division of Administration, pursuant to notice of intent published December 20, 1987, and pursuant to provisions of R.S. 23:1203.1 and R.S. 39:1527 et seq., adopted effective April 1, 1988 a fee schedule for medical, surgical and hospital services due under the Louisiana Worker's Compensation Act, R.S. 23.1021-1361, and which arise in the state self-insured worker's compensation cases. The official Medical Fee Schedule is available for review at the Office of Risk Management, 2716A Wooddale Boulevard, Baton Rouge, LA 70805, with applicable conversion factors for services to be utilized in accordance with the following:

Conversion Factors for Health Care Providers

Service	\$ per Unit
Medicine	\$ 5.81
Surgery	145.08
Radiology (full service)	11.40
Professional component only	2.18
Pathology	1.75
Anesthesia	29.00

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1, R.S. 39:1527 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 14:148 (March 1988), amended LR 16:

Interested persons may comment on these proposed rules by contacting, State Risk Director, Office of Risk Management, Box 94095, Baton Rouge, LA 70804-9095. Telephone (504) 342-8500.

Seth E. Keener, Jr.
Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Fee Schedule**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no costs involved in this publication due to the fact that this is merely a technical change in the Chapter number to allow for future expansion in Title 37, Part I, Subpart 2 of the *Louisiana Register*.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

None

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

None

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

None

Whitman J. Kling, Jr.
Acting State Risk Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Office of the Governor
Office of Education Services
Governor's Special Commission
on Education Services**

Capitalization of Delinquent Interest Payments on Supplemental Loans for Students (SLS)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Special Commission on Education Services (GSCES) advertises its intent to amend and adopt the following policies and procedures regarding Capitalization of Delinquent Interest Payments on Supplemental Loans for Students (SLS).

Effective March 1, 1990, the Governor's Special Commission on Education Services will require participating lenders to take the following actions when a borrower becomes delinquent on a required installment payment of interest on an SLS loan during an authorized deferment period:

1. Notify the borrower in writing that failure to resolve the delinquency within 30 days will be deemed by the lender to constitute the borrower's consent to capitalization of both the delinquent interest and all interest that accrues during the remainder of the deferment period.

2. Capitalize the overdue interest and continue capitalize accrued interest through the remainder of the deferment period, if the borrower does not resolve the delinquency within the specified period of 30 days.

Interest that accrues during an in-school, graduate fellowship, or rehabilitation training deferment period may be capitalized no more frequently than quarterly. Interest that accrues during any other deferment period may be capitalized no more frequently than annually.

The authority to adopt and implement the capitalization of delinquent interest payments on Supplemental Loans for Students (SLS) is the United States Department of Education (USDE), January, 1990, Dear Colleague Letter 90-G-175).

The adopted rules would amend Policy IX and Procedures 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 47, 48, and 51.

Copies of Policy IX and Procedures 28-48, and 51 may be seen in the office of GSCES, 8401 United Plaza Boulevard, State Retirement Systems Building, Room 250, Baton Rouge, LA.

Interested persons may comment on this proposed policy and procedure changes and/or additions in writing from 7:45 a.m. to 4:30 p.m. until May 30, 1990, at the following address: GSCES, 8401 United Plaza Boulevard, State Retirement Systems Building, Room 250, Baton Rouge, LA 70809.

Jack L. Guinn
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Capitalization of Delinquent Interest on SLS**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Estimated implementation costs will be a reduction of approximately five percent in staff time in the collections, claims, and pre-claims sections, due to a decrease in pre-claim requests, default claims, and defaulted student loans for the Supplemental Loans for Students (SLS) borrowers.

There will be no actual costs or savings to GSCES; the costs associated with the capitalization of delinquent interest on SLS would result in a reduction of SLS defaulted loans, and thus staff time would be freed. This "freed up" staff time will be transferred to the collections, claims, and pre-claims areas to enhance the collection efforts.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Economic benefits could be viewed as decreases in the number of SLS student borrowers who would possibly have defaulted on their SLS student loan by the option of capitalization of interest during deferment if the student has become delinquent.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Kevin E. Cunningham
Legal Counsel

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Office of the Governor
Governor's Special Commission on Education
Office of Education Services**

1987 Policy and Procedure Manual and Loan Program Memoranda (LPM's)

In accordance with LSA R.S. 49:950 et seq., notice is hereby given that the Governor's Special Commission on Education Services (GSCES), advertises its intent to repeal its 1984 Policy and Procedure Manual and adopt the 1987 Policy and Procedure Manual and all Loan Program Memoranda (LPM's) issued to date.

Effective January 20, 1990, the manual and its LPM's replace the GSCES Manual of 1984. The 1987 manual incorporates provisions of Higher Education Amendments of 1986 (Public Law 99-498) and the United States Department of Education's November 10, 1986, GSL and PLUS Regulations (*Federal Register*, Vol. 51, No. 217, 40886-40947).

The 1987 Policy and Procedure Manual must be adopted to bring GSCES's policies and procedures into compliance with federal regulations.

GSCES supplies copies of the 1987 Policy and Procedure Manual and LPM's to schools and lenders participating in the

commission's federal guaranteed student loan programs. The manuals are maintained in accordance with federal regulations by the issuance of LPM's.

Interested persons may comment in writing on the 1987 Policy and Procedure Manual and LPM's, from 7:45 a.m. to 4:30 p.m., until March 30, 1990 at the following address: GSCES, 8401 United Plaza Boulevard, State Retirement Systems Building, Room 250, Baton Rouge, LA 70809.

A hearing on the proposed adoption will be held on April 2, 1990, Louisiana Retirement Systems Building, 8401 United Plaza Boulevard, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing at said hearing.

Jack L. Guinn
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: 1987 Policy & Procedure Manual and LPM's

- 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 associated with the adoption of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There are no costs or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Kevin E. Cunningham
Legal Counsel

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Hospitals Board of Dentistry

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq. and the Dental Practice Act, R.S. 37:760(8), notice is hereby given that the Louisiana State Board of Dentistry intends to adopt the following amended rule and regulation:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part XXXIII. Dental Health Professionals

Chapter 5. Dental Assistants

§501. Authorized Duties

A. A dental assistant is one who is employed by and works in the office of a licensed, registered, practicing dentist

and performs the duties authorized by the Louisiana State Board of Dentistry under his direct on-premises supervision, direction and responsibility only.

B. A dental assistant may only perform the following under the direct on-premises supervision of the dentist who employs her or him:

1. serve as the dentist's chair side assistant;
2. take and develop dental x-rays and intra-oral photographs as ordered by the dentist;
3. take and record pulse, blood pressure and temperature;
4. apply:
 - a. topical anesthetics (non-aerosol, non-caustic);
 - b. topical fluorides (following prophylaxis);
 - c. desensitizing agents;
 - d. oxygenating agents (non-endodontic);
 - e. cavity liners (excluding capping of exposed pulpal tissues);
 - f. acid etch liquids and gels;
5. chart the mouth, floss the teeth, and make preliminary inspections of the mouth and teeth with a mouth mirror and floss only;
6. give intra-oral instructions and demonstrations of oral hygiene procedures;
7. place, wedge or remove matrices for restorations by the dentist;
8. remove sutures, post-extraction dressings and surgical ligature ties;
9. receive removable prosthesis for cleaning or repair work;
10. remove cement from dental restorations and appliances, with hand instruments only, limited to the clinical crown;
11. make dental plaque smears;
12. apply and remove rubber dams;
13. make preliminary study model impressions and opposing model impressions;
14. place or remove pre-formed crowns or bands for determining size only when recommended by the dentist under his supervision. Only the dentist may shape, festoon, contour, seat and cement all crowns, bands and brackets;
15. place or remove temporary separating devices;
16. place or remove ligatures, cut and tuck ligatures, remove tension devices and any loose or broken bands or arch wires when directed by the dentist;
17. a retaining device usually placed in the mouth of a patient by such patient may be placed when directed by the dentist;
18. place and remove periodontal dressings (except placement of the initial dressing);
19. fabricate and remove interim crowns or bridges (interims meaning temporary while permanent restoration is being fabricated);
20. place and remove retraction cord;
21. remove final impressions.

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

Interested persons may submit written comments on the proposed changes within 10 days of the date of publication to the Louisiana State Board of Dentistry, Suite 2240, 1515 Poydras Street, New Orleans, LA 70112, Attention: Secretary-Treasurer. A public hearing shall be conducted by a Committee of the State Board on the proposed adoption and/or changes on April 5, 1990 at 7 p.m. on the Fifth Floor, 1515 Poydras Street,

New Orleans, LA 70112, and any interested person may appear and participate in accordance with R.S. 49:953(2) (a).

Russell R. DiMarco, D.D.S.
Secretary-Treasurer

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Dental Assistants - Authorized Duties**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated implementation cost or savings to the Louisiana State Board of Dentistry or any other state or local governmental unit.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effects on competition and employment are anticipated.

Dr. Russell R. DiMarco
Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq. and the Dental Practice Act, R.S. 37:760(8), notice is hereby given that the Louisiana State Board of Dentistry intends to adopt the following rule and regulation:

Title 46

**PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Professionals**

Chapter 10. Infectious Waste Management

§1001. Handling and Disposing of Infectious Waste

The Louisiana State Board of Dentistry has accepted, in principal, the July, 1988 recommendations of the American Dental Association, Division of Scientific Affairs, on Dental Office Infectious Waste Management and adopts the following regulations in connection therewith.

A. Wastes generated in a dental office which are to be considered infectious, and are to be handled and disposed of with special precautions, include the following:

1. sharp items, such as needles, disposable syringes and scalpel blades;
2. human tissues, including extracted teeth;

3. blood, suctioned fluids or other liquid waste.
B. The proper method for handling and disposing of sharp items is as follows:

1. All sharp items should be placed intact in puncture-resistant containers for disposal.

2. The containers should be labeled with a biological hazard tag.

3. The labeled containers should be placed in impervious plastic bags before disposing of them in a sanitary landfill. Alternatively, as an additional step, the dentist may prepare a slurry of gypsum plaster, pour it into the container and allow it to harden to encase the sharp objects in the set plaster. The container may then be disposed of in sturdy, impervious plastic bags as appropriate for other solid waste materials.

C. The proper method of handling and disposing of human tissues is as follows:

1. Human tissue may be handled in the same manner as sharp items.

2. Alternatively, human tissues may be incinerated or autoclaved prior to disposal. Extracted teeth containing metal restorations should not be autoclaved prior to disposal because of the possible release of potentially harmful vapors, such as mercury vapor.

3. Human tissues and extracted teeth not placed in a fixative and submitted for pathological examination may be placed in a chemical agent for sterilization.

4. Human tissue, if handled in the same manner as sharp items, should be labeled with a biological hazard tag. If stored prior to incineration or being autoclaved, the containers holding such wastes should also be labeled with biological hazard tags. After incineration or autoclaving, the remaining waste is no longer infectious and any container holding such remaining waste would not require any labeling as a biological hazard.

D. The proper method for handling and disposing of blood, suctioned fluids or other liquid waste is as follows:

1. Blood, suctioned fluids or other liquid wastes may be carefully poured into a drain connected to a sanitary sewer system.

2. All bottles or other containers used to collect blood, suctioned fluids or other liquid wastes for disposal should be labeled with a biological hazard tag or symbol.

E. Other solid waste materials contaminated with blood or other body fluids, such as gloves, masks, wipes, paper drapes and surface covers, do not require special precautions. These materials should be placed in sealed, sturdy, impervious plastic bags to prevent human contact with them, and disposal should be in the same manner as with other solid wastes.

F. All dentists shall comply with the foregoing regulations in identifying, handling and disposing of infectious waste material.

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

Interested persons may submit written comments on the proposed changes within 10 days of the date of publication to the Louisiana State Board of Dentistry, Suite 2240, 1515 Poydras Street, New Orleans, LA 70112, Attention: Secretary-Treasurer. A public hearing shall be conducted by a Committee of the State Board on the proposed adoption and/or changes on April 5, 1990 at 7 p.m. on the Fifth Floor, 1515 Poydras Street, New Orleans, LA 70112, and any interested person may appear and participate in accordance with R.S. 49:953(2) (a).

Russell R. DiMarco, D.D.S.
Secretary-Treasurer

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: Infectious Waste Management - Handling
and Disposal of Infectious Waste**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated implementation cost or savings to the Louisiana State Board of Dentistry or any other state or local governmental unit.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effects on competition and employment are anticipated.

Dr. Russell R. DiMarco
Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq. and the Dental Practice Act, R.S. 37:760(8), notice is hereby given that the Louisiana State Board of Dentistry intends to adopt the following rule and regulation:

Title 46

**PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Professionals**

Chapter 6. Nurses

§601. Authorized Duties

A. A *registered nurse (R.N.)* is defined as a person who, having successfully completed the approved educational program required by, and passed a written examination administered by, the Louisiana State Board of Nursing, or having otherwise satisfied the requirements of R.S. 37:920, is licensed by the Louisiana State Board of Nursing as a registered nurse.

B. A *certified registered nurse anesthetist (C.R.N.A.)* is defined as a registered nurse who renders anesthesia care and has satisfied all of the requirements set forth under R.S. 37:930.

C. A *student nurse* is defined as a person who is enrolled in a school of nursing approved by the Louisiana State Board of Nursing and is preparing for licensure as a registered nurse.

D. A *licensed practical nurse (L.P.N.)* is defined as a person who, having successfully completed the approved educational program required by, and passed a written examination administered by, the Louisiana State Board of Practical Nurse Examiners, or having satisfied the requirements of R.S. 37:972,

is licensed by the Louisiana State Board of Practical Nurse Examiners as a licensed practical nurse.

E. In connection with a dental practice, a licensed, registered, practicing dentist may employ one or more of the following:

1. Registered nurses (R.N.);
2. Certified registered nurse anesthetists (C.R.N.A.);
3. Student nurses;
4. Licensed practical nurses (L.P.N.).

Any of whom, for purposes hereof, shall be referred to as "nurses."

F. A nurse may perform the following under the direct, on-premises supervision and direction of the dentist who employs him or her:

1. all of the authorized duties of a dental assistant listed under §501;

2. as to R.N.'s, C.R.N.A.'s and student nurses, all of the duties of that particular category of nursing which he or she is licensed and specifically authorized to perform under the Louisiana Nurse Practice Act, R.S. 37:911, et seq;

3. as to L.P.N.'s, all of the duties listed in R.S. 37:961(2).

G. Notwithstanding the provisions hereof or of R.S. 37:930, no nurse in the employ of a dentist may administer any form of anesthetic to a dental patient unless the dentist employing the nurse shall have received the authorization of the board required by R.S. 37:793.

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

Interested persons may submit written comments on the proposed changes within 10 days of the date of publication to the Louisiana State Board of Dentistry, Suite 2240, 1515 Poydras Street, New Orleans, LA 70112, Attention: Secretary-Treasurer. A public hearing shall be conducted by a Committee of the State Board on the proposed adoption and/or changes on April 5, 1990 at 7 p.m. on the Fifth Floor, 1515 Poydras Street, New Orleans, LA 70112, and any interested person may appear and participate in accordance with R.S. 49:953(2) (a).

Russell R. DiMarco, D.D.S.
Secretary-Treasurer

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Nurses - Authorized Duties

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated implementation cost or savings to the Louisiana State Board of Dentistry or any other state or local governmental unit.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effects on competition and employment are anticipated.

Dr. Russell R. DiMarco
Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Examiners for Nursing Home Administrators**

The Louisiana State Board of Examiners for Nursing Home Administrators intends to adopt a change in Chapter 1, Paragraph 103.C.4 of Title 46, XLIX as follows to amend an existing rule by adding:

Title 46

**PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLIX. Nursing Home Administrators**

Chapter 1. General Provisions

§103. General Definitions

C.4. a. - c. . . .

d. A *provider representative* is a person charged with general administration of a nursing home on a temporary basis when a home is without a licensed administrator, as approved by the Bureau of Health Services Financing.

Interested persons may submit written comments on the proposed regulation until 3:30 p.m., April 25, 1990 at the following address, Winborn E. Davis, Executive Director, Louisiana State Board of Examiners for Nursing Home Administrators, Suite 100, 4550 North Boulevard, Baton Rouge, LA 70806.

Winborn E. Davis
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Definitions**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no additional costs or savings to state or local government.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local government.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no costs or economic benefits to affected persons or governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Winborn E. Davis
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270(B) and the provisions of the Administrative Procedure Act, intends to adopt, as Subpart V, Chapter 99 of its administrative rules (LAC 46:XLV), rules governing the initiation, investigation and adjudication of administrative complaints providing cause under law for the suspension, revocation or other disciplinary action against licenses, permits, certifications and registrations issued by the board. The proposed rules are set forth below. Inquiries concerning the proposed rules may be directed in writing to: Delmar Rorison, Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXV. Medical Profession**

Subpart 5. Rules of Procedure

Chapter 99. Adjudication

§9901. Scope of Chapter

The rules of this Chapter govern the board's initiation and adjudication of administrative complaints providing cause under law for the suspension, revocation, imposition of probation on or other disciplinary action against persons holding licenses, permits, certifications, or registration issued by the board or applicants therefor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:

§9903. Complaint

A. Proceedings to adjudicate an administrative enforcement action shall be initiated by the filing of a written administrative complaint with the board. The complaint shall be signed by a member of the board appointed and designated by the board as investigating officer with respect to the subject matter of the complaint and shall name the accused licensee as respondent in the proceedings.

B. The complaint shall set forth, in separately numbered paragraphs, a concise statement of the material facts and matters alleged and to be proven by the investigating officer including the facts giving rise to the board's jurisdiction over the respondent, the facts constituting legal cause under law for administrative action against the respondent, and the statutory or regulatory provisions alleged to have been violated by respondent. The complaint shall conclude with a request for the administrative sanction or other relief sought by the investigating officer and shall bear the name, address and telephone number of complaint counsel engaged by the board to present the case at evidentiary hearing before the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:

§9905. Notice of Hearing

A. Upon the filing of an administrative complaint pursuant to §9903, the board shall docket the complaint and schedule the complaint for hearing before the board not less than 45 days

nor more than 180 days thereafter; provided, however, that such time may be lengthened or shortened as the board determines may be necessary or appropriate to protect the public interest or upon motion of the investigating officer or respondent pursuant to a showing of proper grounds. In the event that the respondent's license, permit, certification or registration has been suspended by the board pending hearing, pursuant to R.S. 49:961(C), evidentiary hearing on the complaint shall be noticed and scheduled not more than 45 days after the filing of the complaint.

B. A written notice of the complaint and the time, date and place of the scheduled hearing thereon shall be served upon the respondent by registered, return-receipt-requested mail, as well as by regular first class mail, at the most current address for the respondent reflected in the official records of the board, or by personal delivery of the complaint to the respondent. The notice shall include a statement of the legal authority and jurisdiction under which the hearing is to be held and shall be accompanied by a certified copy of the administrative complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:

§9907. Response to Complaint; Notice of Representation

A. Within 15 days of service of the complaint, or such longer time as the board, on motion of the respondent, may permit, the respondent may answer the complaint, admitting or denying each of the separate allegations of fact and of law set forth therein. Any matters admitted by respondent shall be deemed proven and established for purposes of adjudication. In the event that respondent does not file a response to the complaint, all matters asserted therein shall be deemed denied.

B. Any respondent may be represented in an adjudication proceeding before the board by an attorney at law duly admitted to practice in any state. Upon receipt of service of a complaint pursuant to this chapter, or thereafter, a respondent who is represented by legal counsel with respect to the proceeding shall personally or through such counsel, give written notice to the board of the name, address and telephone number of such counsel. Following receipt of proper notice of representation, all further notices, complaints, subpoenas, orders or other process related to the proceeding shall be served on respondent through his or her designated counsel of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:

§9909. Pleadings, Motions; Service

A. All pleadings, motions or other papers permitted or required to be filed with the board in connection with a pending adjudication proceeding shall be filed by personal delivery at or by mail to the office of the board and shall by the same method of delivery be concurrently served upon complaint counsel designated by the complaint, if filed by or on behalf of the respondent, or upon respondent, through counsel of record if any, if filed by complaint counsel.

B. All such pleadings, motions or other papers shall be submitted on plain white, letter-size (8¹/₂" by 11") bond, with margins of at least one inch on all sides and text double-spaced except as to quotations and other matter customarily single-spaced, shall bear the caption and docket number of the case as it appears on the complaint and shall include the certificate of

the attorney or person making the filing that service of a copy of the same has been effected in the manner prescribed by Subsection A of this Section.

C. The board may refuse to accept for filing any pleading, motion or other paper not conforming to the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:

§9911. Prehearing Motions

Motions for continuance of hearing, for dismissal of the proceeding and all other prehearing motions shall be filed not later than 30 days following service of the complaint on the respondent or 15 days prior to the hearing, whichever is earlier. Each prehearing motion shall be accompanied by a memorandum which shall set forth a concise statement of the grounds upon which the relief sought is based and the legal authority therefor. A motion may be accompanied by an affidavit as necessary to establish facts alleged in support of the motion. Within 10 days of the filing of any such motion and memorandum or such shorter time as the board may order, the investigating officer, through complaint counsel, may file a memorandum in opposition to or otherwise setting forth the investigating officer's position with respect to the motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:

§9913. Motions for Continuance of Hearing

A. A motion for continuance of hearing shall be filed within the delay prescribed by §9911 of these rules, provided that the board may accept the filing of a motion for continuance at any time prior to hearing upon a showing of good cause not discoverable within the time otherwise provided for the filing of prehearing motions.

B. A scheduled hearing may be continued by the board only upon a showing by respondent or complaint counsel that there are substantial legitimate grounds that the hearing should be continued balancing the right of the respondent to a reasonable opportunity to prepare and present a defense to the complaint and the board's responsibility to protect the public health, welfare and safety. Except in extraordinary circumstances evidenced by verified motion or accompanying affidavit, the board will not ordinarily grant a motion to continue a hearing that has been previously continued upon motion of the same party.

C. If an initial motion for continuance is not opposed, it may be granted by the executive director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:

§9915. Disposition of Prehearing Motions

A. Any prehearing motion, other than an unopposed initial motion for continuance of hearing which may be granted by the executive director, shall be referred for decision to the presiding officer of the hearing panel designated with respect to the proceeding for ruling. The presiding officer, in his discretion, may refer any prehearing motion to the entire panel for disposition, and any party aggrieved by the decision of a presiding officer on a prehearing motion may request that the motion be reconsidered by the entire panel.

B. Prehearing motions shall ordinarily be ruled upon by

the presiding officer or the hearing panel, as the case may be, on the papers filed, without hearing. On the written request of respondent or of complaint counsel, however, and on demonstration that there are good grounds therefor, the presiding officer may grant opportunity for hearing, by oral argument, on any prehearing motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:

§9917. Subpoenas for Hearing

A. Upon request of the respondent or complaint counsel and compliance with the requirements of this Section, the executive director shall sign and issue subpoenas in the name of the board requiring the attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence at an adjudication hearing.

B. No subpoena shall be issued unless and until the party who wishes to subpoena the witness first deposits with the board a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Witnesses subpoenaed to testify before the board only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witnesses as may be fixed by the board with reference to the value of time employed and the degree of learning or skill required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:

§9919. Prehearing Conference

A. In any case of adjudication noticed and docketed for hearing, counsel for respondent and complaint counsel may agree, or the presiding officer may require, that a prehearing conference be held among such counsel, or together with the board's independent counsel appointed pursuant to §9921(D) hereof, for the purpose of simplifying the issues for hearing and promoting stipulations as to facts and proposed evidentiary offerings which will not be disputed at hearing.

B. Following such prehearing conference the parties shall, and without such conference the parties may by agreement, agree in writing on a prehearing stipulation which should include:

1. a brief statement by complaint counsel as to what such counsel expects the evidence to be presented against respondent to show;

2. a brief statement by respondent as to what the evidence and arguments in defense are expected to show;

3. a list of the witnesses to be called by complaint counsel and by respondent, together with a brief general statement of the nature of the testimony each such witness is expected to give;

4. any stipulations which the parties may be able to agree upon concerning undisputed claims, facts, testimony, documents, or issues; and

5. an estimate of the time required for the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:

§9921. Conduct of Hearing; Record

A. Unless requested by the respondent, adjudication hearings shall be conducted in closed session.

B. At an adjudication hearing, opportunity shall be afforded to complaint counsel and respondent to present evidence on all issues of fact and argument on all issues of law and policy involved, to call, examine and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for a full and true disclosure of the facts and disposition of the complaint.

C. Unless stipulation is made between the parties, and approved by the hearing panel, providing for other means of recordation, all testimony and other proceedings of an adjudication shall be recorded by a certified stenographer who shall be retained by the board to prepare a written transcript of such proceedings.

D. During evidentiary hearing, the presiding officer shall rule upon all evidentiary objections and other procedural questions, but in his discretion may consult with the entire panel in executive session. At any such hearing, the board may be assisted by legal counsel, retained by the board for such purpose, who is independent of complaint counsel and who has not participated in the investigation or prosecution of the case. If the board or panel is attended by such counsel, the presiding officer may delegate to such counsel ruling on evidentiary objections and other procedural issues raised during the hearing.

E. The record in a case of adjudication shall include:

1. the administrative complaint and notice of hearing, respondent's response to the complaint, if any, subpoenas issued in connection with discovery in the case or hearing of the adjudication, and all pleadings, motions, and intermediate rulings;

2. evidence received or considered at the hearing;

3. a statement of matters officially noticed except matters so obvious that statement of them would serve no useful purpose;

4. offers of proof, objections, and rulings thereon;

5. proposed findings and exceptions, if any;

6. the decision, opinion, report or other disposition of the case made by the board.

F. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:

§9923. Evidence

A. In an adjudication hearing, the board, or the designated hearing panel thereof, may give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. Effect shall be given to the rules of privilege recognized by law. The board or panel may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

B. All evidence, including records and documents in the possession of the board which complaint counsel desires the board to consider, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated

shall be available for examination by the respondent before being received in evidence.

C. Notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts within the board's medical knowledge. Parties shall be notified either before or during the hearing of the material noticed or sought by a party to be noticed, and they shall be afforded an opportunity to contest the material so noticed. The board's medical experience, technical competence and medical knowledge may be utilized in the evaluation of the evidence.

D. Any member of the board serving as presiding officer in adjudication hearing shall have the power to and shall administer oaths or affirmations to all witnesses appearing to give testimony, shall regulate the course of the hearing, set the time and place of continued hearings, fix the time for the filing of briefs and other documents, if any are required or requested, and may direct the parties to appear and confer to consider simplification of the issues.

E. Except as otherwise governed by the provisions of these rules, adjudication hearings before the board shall be governed by the Louisiana Code of Evidence, insofar as the same may be applied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:

§9925. Informal Disposition

The board may make informal disposition, by default, consent order, agreement, settlement, or otherwise of any adjudication pending before it. A consent order shall be considered by the board only upon the recommendation of the investigating officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:

§9927. Decisions; Notice

A. The final decision of the board in an adjudication proceeding shall, if adverse to the respondent, and otherwise may be, in writing, shall include findings of fact and conclusions of law, and shall be signed by the presiding officer of the hearing panel on behalf and in the name of the board.

B. Upon issuance of a final decision, a certified copy thereof shall promptly be served upon respondent's counsel of record, or upon respondent personally in the absence of counsel, in the same manner of service prescribed with respect to service of complaints.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:

§9929. Rehearings

A. A decision by the board in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the board pursuant to written motion filed with the board within ten days from service of the decision on respondent. A motion for rehearing, reopening, or reconsideration shall be made and served in the form and manner prescribed by §9909 and shall set forth the grounds upon which such motion is based, as provided by Subsection B of this Section.

B. The board may grant rehearing, reopening, or reconsideration if it is shown that:

1. the decision is clearly contrary to the law and the evidence;
2. the respondent has discovered since the hearing evidence important to the issues which he or she could not have with due diligence obtained before or during the hearing;
3. other issues not previously considered ought to be examined in order properly to dispose of the matter; or
4. there exists other good grounds for further consideration of the issues and the evidence in the public interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:

Interested persons may submit data, views, arguments, information or comments on the proposed rules, in writing, to the Louisiana State Board of Medical Examiners, at Suite 100, 830 Union Street, New Orleans, LA 70112-1499. Written comments must be submitted to and received by the board within 30 days from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 15 days of the date of this notice.

Delmar Rorison
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Rules of Procedure (Administrative Adjudications)

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is not anticipated that implementation of the proposed rules will result in any additional costs to the Board of Medical Examiners.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is not anticipated that implementation of the proposed rules will have a material or significant effect on the board's revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
It is not anticipated that implementation of the proposed rules will have a material or significant effect on costs, paper work or workload of persons holding licenses, permits and registrations issued by the board.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
It is not anticipated that the proposed rules amendments will have any impact on competition or employment in either the public or private sector.

Delmar Rorison
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Hospitals Board of Medical Examiners

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270(B) and 3303(C), intends to adopt, as Subchapter H (§§3163-3179) of Chapter 31 of its existing rules governing the certification of athletic trainers (LAC 46:XLV, Subpart 2), rules governing the continuing education which certified athletic trainers must biannually obtain and document as a condition to maintenance of certification. The proposed rules are set forth below. Inquiries concerning the proposed rules may be directed in writing to: Delmar Rorison, Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Profession

Subpart 2. Licensing and Certification

Chapter 31. Athletic Trainers

Subchapter H. Continuing Education

§3163. Scope of Subchapter

The rules of this Subchapter provide standards for the continuing education requisite to renewal of certification as an athletic trainer as required by §§3159 and 3165 of these rules and prescribe the procedures applicable to documentation of continuing education in connection with application for renewal of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:

§3165. Continuing Education Requirement

To be eligible for renewal of certification, a certified athletic trainer shall, within each two-year period during which he holds certification, evidence and document, upon forms supplied by the board, successful completion of not less than 2.4 continuing education units. A continuing education unit (CEU) constitutes 10 hours of participation in an organized continuing education experience under responsible sponsorship, capable direction and qualified instruction, as approved by the board; one hour is equal to one-tenth of a continuing education unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:

§3167. Qualifying Programs and Activities

A. To be acceptable as qualified continuing education under these rules, an activity or program must have significant intellectual or practical content, dealing primarily with matters related to athletic training, and its primary objective must be to maintain or increase the participant's competence as an athletic trainer.

B. The following programs and activities shall be deemed approved by the board for the number of continuing education units indicated:

1. A certified athletic trainer who is certified by and a member of the NATA shall receive credit for that number of continuing education units awarded or recognized by the NATA for attendance at or participation in any meeting, conference, workshop, seminar, course or other activity held or conducted during

the two-year period preceding renewal of certification.

2. One-tenth of a CEU shall be recognized for each hour of attendance at a course, seminar or workshop sponsored by an organization or entity approved by the board and otherwise meeting the standards prescribed by Subsection A of this Section.

3. Six-tenths of a CEU shall be recognized for each instructional hour of presentation in the initial teaching, presentation or conduct of a course, seminar or workshop sponsored by an organization or entity approved by the board and otherwise meeting the standards prescribed by Subsection A of this Section, provided that such presentation is accompanied by thorough written materials or a comprehensive outline relating to the course, seminar or workshop. Three-tenths of a CEU shall be recognized for each instructional hour of presentation for any subsequent teaching, presentation or conduct of the same course, seminar or workshop.

4. For the teaching of a course in or directly related to athletic training at an accredited educational institution, eight-tenths of a CEU shall be recognized for each hour of academic credit awarded by the institution to students for attendance at the course, provided that such teaching is not performed in the ordinary course of the certified athletic trainer's usual and ordinary employment.

5. One and one-half CEUs shall be recognized for publication, in a national, regional or statewide scientific journal or other publication of a related profession, of an original written work, related to the maintenance or improvement of athletic training knowledge or skills, and otherwise meeting the standards prescribed by Subsection A of this Section.

6. One-half of a CEU shall be recognized for each credit hour obtained in a course of postgraduate study beyond the bachelors degree level undertaken and completed at an accredited educational institution, provided that such course of study meets the standards prescribed by Subsection A of this Section.

7. Three-tenths of a CEU shall be recognized for the completion of a correspondence course sponsored and offered by an organization or entity approved by the board and meeting the standards prescribed by Subsection A of this Section.

8. One-half of a CEU shall be recognized for each year during which a certified athletic trainer, individually or jointly with one or more other certified athletic trainers, assumes responsibility for and discharges supervision of an apprentice or student athletic trainer for a full calendar year.

9. One-tenth of a CEU shall be recognized for each contact hour spent by members in attendance at the annual meeting of the Louisiana Athletic Trainers' Association (LATA).

10. One-half of a CEU shall be recognized for each full year during which a certified athletic trainer serves as an elected or appointed officer or committee chairman of the LATA.

11. Two CEUs shall be recognized for each two weeks of volunteer service provided by a certified athletic trainer to any United State Olympic Committee-sponsored training center.

C. In addition to the programs and activities approved pursuant to Subsection B of this Section, upon application to the board pursuant to §3171 of these rules, the board may approve additional programs and activities as qualifying for continuing education unit credit and specify the CEUs which shall be recognized with respect to such program or activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:

§3169. Continuing Education Advisory Committee

A. The board shall establish and appoint a Continuing Education Advisory Committee comprising three members, each of whom shall be an athletic trainer certified by the board who is employed and engaged in athletic training in the state of Louisiana. Members of the committee shall be appointed by the board from nominations submitted by the LATA, which shall submit no fewer than three names for each committee position to be filled by the board. Members of the committee shall serve at the pleasure of the board and may be removed or replaced at any time.

B. The committee shall have the authority and responsibility to:

1. evaluate organizations and entities providing or offering to provide continuing education programs for athletic trainers and provide recommendations to the board with respect to the board's recognition and approval of such organizations and entities as sponsors of qualifying continuing education programs and activities pursuant to §§3171 and 3173 hereof;

2. review documentation of continuing education by certified athletic trainers, verify the accuracy of such information, and evaluate and make recommendations to the board with respect to whether programs and activities evidenced by applicants for renewal of certification comply with and satisfy the standards for such programs and activities prescribed by these rules;

3. request and obtain from applicants for renewal of certification such additional information as the committee may deem necessary or appropriate to enable it to make the evaluation and provide the recommendations for which the committee is responsible; and

4. make recommendations to the board with respect to such amendments of these rules as the committee may deem necessary or appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:

§3171. Approval of Program Sponsors

A. Any program, course, seminar, workshop or other activity meeting the standards prescribed by §3167(A) sponsored or offered by the NATA or LATA shall be presumptively deemed approved by the board for purposes of qualifying as an approved continuing education activity under §3167 (B)(2), (3) and (7).

B. Upon the recommendation of the Continuing Education Advisory Committee, the board may designate additional organizations and entities whose programs, courses, seminars, workshops or other activities shall be deemed approved by the board for purposes of qualifying as an approved continuing education activity under §3167(B)(2), (3) and (7).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:

§3173. Approval of Activities

A. A continuing education activity of any type defined by §3167(B)(2), (3) or (7) sponsored by an organization or entity not deemed approved by the board pursuant to §3171 or an activity of a type specified by §3167(B)(4), (5) or (6) may be pre-approved by the board prior to participation in such activity or application for renewal of certification upon written request to the board therefor accompanied by a complete description of the nature, location, date, content and purpose of such activity and such other information as the board may request to establish compliance of such activity with the standards prescribed by §3167(A).

B. Any such written request shall be referred by the board to the Continuing Education Advisory Committee for its recommendation. If the committee's recommendation is against approval, the board shall give notice of such recommendation to the person requesting approval and the person requesting approval may appeal the committee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval of any such activity shall be final. Persons requesting board pre-approval of continuing education activities should allow not less than 90 days for such requests to be processed.

C. Prior approval of a continuing education activity by the board is not necessary for recognition of such activity by the board for purposes of meeting the continuing education requirements requisite to renewal of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:

§3175. Documentation Procedure

A. A form for documenting and certifying the completion of continuing education as required by these rules shall be mailed by the board to each certified athletic trainer subject to continuing education requirements with the application for renewal of certification form mailed by the board pursuant to §3157 of these rules. Such forms shall be completed and delivered to the board with certified athletic trainer's renewal application.

B. In lieu of or in addition to submission of the continuing education certification form supplied by the board, completion of all or part of the continuing education required by these rules may be satisfactorily evidenced, in whole or in part, by delivering or causing to be delivered to the board the original or a certified copy of a certification by the NATA as to CEU credits awarded or recognized by the NATA for continuing education activities undertaken and completed within the prior two-year period.

C. Any certification of continuing education activities not presumptively approved or pre-approved in writing by the board pursuant to these rules shall be referred to the Continuing Education Advisory Committee for its evaluation and recommendations pursuant to §3169(B)(2). If the committee determines that an activity certified by an applicant for renewal in satisfaction of continuing education requirements does not qualify for recognition by the board or does not qualify for the number of continuing education units claimed by the applicant, the board shall give notice of such determination to the applicant for renewal and the applicant may appeal the committee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval and recognition of any such activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:

§3177. Failure to Satisfy Continuing Education Requirements

A. An applicant for renewal of certification who fails to evidence satisfaction of the continuing education requirements prescribed by the rules shall be given written notice of such failure by the board. The certification of the applicant shall remain in full force and effect for a period of 60 days following the mailing of such notice, following which it shall be deemed expired, unrenewed and subject to revocation without further notice, unless the applicant shall have, within such 60 days,

furnished the board satisfactory evidence, by affidavit, that:

1. the applicant has satisfied the applicable continuing education requirements;
2. the applicant is exempt from such requirements pursuant to these rules; or
3. the applicant's failure to satisfy the continuing education requirements was occasioned by disability, illness or other good cause as may be determined by the board.

B. The certification of an athletic trainer whose certification has expired by nonrenewal or been revoked for failure to satisfy the continuing education requirements of these rules may be reinstated by the board upon written application to the board filed within two years of the effective date of expiration, nonrenewal or revocation accompanied by satisfactory documentation of the completion of not less than three continuing education units within the prior two years and payment of a reinstatement fee, in addition to all other applicable fees and costs, of \$50. Any continuing education activities recognized for purposes of reinstatement shall not be recognized for purposes of any subsequent renewal of certification.

C. Notwithstanding any provision of these rules to the contrary, the certification of an athletic trainer who would otherwise be required to evidence continuing education under these rules for renewal of certification effective July 1, 1990 but who does not satisfy such requirements shall be continued in force until June 30, 1991 and shall thereafter be renewed provided that the requirements of these rules are met and documented prior to application for renewal as of July 1, 1991.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:

§3179. Waiver of Requirements

The board may, in its discretion and upon the recommendation of the Continuing Education Advisory Committee, waive all or part of the continuing education required by these rules in favor of a certified athletic trainer who makes written request for such waiver to the board and evidences to the satisfaction of the board a permanent physical disability, illness, financial hardship or other similar extenuating circumstances precluding the athletic trainer's satisfaction of the continuing education requirements.

Interested persons may submit data, views, arguments, information or comments on the proposed rules, in writing, to the Louisiana State Board of Medical Examiners, at Suite 100, 830 Union Street, New Orleans, LA, 70112-1499. Written comments must be submitted to and received by the board on or before April 20, 1990. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board by April 4, 1990.

Delmar Rorison
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Continuing Education for Athletic Trainers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that implementation of the proposed rules will result in any additional costs to the Board of Medical Examiners.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that implementation of the proposed rules will have a material or significant effect on the board's revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

It is not anticipated that implementation of the proposed rules will have a material or significant effect on costs, paperwork or workload of persons holding licenses, permits and registrations issued by the board.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rules amendments will have any impact on competition or employment in either the public or private sector.

Delmar Rorison
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Hospitals Board of Medical Examiners

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270(B) and other provisions of the Louisiana Medical Practice Act, intends to amend and supplement its existing rules (LAC 46:XLV.301-.431) governing the licensing of physicians and surgeons to engage in the practice of medicine in the state of Louisiana.

The proposed amendments would provide for qualification for licensure by passage of all components of the National Board of Medical Examiners (NBME) examination, require one year of post-graduate clinical training as a condition to licensure with respect to applications received on and after January 1, 1992, eliminate existing restrictions on the taking of partial licensure examinations; amend existing provisions relative to certain temporary permits for visiting professors and foreign exchange visiting professors; and amend other rules respecting licensure by reciprocity; board recognition of foreign medical schools; and circumstances allowing for waiver of certain requirements.

New rules would be added providing for the visiting foreign national resident permit and providing reduced licensure renewal fees for certain physicians. The rules, as they are proposed to be amended and supplemented, can be obtained in their entirety by contacting the director at the address below. Inquiries concerning the proposed rule amendments may be directed in writing to: Delmar Rorison, Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

Interested persons may submit data, views, arguments, information or comments on the proposed rule amendments, in writing, to the Louisiana State Board of Medical Examiners, at Suite 100, 830 Union Street, New Orleans, LA 70112-1499. Written comments must be submitted to and received by the board within 30 days from the date of this notice. A request

pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 15 days of the date of this notice.

Delmar Rorison
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Rules on Licensing
(Physicians and Surgeons)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is not anticipated that implementation of the proposed rule amendments will result in any additional costs or savings to the Board of Medical Examiners.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is estimated that the proposed rule amendments may result in a decrease in the board's revenues during 1989-90 of approximately \$21,750, with concomitant increases in each of the following two fiscal years of \$22,150 and \$20,500, respectively, by virtue of the anticipated one-year deferral of licensure application by a percentage of graduates who would have otherwise applied upon completion of medical school, and a reduction in renewal fees made available to certain qualifying aged and disabled physicians.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Physicians and surgeons eligible for licensing in Louisiana, either for initial licensing following graduation from medical school, or for licensure by reciprocity, having been previously licensed in and by another state, would be directly affected by the proposed principal rule amendments recognizing the NBME as qualifying for licensure. While those recent graduates who elect to take advantage of this alternative will ultimately incur a \$100 increase in the application fee, the amendments would result in a savings to each such applicant of the cost of taking the FLEX examination (currently \$365), for a net savings of \$265. The amendments will also enable certain physicians licensed elsewhere to satisfy Louisiana reciprocity requirements without studying for, taking and incurring the cost of FLEX examination, though they may still be required to sit for and pass a special purpose licensing examination if they have not been tested within the past 10 years.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
It is not anticipated that the proposed rule amendments will have any direct impact on competition or employment in either the public or private sector.

Delmar Rorison
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health, proposes to amend Chapter IX of the Sanitary Code. The proposed amendment is authorized by La. R.S. 40:5.3 and is comprised of sections 9:001; 9:002-2(F); 9:002-3(B); 9:002-4; 9:002-4(A)2 and 9:002-5.

Due to its length, the proposed amendments will not be printed in their entirety, but are on file in the Office of the State Register for review. However, interested persons may also contact Kenneth Hemphill, Administrator, Oyster Monitoring Program, Office of Public Health, 210 State Street, Box 436, New Orleans, LA, 70118 with requests for copies of these proposed changes. Mr. Hemphill will also receive any questions or comments relative to these proposed changes until close of business on April 25, 1990.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: State Sanitary Code (Chapter IX)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No implementation cost or savings will be realized. This rule adds several definitions to Chapter IX of the Louisiana Sanitary Code and it consolidates all heretofore scattered references to conditionally approved areas into one subsection.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No estimated effects are anticipated in this area.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
No estimated cost or economic benefits to any affected persons or groups are anticipated due to this rule change which provides clarifications and reorganization to Chapter IX of the Sanitary Code.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effects on employment or employment competition is anticipated.

Joel I. Nitzkin, M.D., D.P.A.
Acting Assistant Secretary
and Medical Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Department

of Health and Hospitals, Office of Public Health, proposes to amend Subsections 9:004, 9:006 and 9:051 of the State Sanitary Code and Chapter 4, Part I of the State Food, Drug and Cosmetic Regulations.

Due to its length, the proposed amendments will not be printed in their entirety, but are on file in the Office of the State Register for review. However, interested persons may also contact Charles Conrad, Seafood Program, Office of Public Health, Box 60630, New Orleans, LA 70160 with requests for copies of these proposed changes. Mr. Conrad will also receive any questions or comments relative to these proposed changes until the close of business on April 25, 1990.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Depuration/Wet Storage, Shellfish
Transplant, Boats and Refrigeration of Shellstock**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant implementation costs (savings) to state or local governmental units are anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
No significant costs and/or economic benefits to directly affected persons or non-governmental groups are anticipated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There should be no significant effect on competition and employment.

Joel Nitzkin, M.D., D.P.A.
Acting Assistant Secretary
and Medical Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Natural Resources
Office of the Secretary**

The secretary of the Department of Natural Resources hereby gives notice that in accordance with the Administrative Procedure Act R.S. 49:950 et seq. he intends to amend the regulations for Return of the Bohemia Spillway Lands.

The Louisiana Department of Natural Resources
Rules and Regulations for the Return
of Bohemia Spillway Lands
(Published in the *Louisiana Register*,
Volume 13, No. 10, October 20, 1987,
and Volume 14, No. 9, September 20, 1988)

PARTS B., AND G OF SECTION III. APPLICATION, PROCESSING AND CERTIFICATION are amended to read as follows:

B.3.

The secretary shall designate that the special master review the applications of applicants whose claims have a substantial likelihood of acquiring ownership in a tract of land in the Bohemia Spillway area and who have requested that they be declared indigent. The following applicants may file for indigent status:

- a. applicants who have received notification that their application is being retained for further processing, and
- b. applicants whose applications have been rejected and who file amended claims.

No other applicants will be considered for indigent status. Applicants in both groups a and b must request in writing for indigent status. Said requests for indigent status must be received by the secretary within thirty calendar days of the effective date of these rules or thirty calendar days of the postmarked date of the notification in B.1, whichever is later. Upon receipt of a request for indigent status the secretary shall provide a questionnaire and three affidavits, requesting information that poverty and lack of means render the applicant unable to furnish an advance costs deposit. The completed questionnaire and executed affidavits, and if applicable, the amended claim, must be received by the secretary within 70 calendar days of the effective date of these rules or 70 calendar days of the postmarked date of the notification in B.1, whichever is later. Upon receipt of an amended claim along with the completed questionnaire and affidavits the special master will review each amended claim, pursuant to the criteria in A above, and only those applicants whose claims are determined to have a substantial likelihood of acquiring ownership in a tract of land in the Bohemia Spillway area will be reviewed for indigent status. Based upon the information provided in the questionnaire and the facts alleged in the affidavits, the special master may grant or deny the request for indigent status. An applicant whose request for indigent status has been reviewed and denied must submit the advance costs deposit within thirty calendar days of the postmarked date of notification of the denial and/or may seek judicial review by filing suit in the Twenty-fifth Judicial District Court within thirty days of the postmarked date of notification of the denial of indigent status by the department. Applicants shall retain the envelope in which the notification of denial of indigent status or notification of rejection of the amended claim is delivered by the U.S. Postal Service, and the notification shall include instructions on this point. The outside of the envelope shall bear instructions in bold face "KEEP THIS ENVELOPE". Those applicants filing an amended claim along with a request for indigent status whose amended claim is rejected and who wish to proceed with processing their claim will have thirty calendar days from the postmarked date of the notification of the rejection to submit the advance costs deposit. Those persons who received notification of the preliminary review pursuant to B.1. above, prior to the effective date of these rules and who do not file for indigent status shall have 70 calendar days from the effective date of these rules to submit the advance costs deposit. If an amended claim is filed, it must be filed with the necessary supporting documentation together with the advance costs deposit within 70 calendar days of the effective date of these rules. Failure of an applicant to comply with any time period listed herein will void such claim.

G. Preceding transmittal of the documents to the board

described in Subsection F. above, the special master shall assess each application for the actual cost of administering the claim. In those instances where the amount paid to the secretary as an advance costs deposit exceeds the full cost of reviewing and administering the claim, the balance of the deposit shall be returned to the applicant who paid it. In those instances where the full cost of reviewing and administering the claim shall exceed the advance costs deposit, the difference shall be paid by the applicant and received by the secretary prior to document transmittal. The secretary shall give said applicant 30 days in which to make payment. Failure of the applicant to make payment within that 30 day period shall void said claim, except applicants granted indigent status shall not be required to pay costs preceding transmittal of the documents described in Subsection F. above. However, successful indigent applicants shall remain liable for payment of the full cost of reviewing and administering their claims, and the cost shall be due and payable prior to the land transfers to successful applicants. The costs shall be paid by one or more of the parties to the claim, or may be apportioned by the secretary among all the applicants for an individual tract of property located within the Bohemia Spillway.

Written comments regarding the amendments may be submitted no later than April 20, 1990 and may be mailed to the Department of Natural Resources, Box 94396, Baton Rouge, LA 70804, Attn: Bohemia.

Ron Gomez
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Return of Bohemia Spillway Lands**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
\$450,000 of which \$150,000 could be recovered, but not in this fiscal year. Estimated net cost is \$300,000, and it is a one time cost.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule change, which provides for payment of administrative costs for processing Bohemia Spillway Lands claims for the indigent, 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 NON-GOVERNMENTAL GROUPS (Summary)
Certain court ordered new requirements in processing claims for the indigent have resulted in an estimated deposit shortfall of \$450,000 of which \$150,000 could be recovered but not in this fiscal year. 26,000 claims were received by the department for the return of the Bohemia Spillway Lands. We estimate that 30 percent of the claimants could be indigent, thus as many as 8,000 claims could claim pauper status.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Mary Mitchell
Undersecretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Natural Resources
Office of the Secretary**

Fishermen's Gear Compensation Fund

The secretary of the Department of Natural Resources hereby gives notice of his intention to amend the regulations for the Fishermen's Gear Compensation Fund in the following particulars:

Section 6. Hearing Examiner: Small Claims: Adjudicatory Hearings:

F. The regulatory authority shall publish in the *Louisiana Register* a monthly report of the number and total dollar amount of the claims filed, the number of claims denied, the number of claims paid and the total dollar amount of the claims paid, and the Loran C coordinate location of each claim for which it is available.

The amendments will take effect May 20, 1990. Questions or comments relative to the amendments may be directed to Gerald P. Theriot, Administrator, Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, telephone (504)342-0122, and must be received by April 20, 1990.

Ron Gomez
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Fishermen's Gear Compensation Fund**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no additional implementation costs (savings) to the state or local government units. Existing staff is able to handle the related workload.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Current procedures followed in processing claims result in time lapses of approximately six months between date of filing and receipt of reimbursement by commercial fishermen. Adoption of the rule will decrease the period by as much as 60 days. Failure to meet publishing deadlines of the *Louisiana Register* no longer will cause delays in processing.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and/or employment.

Mary Mitchell
Undersecretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Public Safety and Corrections Corrections Services

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to promulgate rules and regulations relative to adult offender telephone use and the policy for regulation.

Title 22 **CORRECTIONS, CRIMINAL JUSTICE AND LAW EN-** **FORCEMENT**

Part I. Corrections

Chapter 3. Adult and Juvenile Services

§314. Adult Offender Telephone Use

A. Purpose

The purpose of this regulation is to establish a formal policy regarding adult offenders' use of telephones at all institutions of Corrections Services.

B. To Whom This Regulation Applies

This regulation applies to all adult offenders of all adult institutions. It is the responsibility of all wardens of adult institutions to implement this regulation and convey its contents to all affected employees and offenders.

C. General

This regulation recognizes the importance of telephone communications in the maintenance of an offender's family ties, as well as the necessity to communicate with attorneys on pending legal matters. Therefore, this regulation is designed to allow the offender reasonable telephone communication with friends, family, and legal counsel without overtaxing the institution's ability to properly maintain security and to avoid abuse of this privilege on the part of any offender.

D. Minimum or Medium Custody (dormitory housing)

1. Personal or Family Calls

Collect telephone access should be available in the dorm on a relatively non-restricted basis (with possible extension of hours on weekends). The specific hours in the various living areas at the individual institutions shall be established by the warden of each institution. The warden shall communicate the telephone schedule to the offender population by posted policy. Reasonable guidelines to ensure an orderly process of "waiting-in-line" will be necessary. The maximum time allowed is basically a function of the phone/offender ratio, but should be limited to a maximum of 15 minutes.

2. Personal or Family Calls (emergency)

In a dormitory housing area, it is sufficient to rely upon the shift supervisor to consider any particularly unique or unusual circumstances.

3. Legal Calls

Offenders are generally able to place legal calls during the noon count and lunch period or after the afternoon count (when "normal office hours" are in effect for attorneys). There will be a 15 minute limit to these calls. The warden shall effect a posted policy which addresses the procedure for gaining permission from staff to place legal calls during normal office hours. Legal calls will be limited to twice per week unless the offender demonstrates in writing the need for additional phone communication. Each housing unit shall maintain a legal phone log for the purpose of monitoring the number of legal calls made by offenders on a weekly basis.

E. Maximum Custody (cellblock housing)

1. Personal or Family Calls (routine)

Collect telephone access is generally located in the cellblock lobby. (In those situations where the phone is on the tier, the offender may be allowed access during the shower or exercise period). Lobby placement may restrict offender access. Therefore, posted policy may limit routine personal calls for offenders assigned to working cellblocks and extended lockdown. The time limit is 15 minutes.

2. Personal or Family Calls (emergency)

a. In all subclasses of maximum custody, the offender is required to request consideration for this type call from the shift supervisor or unit major, who decides if the justification the offender presents warrants the request. That decision is then logged. No frequency for this type call is established as the severity and duration of the emergency will vary greatly. The time limit shall be 15 minutes.

b. The discretion inherent in this type policy should be checked by the "Emergency Review" provision of the Administrative Remedy Procedure (P. 29, Section IX). Timely review can be solicited by the offender.

3. Legal Calls

Offenders are generally able to place legal calls during the noon count and lunch period or after the afternoon count (when "normal office hours" are in effect for attorneys). There will be a 15 minute limit to these calls. The warden shall effect a posted policy which addresses the procedure for gaining permission from staff to place legal calls during normal office hours. Legal calls will be limited to once per week unless the offender in writing demonstrates the need for additional phone communication. Each housing unit shall maintain a legal phone log for the purpose of monitoring the number of legal calls made by offenders on a weekly basis.

F. Incoming calls

1. Personal or Family Calls (routine)

We do not accept or relay messages on a routine basis for any offender.

2. Personal or Family Calls (emergency)

A form will be utilized to verify the nature of the emergency before offender notification is made. Depending upon the emergency, it may be handled by the chaplain, classification officer, or shift supervisor. When approval is required for a phone call, it will be given after the offender is notified of the nature of the emergency.

3. Legal Calls

A form will be utilized to accept and verify requests from attorneys for phone calls. Complete verification is required prior to processing. If minimum or medium custody, the offender will call from the dormitory during lunch or after work. If maximum custody, the offender may be allowed to call during normal working hours at a time which does not interfere with orderly operation of the unit. Incoming legal calls shall be included in the number of legal calls allowable per week for offenders, unless the attorney or offender demonstrates the need for additional phone use for legal purposes.

G. Documentation

The documentation of the number of legal calls made by the offender as described in Subsections D(3) and E(3) applies only to those calls made by the offender after gaining special permission from staff and not to calls made by the offender during times he has free access to the phone.

H. Third-party Calls

There shall be no third-party telephone calls initiated by

any offender without prior approval of the warden. Only in exceptional cases shall third-party calls be allowed.

I. Calls to Staff

Offenders shall not be allowed to call any member of the staff of the individual institutions or headquarters. All communications by offenders to staff shall be by written communication only.

J. The effective date of this regulation is May 20, 1990.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:829.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 16:

Interested persons may submit written comments to the following address: Larry Smith, Deputy Secretary, Department of Public Safety and Corrections, Box 94304, Baton Rouge, LA 70804-9304. Comments will be accepted through the close of business, 4:30 p.m., April 15, 1990. Copies of the proposed regulations may also be obtained from the above mentioned address.

Bruce N. Lynn
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Adult Offender Telephone Use**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no implementation costs or savings to state or local governmental units associated with this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units associated with this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups associated with this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no effect on competition and employment.

Bruce N. Lynn
Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services**

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of intent to promulgate rules and regulations relative to nepotism and the policy for regulation.

**Title 22
CORRECTIONS, CRIMINAL JUSTICE AND
LAW ENFORCEMENT
Part I. Corrections**

Chapter 2. Personnel

§201. Nepotism

A. Purpose

The purpose of this regulation is to establish a formal policy on nepotism in conformity with R.S. 42:1119 for all employees of Corrections Services.

B. Responsibility

It is the responsibility of the secretary, deputy secretary, undersecretary, assistant secretaries and all institution, division, unit and section heads to ensure compliance with this regulation and to advise their respective employees who are affected by the contents.

C. General

It is the policy of the Department of Public Safety and Corrections, Corrections Services, to comply with the provisions of the statutes by monitoring and evaluating the kinship of current and prospective employees.

D. Definitions

1. *Agency Head* - The chief officer of a department, office, division, agency, commission, board, committee, or other organizational unit of a governmental entity.

2. *Immediate Family* - The children, brothers, sisters, parents, spouse, and parents of the spouse.

3. *Public Servant* - A public employee or an elected official.

E. Procedures

1. Kinship will be monitored and evaluated to ensure that, where reasonably possible, no public servant, serving as an agency head, employs any member of his immediate family to work in his work unit. (Agency heads include not only the secretary, wardens, and superintendents, but also division, unit and section heads or anyone who is in charge of a work unit, i.e. a person who can hire, fire, promote, and supervise workers within a unit.)

2. All new employees will complete the "Relatives Employed" form along with other required employment forms (see Unit Personnel Procedures - Processing and Appointment SF-1).

3. All current employees will report applicable changes to their immediate supervisor and human resource director/coordinator and will complete an updated "Relatives Employed" form.

4. All "Relatives Employed" forms will be reviewed and evaluated for policy conformance by the human resource director/coordinator of each unit. Non-conformance and/or possibilities of non-conformance will be immediately reported, in writing, to the warden/superintendent/unit head.

5. The warden/superintendent/unit head will notify the secretary in writing of the situation. The secretary will take appropriate action based on the department's operational needs within legal and ethical determinations.

6. All "Relatives Employed" forms will be maintained in the unit and central personnel files.

F. Exceptions

1. This policy will not affect any Department of Public Safety and Corrections, Corrections Services' employee hired prior to the effective date of the statute - April 1, 1980.

2. This policy will not affect an employee whose immediate family member becomes an agency head as long as the employee has been employed by this department for at least one year prior to the immediate family member's appointment to the

agency head position.

G. The effective date of this regulation is May 20, 1990.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1119.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 16:

Interested persons may submit written comments to the following address: Larry Smith, Deputy Secretary, Department of Public Safety and Corrections, Box 94304, Baton Rouge, LA 70804-9304. Comments will be accepted through the close of business, 4:30 p.m., April 15, 1990.

Bruce N. Lynn
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Nepotism**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs or savings to state or local governmental units associated with this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units associated with this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefits to directly affected persons or non-governmental groups associated with this rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
To ensure equal access to employment opportunity.

Bruce N. Lynn
Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Board of
River Port Pilot Commissioners
For The Port Of New Orleans**

The Board of River Port Pilot Commissioners for the Port of New Orleans are proposing to adopt rules for considering and recommending to the governor candidates desiring to become river port pilots associated with the Crescent River Port Pilots Associations under the board's jurisdiction.

All applicants must be experienced mariners who hold the appropriate Federal License, Any Gross Tons, before becoming apprentices for this association.

These rules may be viewed in their entirety in the Emergency Rule Section of this issue of the *Louisiana Register*.

Interested persons may comment on the proposed rules and regulations changes and/or additions in writing until 4:30

p.m., May 8, 1990, at the following address: Board of River Port Pilot Commission, Box 848, Belle Chasse, LA 70037.

William H. Crawford, Sr.
President

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Rules regarding drug use; alcohol use and
Apprenticeship**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The implementation of rules regarding the consequences of drug and alcohol use by river port pilots and the apprenticeship of these pilots will result in no fiscal impact to the state.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections as a result of implementation of these rules.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There may be a cost to river port pilots as a result of these rules if drug or alcohol use occurs as the pilots are responsible for the cost of evaluation and treatment of drug or alcohol use.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Competition between river port pilots will be enhanced only in that implementation of these rules may encourage pilots not to use drugs or alcohol.

William H. Crawford, Sr.
President

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Social Services
Office of Community Services**

The Louisiana Department of Social Services (DSS) intends to obligate federal funding allocated to the state for Federal Fiscal Year 1990 under the Emergency Shelter Grant Program (ESGP) of the U.S. Department of Housing and Urban Development (HUD). DSS's proposed distribution of ESGP funds and program administration are undertaken in accordance with Public Law 100-77, the Stewart B. McKinney Homeless Assistance Act, as amended, and with federal regulations for the Emergency Shelter Grant Program set forth at 24 CFR part 576 and published as a final rule in the *Federal Register* Vol. 54, No. 214, Tuesday, November 7, 1989, pages 46794-46810. Funding authorized under the Emergency Shelter Grant Program is dedicated for the purposes of rehabilitation or conversion of buildings for use as emergency shelter for the homeless, for certain operating and social services expenses in connection with emergency shelter for the homeless, and for homeless prevention activities. In compliance with federal requirements, allocated funds shall be distributed by DSS to units of local government which may make

all or part of grant amounts available to private nonprofit organizations for use in eligible activities.

In an endeavor to target grant assistance to areas of great need, DSS shall issue application packages to units of local government (parishes and cities) for jurisdictions with minimum 30,000 population and shall award grants to successful applicants based on evaluation and ranking of funding proposals according to the following criteria:

- nature and extent of demonstrated unmet need for emergency shelter in the applicant's jurisdiction;
- the extent to which proposed activities will address the unmet needs;
- methodology and time frame to implement proposed activities;
- fiscal accountability and financial responsibility;
- experience of project sponsor organization(s) or proposed subgrantee(s) in provision of homeless services or similar activities;
- specificity of activities and cost estimates.

In accordance with federal regulations, obligation of grant amounts by DSS shall be concluded within 65 days of approval by HUD of the state's ESGP application. Each state recipient shall be required to secure matching funds in an amount at least equal to its ESGP grant amount. The value of donated materials and buildings, voluntary activities and other in-kind contributions may be included in the calculation of matching funds.

For Federal Fiscal Year 1990, the amount of \$770,000 in federal ESGP funds has been allocated to the State of Louisiana for distribution. Local governmental units of at least 30,000 population may apply to DSS to receive grant amounts from the state's allocation. Approximately 10 to 12 grants will be awarded for a minimum of \$45,000 and a maximum of \$150,000. Individual grant awards shall not exceed \$65,000 for jurisdictions of less than 50,000 population. For governmental units of over 50,000 and less than 250,000 population, grant awards shall not exceed \$110,000. Jurisdictions of more than 250,000 population may be awarded the maximum \$150,000 grant amount. Funding awards shall be based on the ranking of each grant application.

Qualifying units of local general government shall be notified by mail of grant application requirements and deadlines. Availability of funding is contingent on HUD approval of the state's ESGP application.

Inquiries and comments on the proposed rule may be submitted in writing to the Assistant Secretary, Office of Community Services, Box 44367, Baton Rouge, LA 70804, or telephone (504) 342-2277.

May Nelson
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Emergency Shelter Grant Program FFY 1990 State Allocation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated cost to the state of implementing this rule is \$11,021 for administration of the \$770,000 federal allocation. Estimated cost to local governmental units (and/or sub-recipients) is \$770,000 due to requirements for matching funds, including in-kind contributions and voluntary activi-

ties, which must be at least equal to the federal grant amounts. For previous grants the source of matching funds has predominantly been the private non-profit organizations which sponsor the projects assisted by ESGP funds.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Local governmental recipients of Emergency Shelter Grant funds must spend all grant amounts within 24 months of the date on which the state made grant amounts available. The state's ESGP allocation for FFY 89 was \$489,000. The FFY 90 allocation is \$770,000.

None of the allocated federal funds may be used directly by the state for grant administration costs or to carry out shelter activities.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON- GOVERNMENTAL GROUPS (Summary)

Homeless individuals shall realize benefits through an increase in available shelters and/or beds, and a broader provision of social services. Persons at risk of becoming homeless can be benefited through ESGP-assisted homeless prevention activities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOY- MENT (Summary)

This rule will have no effect on either competition or employment, except in so far as funded services may assist homeless recipients to achieve gainful employment.

Brenda L. Kelley
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of the Treasury Board of Trustees of the State Employees Group Benefits Program

Notice is hereby given that the Department of the Treasury, Board of Trustees of the State Employees Group Benefits Program intends to amend Article 3, Section I (G)(18) of the Plan Document of Benefits whereby the maximum allowable charge per ambulance trip is increased from \$100 to \$200, as follows:

18. Professional ambulance services, subject to the following provisions:

a. Ground transportation--Medically Necessary licensed professional ambulance service in a vehicle licensed for highway use to or from the nearest Hospital with facilities to treat an illness or injury. The Program will pay 80 percent of transportation charges incurred, said charges not to exceed \$200 per trip, plus 80 percent of charges for eligible medical expenses.

Comments or objections will be accepted, in writing, by the Executive Director of the State Employees Group Benefits Program until 4:30 p.m. on May 9, 1990, at the following address: Dr. James D. McElveen, Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804.

James D. McElveen
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Ambulance Benefit**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this proposed rule change will increase the benefits cost of this program by approximately \$234,000 annually. This estimate was calculated by the Martin E. Segal Company, program actuary. There will be no immediate impact on the costs or savings of state or local governmental units which are members of the State Employees Group Benefits Program.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state or local governmental units will not be affected by this proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The program benefits paid to the plan members of this program, the directly affected persons, will increase by approximately \$234,000 annually.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule change will not affect competition or employment.

James D. McElveen
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of the Treasury
Board of Trustees of the
State Employees Group Benefits Program**

Notice is hereby given that the Department of the Treasury, Board of Trustees of the State Employees Group Benefits Program intends to amend Article 3 in the Plan Document of Benefits, as follows:

Delete the following in its entirety from Article 3, Section I (A):

3. The term Out of Pocket Expenses as used herein shall mean the sum of (a) any eligible medical expenses used toward the satisfaction of any deductibles for that year, not including expenses incurred for non-confined alcoholism, that satisfied all or part of the deductibles; (b) 20 percent of all such eligible medical expenses which exceed the deductibles for that Calendar Year and for which benefits were paid at 80 percent.

Add the following paragraph to Article 3, Section I (C) between items 1 and 2 and renumber item 2 accordingly:

2. Ninety percent of the first \$5,000 of eligible expenses (except for mental and nervous and non-confining alcoholism and/or substance abuse) in the event a covered person obtains professional medical services from an eligible provider who has agreed to provide such services at a mutually agreed upon discount from the maximum medical fee schedule adopted by the board, and

3. ...

Add the following paragraph to Article 3, Section XI in

the Plan Document of Benefits:

In the event a covered person obtains professional medical services from an eligible provider who has agreed to provide such service at a mutually agreed upon discount from the maximum medical fee schedule adopted by the board, the Program will pay, following satisfaction of all applicable deductibles, 90 percent of the first \$5,000 of eligible expenses and 100 percent of eligible expenses in excess of \$5,000 for the remainder of the calendar year subject to the maximum amount as specified in the schedule of benefits effective July 1, 1990.

Amend the following Article 3, Section VI (B) to read:

B. No deductible amount shall apply to benefits payable under this Section.

Comments or objections will be accepted, in writing, by the Executive Director of the State Employees Group Benefits Program until 4:30 p.m. on May 9, 1990, at the following address: Dr. James D. McElveen, Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804.

James D. McElveen
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: LSU-PPO**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule change will not impact the costs or savings of state or local governmental units. Additionally, there will be no impact on the costs or savings of the State Employees Group Benefits Program as the level of discount was designed to offset the benefit enhancement.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule change will impact the revenues of the Louisiana State University Medical Clinics. The revenues will increase as a result of the benefits paid by the State Employees Group Benefits Program for services provided to plan members of this program. According to our actuary, the Martin E. Segal Company, the revenues generated will be approximately \$335,000 in FY 90/91.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The plan members of the State Employees Group Benefits Program will realize a benefit enhancement for services performed by the L.S.U. Medical Clinics.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule change which changes the co-insurance percentage paid to the L.S.U. Medical Clinics may result in plan members of the State Employees Group Benefits Program obtaining medical services from the L.S.U. Clinics rather than the private sector.

James D. McElveen
Executive Director

John R. Rombach
Legislative Fiscal Officer

Proposed Fee Action

NOTICE OF PROPOSED FEE ACTION

Department of Health and Hospitals Board of Dentistry

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and the Dental Practice Act, R.S. 37:769, notice is hereby given that the Louisiana State Board of Dentistry intends to amend its fee schedule by adopting new fees for retired dentists and nonpracticing dental hygienists, to-wit:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professionals

Chapter 4. Fees and Costs

Subchapter C. Fees for Dentists

§415. Licenses, Permits and Examination

For processing applications for licensure, permits and examination, the following fees shall be payable in advance to the board:

- A. Examination and Licensing of dental applicant \$400
- B. Temporary dental license \$100
- C. Issuance of a restricted dental license (excluding advanced education students and dental residents) \$200
- D. Annual renewal fee for dental license \$150
- E. Annual renewal fee for restricted dental license (excluding advanced education students and dental residents) \$150
- F. Replacement or duplicate dental license, certificate, temporary permit \$ 50
- G. Delinquency fee in addition to renewal fee for any dental license \$250
- H. Reinstatement of a license which has been suspended, revoked or which has lapsed by non-renewal \$500
- I. Annual processing fee for application for retired dentist classification \$ 25
- J. Restricted dental license, advanced education students and dental residents:
 - i. For Period July 1 - December 31 \$100
 - ii. For each full year (January 1 - December 31) thereafter \$200
 - iii. For period January 1 - June 30 \$100

Subchapter D. Fees for Dental Hygienists

§419. Licenses, Permits and Examination

For processing applications for licensure, permits and examination, the following fees shall be payable in advance to the board:

- A. Examination and licensing of dental hygienist applicant \$200
- B. Temporary dental hygienist permit \$100
- C. Annual renewal fee for dental hygienist license \$ 50
- D. Replace or duplicate dental hygienist license, certificate, temporary permit \$ 50
- E. Delinquency fee in addition to renewal fee for any dental hygienist license \$100

F. Reinstatement of a dental hygienist license which has been suspended, revoked or which has lapsed by non-renewal \$250

G. Annual processing fee for application for nonpracticing dental hygienist status \$ 25

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:769 as amended by Act 458 of 1988.

Interested persons may submit written comments on the proposed changes within 10 days of the date of publication to the Louisiana State Board of Dentistry, Suite 2240, 1515 Poydras Street, New Orleans, LA 70112, Attention: Secretary-Treasurer. A public hearing shall be conducted by a committee of the State Board on the proposed adoption and/or changes on April 5, 1990 at 7 p.m. on the Fifth Floor, 1515 Poydras Street, New Orleans, LA 70112, and any interested person may appear and participate in accordance with R.S. 49:953(2) (a).

Russell R. DiMarco, D.D.S.
Secretary-Treasurer

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Dental Health Professionals - Fees and Costs

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated implementation cost or savings to the Louisiana State Board of Dentistry or any other state or local governmental unit.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The self-generated revenue derived by the Louisiana State Board of Dentistry from annual licensing fees will be reduced in FY 1989-90 by \$24,750 and, in FY 1990-91, by \$34,525. There are no other effects on revenue collections by state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Advanced education students, residents, retired dentists and nonpracticing dental hygienists will benefit by the proposed fee reduction for these classifications. No other persons nor governmental groups will be affected.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effects on competition and employment are anticipated.

Dr. Russell R. DiMarco
Secretary

John R. Rombach
Legislative Fiscal Officer

Potpourri

POTPOURRI

Department of Environmental Quality Office of Air Quality and Nuclear Energy

The secretary gives notice that a fact finding hearing on a proposed list of toxic air pollutants will be held at 1:30 p.m. on April 6, 1990 at the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North Fourth St., Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed list.

Act 184 of 1989 of the Louisiana Legislature requires that a list of no more than 100 toxic air pollutants be established as part of a comprehensive toxic air pollutant emission control program.

The proposed list will be made part of regulations to be developed by the department in July of 1990. At that time an additional public hearing will be held on the proposed list and proposed regulations as part of the rulemaking process.

All interested persons are invited to submit written comments on the proposed list. Such comments should be submitted no later than 4:30 p.m., April 11, 1990, to Chris Roberie, Office of Air Quality and Nuclear Energy, Box 44096, Baton Rouge, LA 70804. A copy of the proposed list is also available for inspection at the following locations from 8:00 a.m. until 4:30 p.m.

Office of Environmental Affairs, 3945 North I-10 Service Road, Metairie, LA;

Office of Environmental Affairs, 8th Floor, State Land and Natural Resources Bldg., 625 North Fourth St., Baton Rouge, LA;

Office of Environmental Affairs, 804 31st St., Monroe, LA;

State Office Building, 1525 Fairfield Avenue, Shreveport, LA ;

Office of Environmental Affairs, 1155 Ryan St., Lake Charles, LA;

Office of Environmental Affairs, 100 Eppler Road, Lafayette, LA.

Mike D. McDaniel, Ph.D.
Assistant Secretary

POTPOURRI

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is hereby clarifying responsibility for authorization of sanctions imposed by Department of Health and Hospitals in administration of the Title XIX (Medicaid) Program.

Prior to the separation of the Department of Health and Human Resources into the Department of Social Services and the Department of Health and Hospitals, sanction authority rested with the director, Medical Assistance Program or the assistant secretary, Office of Family Security. Such authority subsequent to July 1, 1988 rests with the director, Bureau of Health Services Financing as the administrative head of the responsible agency.

Such authority extends to administrative sanctions applied both to providers and to recipients.

David L. Ramsey
Secretary

POTPOURRI

Department of Natural Resources Office of the Secretary Fishermen's Gear Compensation Fund

In accordance with the provisions of the Fishermen's Gear Compensation Fund, R.S. 56:700.1, notice is given that twenty-nine claims amounting to \$52,860.27 were received during the month of February 1990, none were paid and none were denied.

Pursuant to the provisions of Act 33 of 1988, the following claims with the Fishermen's Gear Compensation Fund have been validated by the Fund's hearing examiner and the secretary of DNR will approve payment, effective April 3, 1990.

Written comments from interested parties may be addressed to: Department of Natural Resources, Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, and must be received on or before April 2, 1990.

Claim No. 89-90-39

Dominick Ochello, 256 Gloria Street, Lafitte, LA. 70067, SSN 434-15-0692, Little Lake (Waterbody), Jefferson (Parish), Amount \$3238.69

Claim No. 89-90-172

Jerry Guerra, Sr., Rt. 1 Box 605, St. Bernard, LA. 70085, SSN 434-52-7073, Eloi Bay, St. Bernard, Amount \$761.75

Claim No. 89-90-136

Doyle Jones, 3817 Lime Street, Metairie, LA. 70006, SSN 438-02-9982, Lake Pontchartrain, Jefferson, Amount \$813.

Claim No. 89-90-90

Capt. J.H. III, Inc., 180 6th St., Bridge City, LA 70094, Federal I.D. No. 72-0960091, Loran 28231.5 46821.7, Terrebonne, Amount \$1168.

Claim No. 89-90-165

Bait Inc., No. 16 Old Hickory Ave., Chalmette, LA. 70043, Federal I.D. No. 72-1095044, M.R.G.O. Channel, St. Bernard, Amount \$555.50

Ron Gomez
Secretary

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