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# EMERGENCY RULES

## DECLARATION OF EMERGENCY

Department of Agriculture and Forestry  
Office of Animal Health Services  
Livestock Sanitary Board

Testing of Ratites for Avian Influenza

In accordance with R.S. 49:953(B), the commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in connection with the issuance of rules which require testing of ratites for Avian Influenza.

The purpose of these emergency rules is to avoid imminent peril to the welfare of the citizens of the state. The spread of Avian Influenza into Louisiana from other states poses a serious economic threat to the poultry and ratite industries in Louisiana. Cases of this viral disease have already been confirmed in ratites in Texas and North Carolina. There is no vaccine for this disease which can cause high morbidity and mortality when introduced into a flock. These emergency rules will help prevent the introduction of this disease into this state. These emergency rules become effective on July 27, 1993 and shall remain in effect 120 days.

### EMERGENCY RULE

In addition to the requirements of the provisions of LAC 7:XXI.11705 and LAC 7:XXI.11789, the Certificate of Veterinary Inspection must show a Louisiana entry permit number and state that the ratites have had a negative test for Avian Influenza conducted within 10 days of entry into Louisiana.

Bob Odom  
Commissioner

## DECLARATION OF EMERGENCY

Department of Agriculture and Forestry  
Structural Pest Control Commission

Termiticide Foam Applications and Ship Fumigation  
Licensure (LAC 7:XXV.Chapter 141)

In accordance with R.S. 49:950 et seq., the Commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in connection with regulations governing the qualifications of persons applying for a license to perform ship fumigations, by

amending LAC 7:XXV.14107 and 14110, and adopting LAC 7:XXV.14136.

The purpose of these emergency rules is to avoid imminent peril to the welfare of the citizens of the state and to immediately put into place more stringent qualifications for those applicants for ship fumigations using experience as a substitute for college coursework in entomology. These emergency rules become effective on July 20, 1993 and remain in effect for 120 days or until they are adopted through the normal promulgation process, whichever occurs first.

### Title 7

### AGRICULTURE AND ANIMALS

### Part XXV. Structural Pest Control

### Chapter 141. Structural Pest Control Commission

### §14107. License to Engage in Structural Pest Control Work Required: Qualifications of Applicant; Requirements for Licensure; Phases of Structural Pest Control License; Conditions of the License

\* \* \*

C. Each applicant for a ship fumigation license must possess one of the following qualifications in order to take the examination:

1. a degree from an accredited four-year college or university with a major in entomology; or
2. a degree from an accredited four-year college or university at least 12 semester hours or the equivalent in quarter hours of course work in entomology and at least one year of experience as a registered technician under the supervision of a licensee in ship fumigation, or
3. four years of experience as a registered technician under the supervision of a licensee in ship fumigation, or
4. experience as a certified ship fumigation technician having completed 200 jobs in ship fumigation working under the supervision of a licensed ship fumigator, or
5. four years of experience as a technician under the supervision of a structural pest control operator in another state in ship fumigation. Experience with an out-of-state structural pest control operator shall be substantiated by evidence acceptable to the commission, or
6. 200 jobs in ship fumigation that the applicant has worked as a registered technician in ship fumigation working under the supervision of a licensed ship fumigator, during a two-year period.

D. Each applicant for licensure must also demonstrate the following competencies:

1. knowledge of the practical and scientific facts underlying the practice of structural pest control, control of wood-destroying insects and/or fumigation; and
2. knowledge and ability to recognize and control hazardous conditions which might affect human life or health.

E. Each applicant must successfully complete the appropriate examination for certification prior to issuance of the structural pest control license.

F. In addition to the qualifications required by LAC 7:14107.B-C, each applicant for licensure must:

1. submit a complete application for examination as required by LAC 7:14109 hereof;



2. be approved by the commission to take the examination for licensure;

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

4. secure a permit for operation of the business location where he will be domiciled, as required by LAC 7:14105 above, provided that an applicant for license who is connected with a business location for which the commission has already issued a permit for operation need only to advise the commission of the business name and location of the permitted establishment where he will be domiciled;

5. provide a certificate of insurance on a document approved by the Louisiana Department of Agriculture and Forestry of general liability as follows:

a. not less than \$250,000, public liability coverage, per accident;

b. not less than \$100,000 coverage for property damage;

c. or combined single limits of \$350,000;

d. liability insurance must provide coverage under Insurance Code 73421 (fumigation including completed operations) and on Insurance Code 73420 (exterminating including pest control and completed operations excluding fumigation and use of gas of any kind).

e. provision for at least 10 days prior written notice to the commission before cancellation.

6. Provide evidence of a surety or fidelity bond covering the business with which the applicant is connected, issued by a bonding, surety or insurance company authorized to do business in Louisiana, in the amount of \$2,000, of tenor and solvency satisfactory to a majority of the commission. An applicant who is not connected with a business covered by the required surety or fidelity bond must secure the appropriate coverage prior to issuance of the license.

G. Out-of-State applicants for licensure must meet the educational requirements shown in LAC 7:14107.B.1 above or produce evidence satisfactory to the commission of four years of experience under the supervision of a recognized and reputable pest control operator. Experience in pest control work in another state will be verified with the appropriate regulatory agency of the other state before out-of-state applicant will be allowed to take the examination for licensure in Louisiana.

H. The commission shall consider each application for examination for licensure in open session. The commission may verify the contents of any application prior to taking final action to approve/disapprove the applicant to take the examination. The commission may disapprove an applicant, or defer action on the application to take the examination, in any instance when the contents of the application cannot be verified. Action to grant/deny approval for the applicant to take the examination shall be taken only upon the affirmative vote of three members of the commission. No license shall be issued until the commission has approved the application.

I. All applicants who are approved by the commission will, upon successfully completing the examination for licensure as set forth in LAC 7:14109 hereof, receive a single license to engage in structural pest control work, which license shall

specify on the face thereof the specific phase or phases of structural pest control work for which the license is issued, as follows:

1. General Pest Control
2. Commercial Vertebrate Control
3. Termite Control
4. Structural Fumigation
5. Ship Fumigation
6. Commodity Fumigation

J. A license to engage in structural pest control work is permanent unless suspended or revoked by the commission as provided in LAC 7:14121.

K. A licensee may perform or supervise structural pest control work only in the phase or phases of the license for which he is licensed by the commission.

L. Each license is personal to the holder and may not be transferred to another for any purpose or for any period of time and may not be utilized in any way by any person other than the licensee whose name appears on the face of the license.

M. The license must be permanently displayed on the licensee's place of business at all times.

N. The commission may deny a license to any person proven to have committed any of the violations set forth in LAC 7:14121 hereof.

O. A licensee approved in one phase of pest control work may be licensed in additional phases by successfully completing the examination for the additional phase. However, the license for additional phase or phases of structural pest control work shall not be issued until the commission approves the licensee to take the examination for the additional phase or phases.

P. Any licensee desiring to utilize a telephone answering service other than at locations holding a place of business permit shall submit a written request and receive permission from the Louisiana Department of Agriculture and Forestry at least 30 days prior to establishing such a telephone answering service.

Q. A licensee can only have one license with all phases for which he possesses issued at one place of business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3308 and R.S. 3:3306 (redesignated R.S. 3:3366 and 3:3368).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:326 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 19:

### **§14110. Requirements and Responsibilities of the Certified Fumigation Technician**

A. 1.-2. ...

3. Repealed

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3369 and R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 17:251 (March 1991), amended LR 19:

### **§14136. Termiticide Foam Applications**

Termiticide foam applications may be used as a supplemental treatment to approved liquid applications on post-construction treatments for the control, prevention or

eradication of termites and other wood destroying insects.

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

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 19:

This rule complies with and is enabled by the Louisiana Pesticide Law, R.S. 3:3201, et seq.

Bob Odom  
Commissioner

## DECLARATION OF EMERGENCY

Department of Civil Service  
Civil Service Commission

### Withholding of Merit Increases

Pursuant to Rule 2.10(f), the Department of Civil Service, Civil Service Commission conducted a special hearing on July 20, 1993, and adopted, as an emergency rule effective immediately, a revision to Civil Service Rule 17.10.1. The purpose of the revision is to clarify the intent of the Rule which is causing confusion to state agencies regarding the withholding of merit increases as a layoff avoidance measure. Failure to clarify the rule could result in serious impairment to state service.

A revision of this emergency rule, as published in the Notice of Intent Section of this August, 1993 *Louisiana Register*, will be considered for final rule adoption at the Wednesday, September 15, 1993 commission meeting. The public hearing will be conducted at 9 a.m. in the Commission Hearing Room in the Department of Transportation and Development Annex Building, 1201 Capitol Access Road, Baton Rouge, LA.

#### 17.10.1 Withholding of Merit Increase

When an appointing authority determines that it is necessary to withhold merit increases after June 30, 1989, of all employees under his jurisdiction in order to avoid a layoff, reduce or minimize a layoff, or to avoid substantial impairment to the ability of the appointing authority to provide mandated services, he may do so subject to the following provisions:

(a) Any withholding of merit increases must receive approval of the director, no later than 14 calendar days after the effective date, based on written certification from the appointing authority that his department does not have sufficient funds to give such increases to all employees. This justification shall include the reasons for the withholding of merit increases, the names and jobs of those employees to be excluded, if any, and reasons for their exclusion, the proposed effective dates and periods of time involved, and the organizational unit(s) and geographic areas(s) affected. If the request or any part thereof is not approved by the director, the employees included in the plan or portion of the plan not approved must be paid their merit increase for that period of

time between the proposed effective date and date of the director's determination. In all cases of disapproval by the director, his decision shall be subject to the commission's ratification at its next regularly scheduled meeting.

(b) Authority for such withholding of merit increases shall not exceed one 12 consecutive-month period, subject to Rule 17.6.

(c) Employees whose merit increases are withheld according to the provision of this Rule shall retain their eligibility for such increases.

Persons interested in making comments relative to these proposals may do so at the September 15th public hearing or by writing to the director of Civil Service, Box 9411, Baton Rouge, LA 70804-9111.

Herbert L. Sumrall  
Director

## DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 741—Handbook for School Administrators

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and re-adopted as an emergency rule an amendment to Bulletin 741, Louisiana Handbook for School Administrators to require a one-half unit of health education as a required credit for graduation. This amendment was previously adopted as an emergency rule and printed in the May 1993 issue of the *Louisiana Register*.

This amendment is being repromulgated as an emergency rule in order to continue the present emergency rule until it is finalized as a rule. Effective date of this emergency rule is August 23, 1993.

Carole Wallin  
Executive Director

## DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 746—Speech, Language and  
Hearing Specialist Certificate

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and re-adopted as an emergency rule the addition of a restricted certificate for speech, language, and hearing specialist in Bulletin 746,

Louisiana Standards for State Certification of School Personnel. This amendment was previously adopted as an emergency rule and printed in full on pages 592-593 of the May 1993 issue of the *Louisiana Register*.

This amendment is being repromulgated as an emergency rule in order to continue the present emergency rule until it is finalized as a rule. The effective date of this emergency rule is August 23, 1993.

Carole Wallin  
Executive Director

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

#### Bulletin 1566—Guidelines for Pupil Progression (1993)

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and adopted as an emergency rule, Revised Bulletin 1566, Guidelines for Pupil Progression (1993).

This bulletin contains statewide regulations for student placement and pupil progression to be administered at the local school level, including the promotion, retention, remediation, acceleration, and transfer of regular and exceptional students. Local option factors for student placement and promotion, are authorized and delineated. The bulletin contains procedures for developing local pupil progression plans in compliance with state law and board policies. Further, it contains regulations for the implementation of state funded remedial education programs for students who have educational deficits identified by the state testing program.

Bulletin 1566, Guidelines for Pupil Progression, may be seen in its entirety in the Office of the Louisiana Register located on the Fifth Floor of the Capitol Annex; in the Bureau of Secondary Education in the State Department of Education; or in the Office of the State Board of Elementary and Secondary Education located in the Education Building in Baton Rouge, Louisiana. All local education agencies, Special School District Number 1, and the board's special schools have been provided copies of Bulletin 1566.

Emergency adoption of Bulletin 1566 is necessary in order for the local school systems, SSD No. 1, and BESE schools to begin implementing the regulations. Effective date of emergency rule is July 22, 1993.

Carole Wallin  
Executive Director

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

#### Bulletin 1794—Textbook Adoption Standards

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and re-adopted as an emergency rule the proposed changes in the Textbook Program. This is an amendment to Bulletin 1794, Textbook Adoption Standards and Procedures and was printed in full on pages 594 - 596 in the May 1993 issue of the *Louisiana Register*.

This amendment is being repromulgated as an emergency rule in order to continue the present emergency rule until it is finalized as a rule. The effective date of this emergency rule is August 23, 1993.

Carole Wallin  
Executive Director

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

#### Bulletin 1934—Starting Points Preschool Regulations

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R. S. 49:953(B), and adopted as an emergency rule Bulletin 1934, Starting Points Preschool Regulations, which are printed below.

The Department of Social Services, lead agency for the Child Care and Development Block Grant, has allocated 18.75 percent of Louisiana's total child care funds to the Louisiana Department of Education for program development under Act 658H. The purpose of Act 658H is to assist low income families by providing quality early childhood programs.

Emergency adoption is necessary because school systems will begin implementing the program in late August, and without emergency adoption, school systems would be unable to utilize the regulations for the opening of the coming school year. Effective date of emergency rule is July 22, 1993.

#### Starting Points Preschool Program

##### Introduction

The Department of Social Services, lead agency for the Child Care and Development Block Grant, has allocated 18.75 percent of Louisiana's total child care funds to the Louisiana Department of education for program development under act 658H. The purpose of Act 658H is to assist low income families by providing quality early childhood programs.

##### Program Philosophy

Local Starting Points Preschool Programs will adhere to the developmental philosophy as outlined by the National Association for the Education of Young

Children. Developmentally appropriate practices have proven to be effective in early childhood education. Inherent in this philosophy is the provision of a child-centered program directed toward the development of cognitive, social, emotional, communication and motor skills in a manner and at a pace consistent with the needs and capabilities of the individual child.

#### **Eligibility Criteria**

In order to qualify for the Starting Points Preschool Program, participants must be:

1. one year younger than the age eligible for kindergarten;
2. residing in a family whose mean income is no more than 75 percent of the state median income for a family of the same size;
3. based on screening results, at-risk of being insufficiently ready for the regular school program;
4. from families who agree to participate in various activities associated with the program; and
5. from families with both parents (or guardian) involved in one of the following:
  - i. attending a job training or education program full-time, or
  - ii. working full-time, or
  - iii. in job training part-time and working part-time.

#### **Eligibility Definitions**

*Attending (a job training or educational program)*—to be present for training or educational programs as scheduled except when absent for such reasons as illness or family emergency.

*Family*—a basic family unit consisting of one or more adults and children, whether or not related by blood or law, and residing in or being part of the same household. Children living under the care of individuals not legally responsible for their care are to be considered part of the family.

*Income*—basic income eligibility would be based on 75 percent of the state median income adjusted for family size. Earned income is used in determining eligibility.

*Job Training or Educational Program*—a program of training to prepare a parent/guardian for gainful employment; at the completion of the training period, or reasonably thereafter, the participant could reasonably be expected to fully or substantially support the family. The training or educational program can be in any public or private licensed, accredited or recognized educational program which normally requires enrollment or leads to receipt of a high school diploma or equivalency certificate, provided that the institution is legally authorized or recognized by the state.

*Part-time (job training or educational program)*—part time status as determined by the institution.

*Working*—a person who is employed at least 20 hours per week is considered as meeting the requirement to be classified as a working parent/guardian. This definition could also cover a brief period (up to 30 days) to accomplish a job search to obtain employment.

#### **Screening**

The screening of children potentially eligible for program participation shall be accomplished through the use of those sections in one or more of the following instruments

specifically designed for the identification of high-risk four-year-olds:

1. Brigance Pre-School Screen for Three and Four-Year-Old Children;
2. Developmental Indicators for the Assessment of Learning (DIAL-R);
3. Denver Developmental Screening;
4. Early Recognition Intervention Systems (ERISys);
5. Batelle Developmental Inventory - Screening Test.

While the test developers may suggest a benchmark score, the local school system shall enroll income-eligible students with the lowest score on the screening assessment.

#### **Income Verification**

Parent (or guardian) applicants must present one of the following forms of income verification:

1. check stub from employer,
2. W-2 form, or
3. notarized statement of earnings from employer.

A copy of the verification must be maintained on file by the local school system.

#### **Employment Verification**

Parent (or guardian) must present verification of gainful employment. This verification can be one of the following:

1. latest check stub;
2. statement from employer, preferably on letterhead, indicating employment; or
3. W-2 form.

A copy of the verification must be maintained on file by the local school system.

#### **Job Training/Educational Program Verification**

If a parent or guardian is enrolled in a job training or educational program, one of the following forms of verification must be presented:

1. registration receipts; or
2. letter from institution indicating enrollment.

A copy of the verification must be maintained on file by the local school system.

#### **Changes in Eligibility Requirements**

The parent(s) (or guardian) must report any changes in their eligibility criteria within 10 working days of the change.

#### **Class Size**

There will be a minimum of 16 students and a maximum of 20 students per class.

#### **Pupil/Teacher Ratio**

There will be one certified teacher and one paraprofessional for each class.

#### **Teacher Qualifications**

Each classroom teacher must be certified in one of the following areas:

1. early childhood education;
2. nursery school education; or
3. kindergarten.

#### **Length of School Day and School Year**

The length of the school day and the school year shall follow the provisions established in R.S. 17.154.1. The school day that systems operate shall be a full day with a minimum of 330 minutes instructional time per day. Instructional days will be based upon the school calendar

of each local nonpublic school/school system with a minimum of 175 days of instruction.

#### **Program Location**

Programs will be placed in low-income areas (as determined by the allocation process utilized by the ESEA Chapter 1 programs) in every school system based upon the submission of a proposal and final approval by the Board of Elementary and Secondary Education (BESE). Programs will be placed in both public and approved nonpublic schools which comply with Brumfield-Dodd and be supervised by each local education authority (LEA).

#### **Health Requirements**

All children enrolled in the Starting Points Preschool Program will comply with the immunization requirements as established by the Department of Health and Hospitals. All local nonpublic schools/school systems will administer a vision and hearing screening test to each student.

#### **Curriculum**

The curriculum for the Starting Points Preschool Program shall be developmentally appropriate and address all areas of development: social, emotional, cognitive, and physical.

#### **Yearly Report**

Each local nonpublic school/school system will be required to report annually to the Louisiana Department of Education documenting the effectiveness of the program. The nonpublic school/school system must also submit a final budget detailing exactly how the allocated funds were spent.

#### **Monitoring**

Program Managers (supervisors) from the Bureau of Elementary Education will evaluate each program to ensure that program regulations are being met and the developmentally appropriate practices are being implemented. The Environment Rating Scale will be the instrument used to measure the effectiveness of the program. Sites will be monitored on a yearly basis until a composite score of 5.0 is attained on the scale. After the first year, programs will be visited and evaluated if:

1. a score of 5.0 was not attained the previous year on the Environment Rating Scale; or
  2. the classroom teacher is new to the program.
- Programs that attain a 5.0 will be monitored every other year.

#### **Adherence to Regulations**

Local nonpublic schools/school systems must adhere to all state and federal regulations. Failure to do so will result in withdrawal of program funds.

#### **Religious Activities**

According to the federal regulations for the US Child Care and Development Block Grant, funds provided "under grant or contract may not include sectarian worship or instruction."

Carole Wallin  
Executive Director

## **DECLARATION OF EMERGENCY**

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

#### **Child and Adult Care Food Program Participants**

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and adopted as an emergency rule the following Child Care Regulations for Participants in the Child and Adult Care Food Program, effective July 22, 1993.

Emergency adoption is necessary because House Bill 1022 came into effect on the day it was signed by the governor and became Act 925. The bill provides for no period of transition. Without prompt implementation of rules and regulations to govern the system, the Child and Adult Care Program, which currently serves about 8,000 family day care homes, will be adversely affected.

#### **Child Care Registration for Participants in the Child and Adult Care Food Program**

In compliance with Section 1441.4 (B), Chapter 14 of Title 46 of the Louisiana Revised Statutes, the following rules and regulations are hereby established to carry out the provisions of this Chapter for those family child day-care homes and group child day-care homes which participate in the federal Child and Adult Care Food Program:

##### **I. Definitions**

As established by R.S. 1441.1 and as used in these rules and regulations, the following definitions shall apply unless the context clearly states otherwise.

*Child*—a person who has not reached the age of thirteen years. The words "child" and "children" are used interchangeably in this Chapter.

*Child and Adult Care Food Program*—the federal nutrition reimbursement program as funded by the federal Department of Agriculture through the state Department of Education.

*Department*—the Department of Health and Hospitals or the Department of Social Services or the Department of Education in accordance with 7 CFR Part 226, as indicated by the context.

*Family Child Day-Care Home*—any place, facility, or home operated by any institution, society, agency, corporation, person or persons, or any other group for the primary purpose of providing care, supervision, and/or guidance of six or fewer children.

*Group Child Day-Care Home*—any place, facility, or home operated by any institution, society, agency, corporation, person or persons, or any other group for the primary purpose of providing care, supervision, and/or guidance of seven but not more than twelve children.

*Sponsoring Agency*—any private, public, for profit or nonprofit corporation, society, agency, or any other group approved by or contracted with the Department of Education to coordinate family child day care homes and group child day care homes participating in the federal Child and Adult Care Food Program.

II. All Group Child Day Care Homes which participate in the Child and Adult Care Food Program (CACFP) shall be licensed through the Louisiana Department of Social Services in accordance with the provisions of Chapter 14 of Title 46, Sections 1401-1424.

III. All Family Child Day Care Homes which participate in the Child and Adult Care Food Program (CACFP) shall be registered through the Louisiana Department of Education according to the following criteria:

A. The facility shall be the private residence of the child care provider.

B. The provider shall enter into the required program agreement with a Louisiana Department of Education-approved CACFP sponsor.

C. The provider shall attend a minimum of one sponsor-conducted training session per year.

D. No more than six children shall be in attendance at the facility.

E. The facility shall be inspected and approved in accordance with R.S.46:1441. Inspection criteria shall be as follows:

1. Matches, lighters and other sources of ignition shall be kept out of reach of children.

2. Portable electric heaters shall be of an approved type, shall be equipped with a tilt switch and shall be located away from combustibles.

3. At least one smoke detector shall be properly installed, located and maintained.

4. Protective receptacle covers shall be installed in all areas occupied by children under five years of age.

5. Every room used for sleeping, living, or dining purposes shall have at least two means of escape, at least one which is a door or stairway providing a means of unobstructed travel to the outside of the building. If the home has burglar bars, the burglar bars shall have either release latches or keys in the locks during all hours of child care. If the home has doors with dead bolt locks, the dead bolt locks shall have keys inserted in the locks during all hours of child care. If the home has jalousie windows which do not meet size requirements, the rooms shall not be used for sleeping during any hours of child care.

6. Stairways shall be maintained free of storage items.

7. Every closet door shall be designed to permit the opening of the locked door from inside the closet.

8. Every bathroom door lock must be designed to permit the opening of the locked door from the outside in an emergency. The opening device must be readily accessible.

9. A properly charged portable fire extinguisher (minimum 2A) must be readily accessible.

10. The hot water heater shall be properly installed.

11. The facility shall have adequate lighting and ventilation.

12. Unvented fuel-fired room heaters shall be used only in rooms in which a window is raised.

13. Flammable liquids shall be properly stored.

14. Combustibles shall be stored away from heating units or water heaters.

15. Wiring, fixtures and appliances in the facility shall be safe.

16. The facility shall have an adequate water supply and a working sewerage system.

17. The facility shall be clean and free of insect and rodent infestation.

18. Garbage shall be disposed of properly.

19. The temperature of the refrigerator shall be maintained at or below 45° F. (A thermometer shall be left in the refrigerator for at least 10 minutes to achieve an accurate reading).

F. The facility inspection as referenced in item E above shall be conducted annually. However, facilities which are complying with applicable procedures to renew registration may participate in the CACFP during the renewal process unless the Department of Education has information which indicates that renewal will be denied.

Carole Wallin  
Executive Director

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

#### Postsecondary Technical Institutes Tuition Fees (LAC 28:I.Chapter 15)

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R. S. 49:953(B) and adopted as an emergency rule, a tuition increase for the Postsecondary Technical System. This is an amendment to the Administrative Code, Title 28, Section 1523.E as stated below, and increases the tuition for the technical institutes from \$300 to \$420 per year.

#### Title 28

#### EDUCATION

#### Part 1. Board of Elementary and Secondary Education Chapter 15. Vocational and Vocational-Technical Education

#### §1523. Students

\*\*\*

#### E. Fees for Louisiana Residents

#### 1. Registration and Fee Schedule:

\*\*\*

b. Residents shall pay in advance, the following tuition fees (Effective August 30, 1993):

Full-time	\$35.00 per month
3/4 time	\$26.20 per month
1/2 time	\$17.50 per month

\*\*\*

Emergency adoption is necessary in order to implement the new tuition schedule at the beginning of the next enrollment period, which is August 30, 1993. Effective date of emergency rule is August 30, 1993.

Carole Wallin  
Executive Director

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

#### Refund Policy of Technical Institutes (LAC 28:I.Chapter 15)

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B), and adopted as an emergency rule an addition to the refund policy of the technical institutes. This is an amendment to the Administrative Code, Title 28 as stated below:

#### **Title 28 EDUCATION**

#### **Part 1. Board of Elementary and Secondary Education Chapter 15. Vocational and Vocational-Technical Education**

#### **§1523. Students**

\* \* \*

#### **E. Fees for Louisiana Residents**

\* \* \*

#### **3. Refund Policy**

a. Enrollment or re-enrollment payments, or acceptable evidence of indebtedness, shall be due upon registration or re-enrollment, as part of the enrollment process. These fees are non-refundable except where the class is cancelled or closed.

#### **b. Title IV Recipient Pro Rata Refund Policy**

i. This pro rata refund policy applies only to students who are first-time enrollees *and* who are recipients of Title IV funds. This requirement does not apply to any student whose withdrawal date is after 60 percent of the enrollment period has transpired.

ii. Each institution shall refund a portion of unearned tuition and fees assessed students who are recipients of Title IV funds, if the student fails to complete the period of enrollment for which the Title IV funds were provided.

iii. The refund shall be equal to tuition for that portion of the period of enrollment for which the student has been charged that remains on the student's last day of attendance, rounded downward to the nearest 10 percent of that period. Any refund shall be reduced by an administrative fee not to exceed five percent of the tuition for the enrollment period.

iv. Refunds shall be credited to the following programs in this order:

(a) outstanding balances on Part B, D, and E loans,

(b) awards for PELL, SEOG, and CW-S programs,

(c) to other Title IV student assistance programs, and

(d) any other agency paying tuition.

v. Students shall not receive a refund of tuition.

Emergency adoption of this refund policy is due to the reauthorization of the Higher Education Amendments of 1992 which mandate this policy. Effective date of emergency rule is July 22, 1993.

Carole Wallin  
Executive Director

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

#### Teacher Tuition Exemption (FY 93-94)

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and adopted as an emergency rule, the revised teacher tuition exemption regulations for FY 1993-94 which are printed below. The Teacher Tuition Exemption Program is funded through the Louisiana Quality Education Support Fund 8(g).

Emergency adoption of the revised regulations is necessary so that they can be utilized for fall 1993 university registration dates and the opening of public and nonpublic schools. The effective date of this emergency rule is July 22, 1993.

#### **TUITION EXEMPTION CONTINUING EDUCATION PROGRAM FOR TEACHERS**

#### **I. Introduction**

The Louisiana Legislature, during the Regular Session of 1986, passed Act 1010 [R.S. 17:6.3 (a) and (c)]. This statute provides for a continuing education program at Louisiana colleges and universities under which four-year degreed teachers may take courses in their teaching areas. The Teacher Tuition Exemption Program is funded through the Louisiana Quality Education Support Fund 8(g). Regulations for the Tuition Exemption Program, adopted by the Board of Elementary and Secondary Education, are subject to administrative interpretation by the Louisiana Department of Education, Bureau of Continuing Education, Box 94064, Baton Rouge, LA 70804-9064, telephone (504) 342-3414.

#### **II. Application Forms**

#### **A. Distribution**

1. The Louisiana Department of Education prepares and distributes the forms.

2. Participating parish or city school systems receive forms from the Department of Education.

3. Participating non-public schools receive forms from the State Department of Education.

\*4. Participating applicants obtain forms from either the employing school or school board office. Regulations are attached to each application.

#### **B. Completion**

1. Read the directions on the application.

2. Complete Section I and sign.

3. Have the employing authority complete Section II and sign.

\*4. Submit application to Department of Education, Bureau of Continuing Education, for eligibility review. Applications must be postmarked for the fall semester by July 1, for the spring semester by November 15, and for the summer semester by April 15.

\*5. Department of Education returns one copy of the approved application to participant and one copy to the university.

\*6. The applicant will present the application to the designated university official. The university official completes Section III and signs.



\*C. If the application form is incomplete, inaccurate, or submitted to the Department of Education past the deadline date, it is subject to denial.

### III. Deadlines

#### A. Applications and Courses

##### \*1. Regular Fall, Spring, and Summer Sessions

\*a. Application forms must be postmarked and mailed to the State Department of Education, Bureau of Continuing Education, for the fall semester by July 1, for the spring semester by November 15 and for the summer semester by April 15.

b. Courses to be reimbursed shall be courses for credit that meet the time requirements established by the Board of Trustees for the State's Colleges and Universities.

##### \*2. Quarter Sessions

\*a. Application forms must be postmarked and mailed to the State Department of Education, Bureau of Continuing Education, for the fall quarter by July 20, for the winter quarter by October 15, for the spring quarter by January 25, and for the summer quarter by April 15.

b. Courses to be reimbursed shall be courses for credit that meet the time requirements established by the Board of Trustees for the State's Colleges and Universities.

#### B. Unsuccessfully Completed Courses

\*Applicants who do not successfully complete an approved course(s) or who drop, withdraw or resign must pay the tuition as determined by the college and university in which the applicant was enrolled.

### IV. Eligibility

#### \*A. Participants

1. Any full-time, four-year degreed, elementary or secondary classroom teacher who is regularly employed or on approved sabbatical leave, listed on the Annual School Report as a member of the faculty of a state-approved public or non-public elementary or secondary school under the jurisdiction of the State Board of Elementary and Secondary Education, is eligible.

2. For purposes of this program only, "teacher" does not include assessment teacher; school psychologist or other ancillary personnel who do not hold Louisiana teaching certificates; administrator; supervisor; or non-degreed VTIE personnel.

3. Applicants receiving other financial assistance (i.e., stipends, graduate assistantships) specified for tuition/registration costs are ineligible for Teacher Tuition Exemption.

#### B. Colleges and Universities

\*1. Colleges and universities failing to follow these guidelines could be denied participation.

2. Tuition reimbursement shall be limited to the following Louisiana colleges and universities as specified in Act 1010:

Delgado College  
Grambling State Univ.  
Louisiana State Univ./Alexandria  
Louisiana State Univ./Baton Rouge  
Louisiana State Univ./Eunice  
Louisiana State Univ./Shreveport  
Louisiana State Univ. Med.Center  
Louisiana Tech University  
McNeese State University

Northeast Louisiana Univ.  
Northwestern State Univ.  
Southeastern Louisiana Univ.  
Southern Univ./Baton Rouge  
Southern Univ./New Orleans  
Southern Univ./Shreveport  
University of New Orleans  
Univ. of Southwestern La.  
Centenary College

Our Lady of Holy Cross College  
Nicholls State University  
Louisiana College

Tulane University  
Xavier University  
Loyola University

3. Application for admission to colleges and universities must be in compliance with the colleges' or universities' regulations, entrance requirements, deadlines, and any other conditions for admissions.

#### C. Courses

\*1. Credit courses in the applicant's area of job assignment are eligible. Courses outside this area are eligible if the applicant is addressing a certification area of critical shortage that the local school system has identified and submitted to the State Department of Education. The city/parish superintendent's signature verifying that the applicant is addressing an area of critical shortage must be present on the application at the time of submission to the Department of Education. Final review/approval of courses shall be the responsibility of the Louisiana Department of Education, Bureau of Continuing Education.

\*2. Fall and Spring Semester. For tuition reimbursement, course load shall not exceed one regular semester or quarter course offering for each fall or spring session, if funds are available. An applicant should list up to three course choices for regular fall and spring semesters.

\*3. Summer Semester. For tuition reimbursement, course load shall not exceed two regular semester or quarter course offerings for each fall or spring session, if funds are available. An applicant should list up to four course choices for regular fall and spring semesters.

\*4. Approved Sabbatical Leave. For tuition reimbursement, course load shall not exceed three regular semester or quarter course offerings for each fall or spring session, if funds are available. An applicant should list up to five course choices for regular fall and spring semesters.

\*5. Core courses for applicants are as follows (only one of each is permissible):

- a. Tests and Measurements
- b. Educational Psychology
- c. Educational Research (how to do research)
- d. Philosophy of Education
- e. Statistics (educational)
- f. History of Education
- g. Introduction to Computer Literacy
- h. Introduction to the Education of Exceptional Children
- i. Reading in content areas
- j. Classroom Behavior Management

##### \*6. Additional courses as annually approved by BESE

a. Louisiana Writing Project  
b. Humanities Institutes (designated by the Louisiana Endowment Humanities beginning in the 1994 summer session)

- c. Taft Institute
- d. NTE Preparation Clinics

\*7. Any coursework required of an applicant as a result of an unsatisfactory evaluation pursuant to direction from his employing school or school system.

8. Distance Learning courses which are live and interactive courses are eligible. The courses must be for three



hours of graduate college credit approved by the university or college governing board. The Department of Education requires that a course outline be provided to the Bureau of Continuing Education prior to Department of Education teacher tuition exemption approval.

#### D. Tuition

\*1. Tuition, for the purposes of this program, is defined as the registration fee and building use fee per semester hour. Tuition exemption shall be limited to the amount of tuition assessed for on-campus courses. A portion of this amount for a course is not allowed.

\*2. Teachers participating in the Teacher Tuition Exemption Program shall be charged only registration and building use fee. No other fees will be charged by the universities as a condition of participation in the Teacher Tuition Exemption Program.

3. Reimbursement shall be made to the colleges and universities by the State Department of Education from State-appropriated 8(g) funds.

4. Public and non-public teachers are eligible to receive tuition waivers from public or non-public universities (registration fee and building use fee per semester hour). The amount paid by the state for any tuition imposed by or applicable to non-public college shall be equal to but not greater than the highest tuition charged by a public college or university in this state.

#### V. Ineligibility

Reimbursement shall not be paid on the following:

1. courses that are not successfully completed by the end of the semester or quarter;
2. non-credit courses or audit courses;
3. non-instructional credit courses such as examination courses;
4. courses in theology or divinity;
5. courses in administration or supervision (supervision of student teaching only if deemed a critical shortage area by the city/parish superintendent).
6. correspondence courses;
7. dropped, failed, or incomplete courses;

**Note:** If, within 60 days after the close of the semester, the "I" is removed, no payment of tuition will be demanded. The student will be responsible for providing to the Bureau of Continuing Education written verification including the student's name, address, social security number and grade from the Office of the Registrar that the "I" has been removed within the designated time.

\*8. courses for which application forms were submitted to the Department of Education past the deadline date;

9. courses for which application forms were incomplete or inaccurate;

10. courses for applicants who are declared ineligible to participate;

11. courses for which funds are not appropriated;

12. courses for applicants who are receiving retirement funds from a state retirement system;

13. courses that do not meet the time/class meeting requirements set forth by the Board of Trustees for the State's Colleges and Universities;

\*14. courses taken by independent study, directed study, student teaching, practicums, internships, observations or field experiences. (The single exception is in the case of either thesis or dissertation research. Tuition reimbursement may be made for only three hours of research and the topic must be directly related to the applicant's current job assignment. Verification in writing must be made by the applicant's major professor and attached to the application prior to approval by the State Department of Education. No approval will be made for topics related to administration or supervision.)

\*15. courses for which the participant is not eligible under these guidelines or Bulletin 746 requirements. Non-certified teachers may not address out-of-field critical shortage areas;

16. courses involving infractions of the tuition exemption regulations or university policy;

17. courses taken by teachers who are in default to the state of Louisiana for the Professional Improvement Program (PIP), the Tuition Exemption Program as it existed prior to July 1, 1985, or the present Tuition Exemption Program, the Post-Baccalaureate Scholarship, or the Education Majors Scholarship.

#### VI. Appeals

1. Any applicant who is denied tuition exemption for a college course may appeal to the Louisiana Department of Education, Bureau of Continuing Education, P.O. Box 94064, Baton Rouge, LA 70804-9064, no later than 15 days following the date of notification of denial.

2. Any applicant who is denied tuition exemption by the Department of Education for a college course shall have a right to a due process appeal before the State Board of Elementary and Secondary Education. The applicant should contact the executive director of the State Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA 70804-9064, no later than 15 days following the notification of denial from the Department of Education.

#### VII. College and University Procedures

\*A. The college and university should accept the application for tuition exemption only if the application has received prior approval for the Department of Education.

B. Each college and university shall submit to the Department of Education, within 20 days after the tenth day of class of each fall and spring session, an invoice equal to one-half of the amount of tuition assessed to that university. *Within 20 days after the close of the semester*, the college/university shall submit a final billing together with an alphabetical list of the names and addresses of applicants who received a W, F, or I grade, final payments to the university will be withheld until the reports are received. Invoicing for the summer session is covered in the following paragraph "D". The invoices submitted must reflect the actual course in which the applicant is enrolled regardless of the course listed on the Teacher Tuition Exemption Application.

\*C. At the time of registration, the applicant shall be exempt from paying tuition for approved coursework for this program.

D. All 8(g) funds for the Teacher Tuition Exemption Program are strictly limited to services rendered within the

fiscal year, July 1 through June 30. Summer sessions generally cover portions of June, July, and August; therefore, the tuition reimbursement of invoice issued by a university or college must be prorated. The first invoice will cover the summer session only through June 30 and will be applied against the current fiscal year budget. The remainder of the summer session tuition invoice covering the period starting July 1 to the end of the summer session will be paid from 8(g) funds in the following fiscal year.

\*E. Each university receiving 8(g) funds for Teacher Tuition Exemption shall receive from the State Department of Education the necessary assurance documents to ensure that participation levels in all tuition exemption programs meet the required program guidelines. Prior to the release of funds, these assurances must be signed and returned to the State Department of Education, Bureau of Continuing Education.

Note: All statements preceded with an asterisk (\*) indicate clarifications or additions to the current guidelines.

Carole Wallin  
Executive Director

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

#### VTIE Tuition Exemption Program (FY 93-94)

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R. S. 49:953(B) and adopted as an emergency rule, the following amendment to the VTIE Tuition Exemption Program (FY 93-94).

#### Section IV. Eligibility

\* \* \*

##### D. Tuition

1. Teachers participating in the Teacher Tuition Exemption Program shall be charged only registration fee and building use fee. No other fees will be charged by the universities as a condition of participation in the Teacher Tuition Exemption Program.

Emergency adoption is necessary because it is imperative that this rule be adopted immediately since the fall semester is scheduled to start within a few weeks. VTIE Tuition Exemption Proposals have already been approved and mailed to many participants. Effective date of emergency rule is July 22, 1993.

Carole Wallin  
Executive Director

## DECLARATION OF EMERGENCY

### Department of Environmental Quality Office of the Secretary

#### Importation of Foreign Hazardous Waste (LAC 33:V.1101, 1113)(HW38E)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 30:2011, the secretary of the Department of Environmental Quality declares that an emergency action is necessary because Louisiana's laws prohibiting the importation of hazardous waste from foreign countries have been declared unconstitutional. It is necessary for the department to adopt this emergency rule to require such waste to comply with the hazardous waste regulations that govern the treatment, storage and disposal of hazardous waste in Louisiana. The following emergency rule is hereby adopted to carry out the intent of the legislature which is to ensure that the environment and the health of the citizens of this state are not endangered by the importation of hazardous wastes generated in foreign countries. The immediate effect of the rule is twofold: 1) to ensure that hazardous waste being imported to the United States does not contain unknown or unauthorized pollutants that could be released to the environment because of inadequate containment, labeling, or handling during transport; and 2) to apprise the citizens in the area of the receiving facility, through public notice, of impending arrival of hazardous waste from a foreign country.

This emergency rule is effective on August 5, 1993, and shall remain in effect for the maximum of 120 days or until a final rule is promulgated, whichever occurs first.

#### Title 33

### ENVIRONMENTAL QUALITY

#### Part V. Hazardous Waste and Hazardous Materials

##### Subpart 1. Department of Environmental Quality—Hazardous Waste

#### 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.

B. Any person who imports hazardous waste into Louisiana must comply with the standards applicable to generators established in this Chapter. Any person who imports hazardous waste from a foreign country into Louisiana must ensure that the generator in the foreign country is identified and will properly characterize and ship the waste pursuant to the LHWR and LDPS regulations. If the importer detects any discrepancy with, or violation of, the applicable regulations, his/her recourse will be to reject the hazardous waste shipment and notify the administrative authority and the generator within 24 hours of the determination of such discrepancy and/or violation of the LHWR.

\* \* \*

**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 16:398-399 (May 1990), LR 19:

### **§1113. International Exports, Imports of Hazardous Waste**

**A. Applicability.** Any person who exports/imports hazardous waste to/from a foreign country, from a point of departure or to a point of arrival in Louisiana, must comply with the requirements of this Chapter. This Section establishes requirements applicable to international exports and imports of hazardous waste. A transporter transporting hazardous waste for export or import must comply with applicable requirements of LAC 33:V.Chapter 13.

**B. Definitions.** The following terms are used in these regulations as defined (in alphabetical order) in LAC 33:V.109: consignee, Louisiana State Acknowledgement of Consent, primary exporter, receiving country, and transit country.

**C. General Requirements.** International exports and imports of hazardous waste must comply with the applicable requirements of LAC 33:V.Chapters 11 and 13. Persons who import or export hazardous waste must demonstrate that:

1. notification in accordance with LAC 33:V.1113.D has been provided;
2. the appropriate authority in the receiving foreign country has consented to accept the hazardous waste;
3. consent to the shipment and notice to the department accompanies and is attached to the manifest (or shipping paper for exports and imports by water [bulk shipment]); and
4. the hazardous waste shipment conforms to the terms of the manifest and, if applicable, to the terms of the receiving country's written consent.

#### **D. Notification of Intent to Export or Import Hazardous Waste**

1. A primary exporter or importer of hazardous waste must notify the administrative authority of an intended export or import before such waste is scheduled to leave or enter the United States. A complete notification must be submitted to the department 60 days before the initial shipment is intended to be shipped off-site. If the country from which the waste is shipped requires more than 60-days notice for the import of hazardous waste, then the greater time period for notice to the administrative authority will apply to the export/import of waste to/from Louisiana. This notification may cover export or import activities extending over a 12-month or lesser period. The notification must be in writing, signed by the primary exporter or importer, and include the following information:

- a. name, mailing address, telephone number, and EPA ID number of the primary exporter or importer;
- b. for each hazardous waste type:
  - i. a description of the hazardous waste and the EPA hazardous waste number (from 40 CFR Part 261, Subparts C and D, pp. 404-422, 1988), Louisiana Department of Public Safety and Corrections (or its successor agency) proper shipping name, hazard class, and ID number for each hazardous waste;

ii. the estimated frequency or rate at which such waste is to be exported and imported and the period of time over which such waste is to be exported and imported;

iii. the estimated total quantity of the hazardous waste in units as specified in the instructions to the Uniform Hazardous Waste Manifest Form (8700-22);

iv. all points of entry to and departure from each foreign country through which the hazardous waste will pass;

v. a description of the means by which each shipment of the hazardous waste will be transported (e.g., mode of transportation vehicle [air, highway, rail, water, etc.], type[s] of container [drums, boxes, tanks, etc.]);

vi. a description of the manner in which the hazardous waste will be treated, stored, or disposed of in the receiving country (e.g., land or ocean incineration, other land disposal, ocean dumping, recycling);

vii. the name and site address of the consignee and any alternate consignee; and

viii. the name of any transit countries through which the hazardous waste will be sent and a description of the approximate length of time the hazardous waste will remain in such country and the nature of its handling while there.

2. Notification shall be sent to the administrative authority of the Louisiana Department of Environmental Quality with "Attention: Notification to Export/Import" prominently displayed on the front of the envelope. Such notice shall be sent by certified mail.

3. Except for changes to the telephone number or decreases in the quantity indicated pursuant to Subsection D.1.b.iii of this Section, any changes to the original notification (including any exceedance of the estimate of the quantity of hazardous waste specified in the original notification), must be provided to the administrative authority with a written re-notification of the change. The shipment cannot take place until consent to the changes is obtained from the exporting country, or the Louisiana administrative authority in case of imports (except for changes to Subsection D.1.b.iv and viii of this Section).

4. Upon request by the administrative authority, a primary exporter or importer shall furnish to the administrative authority any additional information to complete a notification.

5. The administrative authority will provide copies of complete notifications to the receiving country and any transit countries. A notification is deemed complete by the administrative authority when it satisfies the requirements of this Subsection. Where a claim of confidentiality is asserted with respect to the notification information required, the administrative authority may find the notification not complete until any such claim is resolved in accordance with LAC 33:V.317.C and LAC 33:V.319.

6. When the foreign country consents to the receipt of the hazardous waste, the administrative authority will forward an acknowledgement of consent to the primary exporter for purposes of LAC 33:V.1113.E.8. Where the receiving country objects to receipt of the hazardous waste or withdraws a prior consent, the administrative authority will notify the primary exporter in writing. The administrative authority will

also notify the primary exporter of any responses from transit countries.

7. Any Louisiana facility receiving hazardous waste generated in a foreign country must publish a notice of intent to receive hazardous waste in a major newspaper of general circulation in the area where the facility is located. Such notice shall be a minimum of 3" x 3" in size and will contain the following information: name and address of the receiving facility, name of the country of origin of the hazardous waste, a brief description of the waste, the amount to be shipped, and the scheduled date of arrival. Publication must be made at the time notice of intent is submitted to the department and proof thereof shall be submitted to the administrative authority within 10 days of publication date.

\* \* \*

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 16:220 (March 1990), LR 19:

Kai David Midboe  
Secretary

### DECLARATION OF EMERGENCY

Office of the Governor  
Office of Elderly Affairs

State Plan Amendment (LAC 4:VII.1327)

The Office of the Governor, Office of Elderly Affairs, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule, effective July 23, 1993. This action is necessary to comply with Administration on Aging Program Instruction AoA-PI-93-4. This rule shall remain effective until the current State Plan on Aging expires on September 30, 1993.

#### Title 4

#### ADMINISTRATION

#### Part VII. Governor's Office of Elderly Affairs

#### Chapter 11. Elderly Affairs

#### §1327. Addendum

\* \* \*

#### B. Assurances

\* \* \*

#### 21. Each area plan shall:

a. provide assurances that the area agency on aging will set specific objectives for providing services to older individuals with greatest economic need and older individuals with greatest social need, include specific objectives for providing services to low-income minority individuals, and include proposed methods of carrying out the preference in the area plan;

b. provide assurances that the area agency on aging will include in each agreement made with a provider of any service under this Title, a requirement that such provider will:

i. specify how the provider intends to satisfy the service needs of low-income minority individuals in the area served by the provider;

ii. to the maximum extent feasible, provide services to low-income minority individuals in accordance with their need for such services; and

iii. meet specific objectives established by the area agency on aging, for providing services to low-income minority individuals within the planning and service area; and

c. with respect to the fiscal year preceding the fiscal year for which such plan is prepared:

i. identify the number of low-income minority older individuals in the planning and service area;

ii. describe the methods used to satisfy the service needs of such minority older individuals; and

iii. provide information on the extent to which the area agency on aging met the objectives described in Subparagraph a. of this Paragraph.

[OAA Sec. 306(a)(5)(A)]

#### 22. Each area plan shall:

a. provide assurances that the area agency on aging will use outreach efforts that will:

i. identify individuals eligible for assistance under the Act, with special emphasis on:

(a). older individuals residing in rural areas;

(b). older individuals with greatest economic need (with particular attention to low-income minority individuals);

(c). older individuals with greatest social need (with particular attention to low-income minority individuals);

(d). older individuals with severe disabilities;

(e). older individuals with limited English-speaking ability; and

(f). older individuals with Alzheimer's disease or related disorders with neurological and organic brain dysfunction (and the caretakers of such individuals); and

ii. inform the older individuals referred to in subclauses (a) through (f) of clause i. of this Subparagraph, and the caretakers of such individuals, of the availability of such assistance.

[OAA Sec. 306(a)(5)(B)]

23. Each area plan shall contain an assurance that the area agency on aging will ensure that each activity undertaken by the agency, including planning, advocacy, and systems development, will include a focus on the needs of low-income minority older individuals.

[OAA Sec. 306(a)(5)(C)]

James R. Fontenot  
Director

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Board of Nursing

#### Faculty and Faculty Organization (LAC 46:XLVII.3515)

The Department of Health and Hospitals, Board of Nursing is exercising the emergency rule provision of the Administrative Procedure Act, R.S. 49:953(B), to adopt LAC 46:XLVII.3515.B.6, to specify exceptions to the faculty qualifications required by the board for approved schools of nursing preparing individuals for registered nurse licensure. Effective date of this emergency rule is July 26, 1993 and it shall remain in effect for 120 days or until a final rule is promulgated, whichever occurs first.

The Board of Nursing adopts this emergency rule in order to meet the needs of nursing educational programs for Fall, 1993 course and clinical offerings.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Chapter 35. Nursing Educational Programs

#### §3515. Faculty and Faculty Organization

\* \* \*

#### B. Qualifications

\* \* \*

6. Exceptions to the academic qualifications for nurse faculty shall be justified and approved under board-established guidelines. Such exceptions, if granted by the board shall be:

a. B.S.N. prepared individuals who are not enrolled in a masters in nursing program are limited to a maximum of one calendar year;

b. B.S.N. prepared individuals who are enrolled in a masters in nursing program shall be approved annually on an individual basis in accordance with current board guidelines. Exceptions may be granted to each individual for a maximum of three calendar years.

\* \* \*

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:186 (April 1977), amended LR 10:1025 (December 1984), LR 12:678 (October 1986), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:

Barbara L. Morvant, R.N., M.N.  
Executive Director

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Board of Nursing

#### Out-of-State Nursing Programs (LAC 46:XLVII.3536)

The Department of Health and Hospitals, Board of Nursing is exercising the emergency rule provision of the Administrative Procedure Act, R.S. 49:953(B), to adopt LAC 46:XLVII.3536, to establish standards for nursing education programs whose administrative control is located in another state offering programs, courses, and/or clinical experience in Louisiana. Effective date of this emergency rule is July 26, 1993 and it shall remain in effect for 120 days or until a final rule is promulgated, whichever occurs first.

The Board of Nursing adopts this emergency rule in order to meet the needs of educational programs for Fall, 1993 course or clinical offerings.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XLVII. Nurses

#### Subpart 2. Registered Nurses

#### Chapter 35. Nursing Educational Programs

#### §3536. Approval for Nursing Education Programs whose Administrative Control is Located in Another State Offering Programs, Courses, and/ or Clinical Experience in Louisiana

A. Program of Studies. To receive approval by the Board of Nursing for a total program of studies offered in Louisiana by nursing programs whose administrative control is located in another state, the following criteria shall be met:

1. New programs follow the procedure to establish new programs as specified in LAC 46:XLVII.3533.A-E.

2. Programs must present evidence of compliance with all standards and requirements contained in LAC 46:XLVII.Chapter 35. Upon full approval, the program will be reviewed under the requirements for continued approval, as specified in LAC 46:XLVII:3535.A-K.

B. Course/Clinical Offerings. Out-of-state nursing programs offering courses/clinical experiences in Louisiana are expected to maintain the standards required of Louisiana-based programs. The board reserves the right to withdraw the approval of such offerings if adherence to these standards is not maintained. To receive approval by the Board of Nursing for course/clinical offerings in Louisiana by nursing programs whose administrative control is located in another state, the following criteria shall be met:

1. Approval/Accreditation Requirements. Evidence of approval/accreditation of the nursing program shall be submitted to the Board of Nursing as stipulated below:

a. The nursing program sponsoring the offering shall hold current approval by the Board of Nursing and/or other appropriate approval bodies in the state in which the parent institution is located.

b. Regional accreditation shall be held by the parent institution.

c. National League for Nursing accreditation is recommended.

d. The nursing program sponsoring the course/clinical offering must provide the Board of Nursing with the following materials for review at least four months prior to the scheduled initiation of the offering:

i. a letter of request for approval to provide the course/clinical offering which indicates the time-frame during which the offering will be conducted, the clinical agency(ies) and the clinical unit(s) to be utilized;

ii. a copy of the philosophy/mission, purpose(s), conceptual/organizational framework, program objectives, and program outcomes;

iii. a curriculum pattern which lists all courses required within the program of study;

iv. a course syllabus for the course/clinical experience(s) to be offered which specifies the related objectives of the offering;

v. current school catalog.

e. Request for preceptorship learning experiences shall include evidence of compliance with LAC 46:XLVII.3541.A-J.

## 2. Coordination with Other Nursing Programs

a. Evidence of meetings or communications with representatives of the clinical agency, the out-of-state nursing program and all Louisiana nursing programs that hold current contractual agreements with the agency shall be submitted to the board.

b. Meetings or communications of respective representatives shall occur minimally on an annual basis, or on a semester basis as deemed necessary by any involved party.

c. A "Clinical Facility Survey" form shall be submitted by the program.

## 3. Students

a. All students shall be in good academic standing in the nursing program.

b. Students who hold licensure in any health care discipline and who have disciplinary action against their license, and/or students who have felony convictions shall petition the board for review and action regarding their approval to practice nursing in Louisiana.

c. Students who are licensed as registered nurses in another state shall obtain Louisiana registered nurse licensure.

d. Graduate performance on the licensure examination (NCLEX-RN) shall be maintained at an 80 percent or higher pass rate for each January-December calendar year. Upon initial request for approval, NCLEX-RN performance by graduates for the past two years shall be submitted to the board.

## 4. Faculty

a. Each faculty member shall hold a current license to practice as a registered nurse in Louisiana.

b. Each faculty member shall hold a minimum of a bachelor of science in nursing degree and a master of science in nursing, or an equivalent master's degree approved by the Board of Nursing, and a minimum of two years of nursing practice in a clinical setting.

c. Faculty shall be present for student supervision while students are assigned to clinical areas unless the students are engaged in a board-approved preceptorship experience.

d. The faculty to student ratio shall not exceed one to ten (1:10) for clinical instruction unless the students are engaged in a board-approved preceptorship experience which permits a maximum of one to twelve (1:12) faculty to student ratio.

e. A "Faculty Qualification" form shall be submitted for each faculty member providing instruction within the state of Louisiana.

## 5. Approval

a. Course/clinical offerings by out-of-state nursing programs may be approved for a period of two years, at which time program representatives may petition for renewal of approval for each additional two-year periods.

b. A written report which provides updated and current data relevant to the program shall be submitted as a component of the petition for renewal as specified in §3536.B.1-4.

c. Failure to comply with the requirements established by the Louisiana State Board of Nursing shall result in the immediate withdrawal of the board's approval of course/clinical offerings.

6. Post Approval. A copy of the executed contractual agreement between the academic institution and the clinical facility shall be submitted to the board prior to the initiation of the offering(s).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:

Barbara L. Morvant, R.N., M.N.  
Executive Director

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Office of Management and Finance

#### Health Services Provider Fees

The Department of Health and Hospitals, Office of Management and Finance, is adopting the following emergency rule in accordance with the emergency provision of the Administrative Procedure Act, R.S. 49:953(B). In March, 1993 the Department of Health and Hospitals adopted the final rule (*Louisiana Register*, Volume 19, Number 3, pages 347-348), implementing R.S. 46:2601 through 2605, which imposed a fee on the providers of certain health care services as authorized under P.L. 102-234.

Interim final regulations published by the Health Care Financing Administration (HCFA) limit the amount of certain taxes, fees and assessments to six percent of the provider revenues. Louisiana has challenged the validity of HCFA's regulations by filing suit in Federal District Court. However, to prevent disallowances of all state revenues derived from provider fees by HCFA, the Department of Health and

Hospitals was required to revise the fees placed on Nursing Facility and Intermediate Care Facility services for the mentally retarded and developmentally disabled. These revised fees were adopted on July 1, 1993 and published in the July 20, 1993 issue of the *Louisiana Register*, Volume 19, Number 7, page 850.

Also, the department incorporated into that emergency rule a revised schedule on the composition of the calendar quarters which changed the month of the payment due dates under that rule. However, the department is now revising that schedule on the calendar quarters in accordance with the following emergency rule. There are no other changes in the provisions of the July 1, 1993 emergency rule. This emergency rule takes effect August 2, 1993, for 120 days.

#### EMERGENCY RULE

Effective August 2, 1993, health services provider fees due dates for services provided on or after July 1, 1993, in Nursing Facilities and Intermediate Care Facilities for the Mentally Retarded (ICF-MR) shall be determined in accordance with the following schedule on the composition of the calendar quarters. The quarters shall be established as follows:

1. First Quarter: December  
January  
February
2. Second Quarter: March  
April  
May
3. Third Quarter: June  
July  
August
4. Fourth Quarter: September  
October  
November

Rose V. Forrest  
Secretary

### DECLARATION OF EMERGENCY

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

#### Disproportionate Share Hospital Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the provisions of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule, for 120 days, in the Medicaid Program.

Medicaid implemented via emergency rulemaking published in the January 20, 1993 *Louisiana Register*, (Vol. 19, No. 1, pages 7-8) a change in the methodology for calculating disproportionate share adjustment payments to teaching and non-teaching hospitals as well as distinct part psychiatric units of acute care general hospitals. A similar rule placing a cap on reimbursement to freestanding psychiatric hospitals,

including disproportionate share payments was also published in the January 20, 1993 *Louisiana Register* (Vol. 19, No. 1, pages 19-20). These rules were intended to modify the methodology for calculating disproportionate share payments to ensure compliance with the cap on disproportionate share adjustment payments as a result of Public Law 102-234. Further evaluation of the issue has indicated that the January 1, 1993 changes will not ensure that the cap is not exceeded in federal fiscal year 1993 (FFY 93). Restructuring of the methodology is necessary to ensure compliance with the cap established under P. L. 102-234 and federal regulations published November 24, 1992 (*Federal Register*, Vol. 57, No. 227, pages 55118-55265). Therefore, the above-referenced rules published effective January 1, 1993 are rescinded and superseded by the following rules, subject to review and approval by HCFA. If federal approval is not received, the above-referenced rules published effective January 1, 1993 shall remain in effect. This action is necessary to reduce the projected DSH payments to a level that will remain under the cap and results in a reduction of \$265,553,357 in FY 93-94. This proposed rule will ensure that other services for health care to the needy of the state would result if the cap is exceeded and the state must bear the full burden of DSH payments in excess of the cap. An emergency rule was adopted on this issue on March 1, 1993 and was published in the March 20, 1993 issue of the *Louisiana Register*, Volume 19, Number 3 and a clarifying emergency rule was adopted April 1, 1993 and was published on the April 20, 1993 issue of the *Louisiana Register*, Volume 19, No. 4.

#### EMERGENCY RULE

Effective July 30, 1993 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is amending the methodology for calculating the amount of disproportionate share payments for inpatient hospital services by acute care general hospitals, distinct part psychiatric units of acute care general hospitals and free-standing psychiatric hospitals. Below are the revised methodologies as modified in the State Plan:

#### Attachment 4.19A, Items 1, 14 and 16

##### Methodology for Disproportionate Share Adjustment

Effective for dates of service March 1, 1993 and after, qualification for and calculation of disproportionate share payments shall be based on the latest filed fiscal year end cost report as of March 31 of each year. Hospitals which meet the qualification criteria outlined in Item 1, D. 1. a-d, based on the latest filed fiscal year end cost report as of March 31 of each year, shall be included in one of the three following pools for calculation of disproportionate share adjustment payments. A one time provision for transition to the new methodology for disproportionate share payments shall provide that hospitals filing a minimum of a three-month interim cost report and which meet all qualification criteria shall be "grandfathered" into the pools. Qualifying hospitals with cost reports which do not reflect a full year shall have days annualized for purposes of the pools.

Qualifying disproportionate share hospitals with Medicaid utilization rate percentages equal to the Medicaid utilization criteria's qualifying threshold (the mean plus one standard



deviation of the Medicaid utilization for all such hospitals in the state participating in Medicaid) plus 25 percent shall be recognized as "Medicaid dependent hospitals." Medicaid dependent hospitals shall have days in the pool weighted by applying a factor of up to 1.25 to actual days in the pool. In determining pool payments, total days before adjustment shall remain the same while days for Medicaid dependent hospitals shall be increased by the factor noted above. Disproportionate share payments for each pool shall be calculated based on the product of the ratio of each qualifying hospital's total Medicaid inpatient days for the applicable cost report as adjusted for annualization and Medicaid dependent status, divided by the total Medicaid inpatient days provided by all such hospitals in the state qualifying as disproportionate share hospitals in their respective pools, multiplied by an amount of funds for each respective pool to be determined by the director of the Bureau of Health Services Financing. Disproportionate share payments cumulative for all payments shall not exceed the federal disproportionate share cap for each federal fiscal year. Notice of the actual pool amounts shall be published prior to the issuance of the first payment each year. The total disproportionate share payment amount for each qualifying hospital shall be calculated after March 31 of each year and payments shall be issued via at least three payments throughout the year for services in the immediately preceding months. Monthly payments may be issued for a transition period from April through October 1993 to allow hospitals to adjust to cash flow changes in disproportionate share payments.

The three pools are as follows:

1) *Teaching Hospitals*—acute care general hospitals (exclusive of distinct part psychiatric units) recognized as approved teaching hospitals under Medicare principles for the latest filed fiscal year end cost report as of March 31 of each year.

2) *Non-teaching Hospitals*—acute care general hospitals (exclusive of distinct part psychiatric units) not recognized as approved teaching hospitals under Medicare principles for the latest filed fiscal year end cost report as of March 31 of each year.

3) *Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals*—distinct part psychiatric units of acute care general hospitals meeting the Medicare criteria for PPS exempt psychiatric units and enrolled under a separate Medicaid provider, and free-standing psychiatric hospitals recognized as such for the latest filed fiscal year end cost report as of March 31 of each year.

If at audit or final settlement of the pool base(s) cost reports, the above qualifying criteria are not met, or the number of Medicaid inpatient days are reduced from those originally reported or annualized, appropriate action shall be taken to recover such overpayments. No additional payments shall be made if an increase in days is determined. No redistribution of the "pool" shall occur because of changes resulting from adjustments at audit/settlement or subsequent amending of cost reports.

Disapproval of this change by HCFA will automatically cancel the provisions of this rule and former policy will remain in effect.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule.

Copies of this rule and all other Medicaid rules and regulations are available in the Medicaid parish offices for review by interested parties.

Rose V. Forrest  
Secretary

## DECLARATION OF EMERGENCY

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

Nurse Aid Registry

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is adopting the following rule in the Medical Assistance Program in accordance with the emergency provision of the Administrative Procedure Act, R.S. 49:953(B).

The department issued a final rule on August 20, 1991 on the Nurse Aide Training and the Competency Evaluation Program. Included in this rule was the provision to establish the Nurse Aide Registry which maintains the certification information of nursing aides completing this program working in nursing facilities. In addition, this rule provides for the registry to maintain documentation of any final findings on investigations of abuse, neglect, and misappropriation of residents' property by nurse aides.

Subsequently, on June 20, 1993 the Department of Health and Hospitals adopted the final rule to incorporate allegations of, or pending action concerning abuse, neglect or misappropriation of property of nursing facility residents by nursing aides into the records of the Nurse Aide Registry. In addition, this rule stated that nursing aides would be decertified if convicted of such acts. This final rule was published in the *Louisiana Register*, Vol. 19, No. 6, page 753. The department now finds it necessary to discontinue immediately this June 20, 1993 rule in its entirety. Therefore, the department hereby repeals this rule promulgated in the June 20, 1993 issue of the *Louisiana Register*. The provisions of the earlier August 20, 1991 final rule will continue to govern the Nurse Aide Registry and the Nurse Aide Training and Competency Evaluation Program.

### EMERGENCY RULE

Effective July 23, 1993, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is repealing the June 20, 1993 Nurse Aide Decertification Rule in its entirety.

Rose V. Forrest  
Secretary



# DECLARATION OF EMERGENCY

## Department of Public Safety and Corrections Board of Parole

### Sex Offenders (LAC 22:IX)

The Department of Public Safety and Corrections, Board of Parole, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) in order to implement Acts 388 and 962 of the 1992, Regular Legislative Session, and adopts the following emergency rule, effective August 20, 1993.

Emergency rulemaking is necessary in order to protect and insure the safety of the public once a sex offender is released and residing in a community.

This emergency rule shall remain in effect for 120 days or until a final rule is promulgated, whichever occurs first.

#### Title 22

### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

#### Part XI. Board of Parole

A. Purpose: The purpose of this regulation is to set forth procedures to be followed for notification, disclosure and dissemination of the information regarding sex offenders.

B. Responsibility: The Louisiana Board of Parole and the Department of Public Safety and Corrections, Division of Probation and Parole are responsible for ensuring implementation of this regulation.

C. Definitions:

*He*—all forms of masculine pronouns are used. This is intended to refer to either sex and is used as a matter of convenience.

*Louisiana Board of Parole*—the board.

*Sex Offender*—a person who has violated any of the following offenses, or the equivalent offense in another jurisdiction:

Abetting in Bigamy;  
Forcible Rape;  
Aggravated Crime Against Nature;  
Incest;  
Aggravated Oral Sexual Battery;  
Indecent Behavior with a Juvenile;  
Intentional Exposure to AIDS;  
Aggravated Rape;  
Molestation of a Juvenile;  
Aggravated Sexual Battery;  
Oral Sexual Battery;  
Bigamy;  
Pornography Involving a Juvenile;  
Carnal Knowledge of a Juvenile;  
Sexual Battery;  
Crime Against Nature;  
Simple Rape;

NOTE: Attempted offenses do not fall under these rules unless specifically required by the sentencing judge or the parole board.

D. Notification:

1. All sex offenders residing in this state must notify the following, of their, name, address, place of employment,

crime for which he was convicted, the date and place of such conviction, any alias used by him and his social security number.

- a. police department in area he will reside;
- b. sheriff department in area he will reside.

2. A sex offender shall within 30 days of being placed on probation or released on parole or within 45 days of establishing residence in Louisiana, notify the agencies listed in D.1.a through b.

3. A sex offender cannot change his address without prior notification to his probation and parole specialist and without the prior approval of his probation and parole specialist.

4. A sex offender, changing his residence must send written notice to the agencies listed in D.1.a through b within 10 days of the change of residence if in the same parish. If the move is to a new parish, the sex offender must register with the agencies listed in D.1.a through b within 10 days of establishing his new residence.

5. The board shall send written notice at least 10 days prior to parole, community placement or work release placement to the following:

- a. the chief of police of the city in which a sex offender will reside or be placed for work release;
- b. the sheriff of the parish in which a sex offender will reside or be placed for work release;
- c. if requested in writing, the board shall also send notice to the following:
  - i. the victim of the crime or if the victim is under 16 to the parents, tutor or legal guardian of the child;
  - ii. any witnesses who testified against the sex offender;
  - iii. any person specified in writing by the prosecuting attorney.

E. Notification - Victim under 18 years old:

1. The board shall mail notice, within three days of its decision to release a sex offender, to the victim or the victim's parent or guardian if they were not present at the parole hearing of the following:

- a. the address where the sex offender will reside;
- b. a statement that the sex offender will be released on parole; and
- c. the date the sex offender will be released.

2. Sex offenders, whose victims were under the age of 18 at the time of the commission of the crime, must meet all requirements of Subsection D above as well as the following:

- a. a sex offender must give notice of the crime, his name and address by mail to the following:
  - i. all persons residing within a three square block area or a one square mile area if in a rural area in accordance with Form A;
  - ii. superintendent of public schools in the area he will reside;
  - iii. heads of all parochial and private schools in the area he will reside;
  - iv. child protective services in the area he will reside.
- b. the above must be done within 30 days of either sentence to probation, release or parole, or acceptance by Louisiana through the Interstate Compact.

c. a sex offender shall publish notice of his name, address and crime for which he was convicted and paroled, on two separate days in the official journal of the governing authority of the parish where the sex offender will reside, in accordance with Form B.

d. the board may order any form of notice they deem necessary.

**F. Additional Conditions:**

1. All sex offenders shall be subject to the same conditions as any other offender released on probation, parole, good time/parole supervision, work release, as well as those set forth above.

2. All sex offenders shall be subject to any special conditions as required by the board.

**G. Term:**

1. All sex offenders must comply with these requirements for a period of 10 years after the conviction, if not imprisoned during that period in a penal institution, full-time residential treatment facility, hospital, or other facility or institution pursuant to the conviction. If the person required to register is imprisoned or confined to a penal institution, full-time residential facility, hospital, or other facility or institution pursuant to the conviction, he shall comply with the registration provision for a period of ten years after release from his confinement or imprisonment. A convicted sex offender's duty to register terminates at the expiration of ten years from the date of initial registration, provided that, during the ten year period, he is not convicted of another sex offense.

2. All sex offenders may petition the court to be relieved of the duty to register. The petition shall be made to the court in which the petitioner was convicted of the offense that subjects him to the duty to register, or, in the case of convictions in other states, to the district court of the parish in which the person is registered. The district attorney of the parish shall be named and served as the defendant in any such petition. The court shall consider the nature of the sex offense committed, and the criminal and relevant noncriminal offense committed, and the criminal and relevant noncriminal behavior of the petitioner both before and after conviction, and may consider other factors. The court may relieve the petitioner of the duty to register only if the petitioner shows, with clear and convincing evidence, that future registration of the petitioner will not serve the purpose.

**H. Release of information:**

1. The board is authorized to release to the public the following information regarding sex offenders:

- a. name;
- b. address;
- c. crime convicted and paroled;
- d. date of conviction;
- e. date of release on parole or diminution of sentence;
- f. any other information that may be necessary and relevant for public protection.

2. The board can not release any information regarding victims or witnesses of sex crimes to the sex offender or the general public.

3. Verbal requests of information are acceptable. The chairman of the Board of Parole or his designated

representative reserves the right to require a written request before releasing any information.

**FORM "A"**

**STAMPED POST CARD**

Under Louisiana Sex Offender laws, LA R.S. 15:540, et seq., and 15:574.4, I am required to notify you of the following information:

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

OFFENSE OF CONVICTION: \_\_\_\_\_

These postcards will be stamped with your Probation and Parole Officer's return address. Prior to mailing, the Probation and Parole Officer will examine the cards for complete and correct information and to ensure that the appropriate number of postcards are being mailed.

**FORM "B"**

Under Louisiana Sex Offender laws, LA R.S. 15:540, et seq., and 15:574.4, I am required to provide the following information:

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

OFFENSE OF CONVICTION: \_\_\_\_\_

You will present this completed form to the official publication(s) in your area, fill in their name and address, pay to have the ad run for two days, and return your receipt for payment for your Probation and Parole Officer. Additionally, you will obtain newspapers printed on the dates that your ad is run and present them to your Probation and Parole Officer as proof of publication.

\_\_\_\_\_  
Name of Publication

\_\_\_\_\_  
Name of Publication

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
City/State/Zip Code

\_\_\_\_\_  
City/State/Zip Code

**Ronald Bonvillian  
Chairman**

**DECLARATION OF EMERGENCY**

**Department of Transportation and Development  
Crescent City Connection Division**

**Bridge Tolls Exemption (LAC 70:I.507)**

The Department of Transportation and Development, Crescent City Connection Division has exercised the emergency provision of the Administrative Procedures Act, R.S. 49:953(B), to adopt the following emergency rule, effective August 15, 1993, for the passage of firemen and firefighting equipment on and over the bridges and ferries

operated by the Crescent City Connection Division and for the Student Vehicle Pass Program.

Emergency rulemaking is necessary to comply with R.S. 33:1975(A) and (B) as amended and reenacted by Act 66 of 1993, to carry out a program to provide free and unhampered passage of firemen, volunteer firemen and firefighting equipment on and over all toll bridges and ferries, and to comply with Act 345 of 1993, amending and reenacting R.S. 17:157(A), to carry out a program to provide free passage of students who operate vehicles over all toll bridges and ferries.

## **Title 70**

### **Transportation**

#### **Part I. Office of General Counsel**

#### **Chapter 5. Tolls**

#### **§507. Crescent City Connection Exemptions**

##### **A. Firemen**

1. Purpose. All firemen and volunteer firemen shall have free and unhampered passage on and over the Crescent City Connection bridges, the Gretna/Jackson Avenue ferry, the Algiers/Canal Street ferry and the Lower Algiers/Chalmette ferry.

##### **2. Procedure for Firemen**

a. All firemen as defined in R.S. 39:191(A) shall present an identification card containing a photographic picture of the fireman for inspection by the toll collector. The identification card must be issued by the municipality, parish or district as referred to in R.S. 39:191(A).

b. All firemen shall sign a register at the toll booth or station, and provide the name of agency, municipality, parish or district for which they are employed or engaged.

c. After compliance with Subparagraphs a. and b. of this paragraph, free and unhampered passage will be granted to the fireman.

##### **3. Procedure for Volunteer Firemen**

a. All volunteer fire organizations shall apply to the Crescent City Connection Division and shall certify to the following:

*i.* the address of the volunteer fire organization's domicile or headquarters;

*ii.* the general location served by the volunteer fire organization;

*iii.* that the members of the volunteer fire organization are required to travel across the facilities, stated in Paragraph 1 of this Subsection pertaining to purpose, in the performance of official firefighting or fire prevention services;

*iv.* the number of crossings made in one year, on the facilities stated in Paragraph 1 of this Subsection pertaining to purpose, by volunteer firemen members of the volunteer fire organization.

b. The application must be signed by the chief executive officer of the volunteer fire organization.

##### **c. Vehicle Passes**

*i.* Upon approval of an application, the Crescent City Connection Division shall issue vehicle passes for use by the volunteer firemen members of the volunteer fire organization.

*ii.* The vehicle passes shall be for the exclusive use of volunteer firemen members of the volunteer fire organization while operating a motor vehicle and are not transferable.

*iii.* The vehicle passes shall not be used for any other

purpose than crossing the bridges or ferries for the performance of official firefighting or fire prevention services by volunteer firemen.

*iv.* Lost, stolen or damaged passes will not be replaced.

d. Loss of Privilege. Any prohibited use of vehicle passes issued to a volunteer fire organization will result in the loss of the privilege to obtain and use passes and/or action provided by law.

##### **B. Students**

1. Purpose. In addition to free passage of students in clearly marked school busses as is now provided, any motorized vehicle operated by a student attending a school, which includes universities, colleges, and secondary schools, shall have free passage over the Crescent City Connection bridges, the Gretna/Jackson Avenue ferry, the Algiers/Canal Street ferry, and the Lower Algiers/Chalmette ferry, during the hours of 6 a.m. through 9:30 a.m., and 2:30 p.m. through 9 p.m., for traveling to and from school.

##### **2. Application**

a. Students who are majors (or in the case of a minor student, the legal parent or guardian) shall apply to the Crescent City Connection Division for each student for each school year, and shall certify to the following:

*i.* the address of the student's domicile;

*ii.* the address of the school attended by the student;

*iii.* the student regularly operates a private vehicle to travel to and from school;

*iv.* the geographic location of the school in relation to the student's domicile requires travel across the facilities stated in Paragraph 1 of this Subsection pertaining to "Purpose".

b. The appropriate school official, the registrar of the college or university attended by the student, or the principal, headmaster, or administrator of the school attended by the student, shall certify on the application as to the enrollment of the student at the school and the length of the school year.

##### **3. Vehicle Passes**

a. Upon approval of an application, the Crescent City Connection Division shall issue vehicle passes for use by the student.

b. The vehicle passes shall be for the personal use of the student, while operating a motor vehicle, and are not transferable.

c. The vehicle passes shall not be used for any other purpose than crossing the bridges or ferries for required attendance at school.

d. Lost, stolen, or damaged passes will not be replaced.

4. Loss of Privilege. Any prohibited use of Student Vehicle Passes will result in the loss of the privilege to obtain and use passes and/or actions provided by law.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 33:1975 and R.S. 17:157(A).

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Crescent City Connection Division, LR 19:

**Alan J. Levasseur**  
Executive Director

## DECLARATION OF EMERGENCY

### Department of Treasury Board of Trustees of the State Employees' Retirement System

#### Deferred Retirement Option Plan

The Board of Trustees of the Louisiana State Employees' Retirement System, at its meeting on July 27, 1993, adopted the following emergency rule concerning the Deferred Retirement Option Plan (DROP).

Act 229 of the regular session of 1993 provided for participation in the Deferred Retirement Option Plan (DROP) for a period of up to three years.

1. Any eligible member entering DROP for the first time on or after July 1, 1993 may make a one time election to participate in DROP for a period not to exceed three years. Once specified, the period of participation may not be extended.

2. Any member in their initial DROP participation period on July 1, 1993, or who completed their DROP participation period between *May 20, 1993 and July 1, 1993*, may extend their originally selected participation period by up to one additional year upon giving written notice to the retirement system, so long as they have not terminated state service.

3. Any member in their initial DROP participation period between July 1, 1993 and September 1, 1993 who entered DROP prior to July 1, 1993 may extend their originally selected participation period by up to one additional year upon giving written notice to the retirement system.

4. Any member in their initial DROP participation period who entered DROP prior to July 1, 1993 and who elect after September 1, 1993 to extend their originally selected DROP participation period by up to one year may do so upon 30 days prior written notice to the retirement system.

5. Any member who has completed DROP participation prior to July 1, 1993, and who has remained in state service without a break, may re-enter the DROP program for up to one additional year upon written notice to the retirement system.

6. When a person is in an extended DROP participation period, leave earned during that time cannot be converted to retirement credit.

7. When a person is in an extended DROP participation period, interest will not be credited to the DROP account.

8. When a member extends their DROP participation period, the monthly amount credited to the DROP account during the original participation period will be the amount credited to the DROP account during the extended DROP participation period.

The effective date of this emergency rule is July 1, 1993, and it shall remain in effect for 120 days or until the final rule takes effect through the normal promulgation process, whichever is shortest.

Thomas D. Burbank, Jr.  
Executive Director

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### 1993 Fall Inshore Shrimp Season

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, R.S. 49:967, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters, the Wildlife and Fisheries Commission does hereby set the 1993 Fall Inshore Shrimp Season to open statewide in all shrimp management zones at 6 a.m. on Monday, August 16, 1993. The secretary of the Department of Wildlife and Fisheries is also hereby authorized to close the 1993 Fall Inshore Shrimp Season in any area or zone when biological and technical data indicate the need to do so.

Bert H. Jones  
Chairman

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### 1993-94 Migratory Bird Hunting Season

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under authority of R.S. 56:115, the secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopts the following emergency rule:

The hunting seasons for early migratory birds during the 1993-94 hunting season shall be as follows:

#### Migratory Birds Other Than Waterfowl

Dove: Split Season, Statewide, 70 days  
September 4-12 9 days  
October 16-November 14 30 days  
December 11-January 10 31 days  
Daily bag limit 12, Possession limit 24

#### Teal:

September 18-26 9 days  
Daily bag limit 4, Possession limit 8, Blue-Winged, Green-Winged and Cinnamon Teal only. Federal and state waterfowl stamps required.

#### Rails: Split Season

September 18-26  
November 13-January 12  
King and Clapper: daily bag limit 15 in the aggregate, possession 30.

Sora and Virginia: daily bag and possession 25 in the aggregate.

**Gallinules: Split Season**

September 18-26

November 13-January 12

daily bag limit 15, possession limit 30

**Snipe:**

November 6-February 20

daily bag limit 8, possession limit 16

**Woodcock:**

November 27-January 30

daily bag limit 5, possession limit 10

**Shooting Hours:**

**Teal, Rail and Gallinule:** One-half hour before sunrise to sunset.

**Snipe and Woodcock:** One-half hour before sunrise to sunset.

**Dove:** One-half hour before sunrise to sunset except on September 4-5, October 16-17 and December 11-12 when shooting hours will be 12 noon to sunset.

A declaration of emergency is necessary because the U.S. Fish and Wildlife Service establishes the framework for all migratory species. In order for Louisiana to provide hunting opportunities to the 200,000 sportsmen, selection of season dates, bag limits, and shooting hours must be established and presented to the U.S. Fish and Wildlife Service immediately.

The aforementioned season dates, bag limits and shooting hours will become effective on September 4, 1993 and extend through sunset on February 28, 1994.

Bert H. Jones  
Chairman

**DECLARATION OF EMERGENCY**

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

1993-94 Oyster Season

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 967, and under the authority of R.S. 56:433 and R.S. 56:535.1, notice is hereby given that the secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby declares:

1. The Public Oyster Seed Grounds not currently under lease and the Hackberry Bay, Sister Lake, and Bay Gardene Oyster Seed Reservations will open one-half hour before sunrise September 8, 1993.

2. The Bay Junop Oyster Seed Reservation will remain closed during the 1993-94 oyster season.

3. A designated sacking only area east of the Mississippi River will open one-half hour before sunrise on September 8, 1993. The sacking only area of the public grounds is generally Lake Fortuna and Lake Machias to a line from

Mozambique Pt. to Pt. Gardner to Grace Pt. at the Mississippi River Gulf Outlet.

4. The secretary of the Department of Wildlife and Fisheries is authorized to take emergency action, if necessary, to close areas if oyster mortalities are occurring, or to delay the season or close areas where significant spat catch has occurred with good probability of survival, or where it is found that there are excessive amounts of shell in seed oyster loads.

5. The secretary is authorized to take emergency action to reopen areas previously closed if the threat to the resource subsides.

6. The Calcasieu and Sabine Lake Tonging areas will open one-half hour before sunrise on November 1, 1993, and remain open until one-half hour after sunset on March 1, 1994, with the secretary having the authority to extend to compensate for the health closure days.

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

Bert H. Jones  
Chairman

**DECLARATION OF EMERGENCY**

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

**Commercial Fisherman's Sales Report Form**

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, R.S. 56:345(B) which allows the secretary to promulgate rules and regulations on the submission of commercial fisherman's sales report forms to the department, the Wildlife and Fisheries Commission and the Department of Wildlife and Fisheries hereby find that imminent peril to the public welfare exists and accordingly adopts the following emergency rule to amend LAC 76:VII.203.D which establishes an implementation date of July 1, 1992.

Effective immediately the full implementation date for the Commercial Fisherman's Sales Report Forms is January 1, 1995.

The secretary has amended the full implementation date of the Commercial Fisherman's Sales Report Forms to January 1, 1995 due to the lack of sufficient funding to initiate and maintain the program.

Bert H. Jones  
Chairman

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Dealer Receipt Form

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, R.S. 56:306.4(E) which allows the secretary to promulgate rules and regulations on the submission of dealer receipt forms to the department; the Wildlife and Fisheries Commission and the Department of Wildlife and Fisheries hereby find that imminent peril to the public welfare exists and accordingly adopt the following emergency rule to amend LAC 76:VII.201.F which establishes an implementation date of July 1, 1992.

Effective immediately the full implementation date for the Dealer Receipt Forms is January 1, 1995.

The secretary has amended the full implementation date of the Dealer Receipt Forms to January 1, 1995 due to the lack of sufficient funding to initiate and maintain the program.

Bert H. Jones  
Chairman

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Shrimp Season Closure, Zone 1

In accordance with the emergency provisions of R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497, which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters, and pursuant to a resolution adopted by the Wildlife and Fisheries Commission on May 6, 1993, which authorized the secretary of the Department of Wildlife and Fisheries to close the 1993 Spring Inshore Shrimp Season in any area or zone when biological and technical data indicate the need to do so the secretary of the Department of Wildlife and Fisheries hereby orders that the 1993 Spring Inshore Shrimp Season shall be closed in most of Zone 1 at 6 a.m., Friday, July 23, 1993. Small white shrimp have begun to show up in department samples in portions of Zone 1 and the secretary has determined that a large portion of Zone 1 should be closed to protect these emigrating white shrimp.

Those portions of Zone 1 which will remain open shall be as follows:

The open waters of:

1. Lake Pontchartrain and Middle Ground;
2. Lake Borgne and the Mississippi Sound;
3. Chef Menteur and Rigolets Passes;

4. Mississippi River - Gulf Outlet; and
5. The Intracoastal Waterway from the overhead power lines at the Inner Harbor Navigation Canal east to its junction with the Mississippi River - Gulf Outlet.

These areas will remain open until 6 a.m. Friday, August 6, 1993, or until the secretary determines a need to close these areas. In addition to these areas, the open waters of Breton and Chandeleur Sounds shall remain open to shrimping until further notice.

Joe L. Herring  
Secretary

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Shrimp Season Closure, Zone 3

In accordance with the emergency provisions of R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters and pursuant to a resolution adopted by the Wildlife and Fisheries Commission on May 6, 1993, which authorized the secretary of the Department of Wildlife and Fisheries to close the 1993 Spring Inshore Shrimp Season in any area or zone when biological and technical data indicate the need to do so, the secretary of the Department of Wildlife and Fisheries hereby orders that the 1993 Spring Inshore Shrimp Season shall be closed in all of Zone 3 at 12:01 a.m., Sunday, July 18, 1993 (midnight Saturday, July 17, 1993). Small white shrimp have begun to show up in department samples in Zone 3 and the secretary has determined that Zone 3 should be closed to protect these emigrating white shrimp.

Joe L. Herring  
Secretary

# RULES

## RULE

### Department of Agriculture and Forestry Structural Pest Control Commission

#### Termiticide Foam Applications and Ship Fumigation Licensure (LAC 7:XXV.Chapter 141)

In accordance with R.S. 49:950 et seq., the Department of Agriculture and Forestry has amended LAC 7:XXV.14107 and 14110 and adopted LAC 7:XXV.14136. These rules establish qualifications for applicants seeking a license to fumigate ships for structural pest control and to permit termiticide foam applications. These rules comply with and are enabled by R.S. 3:3366, 3:3368 and 3:3201.

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XXV. Structural Pest Control

#### Chapter 141. Structural Pest Control Commission

#### §14107. License to Engage in Structural Pest Control Work Required: Qualifications of Applicant; Requirements for Licensure; Phases of Structural Pest Control License; Conditions of the License

\* \* \*

C. each applicant for a ship fumigation license must possess one of the following qualifications in order to take the examination:

1. a degree from an accredited four-year college or university with a major in entomology; or
2. a degree from an accredited four-year college or university at least 12 semester hours or the equivalent in quarter hours of course work in entomology and at least one year of experience as a registered technician under the supervision of a licensee in ship fumigation, or
3. four years of experience as a registered technician under the supervision of a licensee in ship fumigation, or
4. experience as a certified ship fumigation technician having completed 200 jobs in ship fumigation working under the supervision of a licensed ship fumigator, or
5. four years of experience as a technician under the supervision of a structural pest control operator in another state in ship fumigation. Experience with an out-of-state structural pest control operator shall be substantiated by evidence acceptable to the commission, or
6. 200 jobs in ship fumigation that the applicant has worked as a registered technician in ship fumigation working under the supervision of a licensed ship fumigator, during a two-year period.

D. Each applicant for licensure must also demonstrate the following competencies:

1. knowledge of the practical and scientific facts underlying the practice of structural pest control, control of wood-destroying insects and/or fumigation; and

2. knowledge and ability to recognize and control hazardous conditions which might affect human life or health.

E. Each applicant must successfully complete the appropriate examination for certification prior to issuance of the structural pest control license.

F. In addition to the qualifications required by LAC 7:14107.B-C, each applicant for licensure must:

1. submit a complete application for examination as required by LAC 7:14109 hereof;
2. be approved by the commission to take the examination for licensure;
3. have successfully completed a written examination for licensure no more than two years prior to the date of issuance of the license;
4. secure a permit for operation of the business location where he will be domiciled, as required by LAC 7:14105 above, provided that an applicant for license who is connected with a business location for which the commission has already issued a permit for operation need only to advise the commission of the business name and location of the permitted establishment where he will be domiciled;
5. provide a certificate of insurance on a document approved by the Louisiana Department of Agriculture and Forestry of general liability as follows:
  - a. not less than \$250,000, public liability coverage, per accident;
  - b. not less than \$100,000 coverage for property damage;
  - c. or combined single limits of \$350,000;
  - d. liability insurance must provide coverage under Insurance Code 73421 (fumigation including completed operations) and on Insurance Code 73420 (exterminating including pest control and completed operations excluding fumigation and use of gas of any kind).
  - e. provision for at least 10 days prior written notice to the commission before cancellation.

6. Provide evidence of a surety or fidelity bond covering the business with which the applicant is connected, issued by a bonding, surety or insurance company authorized to do business in Louisiana, in the amount of \$2,000, of tenor and solvency satisfactory to a majority of the commission. An applicant who is not connected with a business covered by the required surety or fidelity bond must secure the appropriate coverage prior to issuance of the license.

G. Out-of-State applicants for licensure must meet the educational requirements shown in LAC 7:14107.B.1 above or produce evidence satisfactory to the commission of four years of experience under the supervision of a recognized and reputable pest control operator. Experience in pest control work in another state will be verified with the appropriate regulatory agency of the other state before out-of-state applicant will be allowed to take the examination for licensure in Louisiana.

H. The commission shall consider each application for examination for licensure in open session. The commission may verify the contents of any application prior to taking final action to approve/disapprove the applicant to take the examination. The commission may disapprove an applicant, or defer action on the application to take the examination, in

any instance when the contents of the application cannot be verified. Action to grant/deny approval for the applicant to take the examination shall be taken only upon the affirmative vote of three members of the commission. No license shall be issued until the commission has approved the application.

I. All applicants who are approved by the commission will, upon successfully completing the examination for licensure as set forth in LAC 7:14109 hereof, receive a single license to engage in structural pest control work, which license shall specify on the face thereof the specific phase or phases of structural pest control work for which the license is issued, as follows:

1. General Pest Control
2. Commercial Vertebrate Control
3. Termite Control
4. Structural Fumigation
5. Ship Fumigation
6. Commodity Fumigation

J. A license to engage in structural pest control work is permanent unless suspended or revoked by the commission as provided in LAC 7:14121.

K. A licensee may perform or supervise structural pest control work only in the phase or phases of the license for which he is licensed by the commission.

L. Each license is personal to the holder and may not be transferred to another for any purpose or for any period of time and may not be utilized in any way by any person other than the licensee whose name appears on the face of the license.

M. The license must be permanently displayed on the licensee's place of business at all times.

N. The commission may deny a license to any person proven to have committed any of the violations set forth in LAC 7:14121 hereof.

O. A licensee approved in one phase of pest control work may be licensed in additional phases by successfully completing the examination for the additional phase. However, the license for additional phase or phases of structural pest control work shall not be issued until the commission approves the licensee to take the examination for the additional phase or phases.

P. Any licensee desiring to utilize a telephone answering service other than at locations holding a place of business permit shall submit a written request and receive permission from the Louisiana Department of Agriculture and Forestry at least 30 days prior to establishing such a telephone answering service.

Q. A licensee can only have one license with all phases for which he possesses issued at one place of business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3308 and R.S. 3:3306 (redesignated R.S. 3:3366 and 3:3368).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:326 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 19: (August 1993).

#### **§14110. Requirements and Responsibilities of the Certified Fumigation Technician**

- A. 1.-2. ...
3. Repealed

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3369 and R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 17:251 (March 1991), amended LR 19: (August 1993).

#### **§14136. Termiticide Foam Applications**

Termiticide foam applications may be used as a supplemental treatment to approved liquid applications on post-construction treatments for the control, prevention or eradication of termites and other wood destroying insects.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 19: (August 1993).

Bob Odom  
Commissioner

### **RULE**

#### **Department of Economic Development Board of Examiners of Certified Shorthand Reporters**

##### **Grading of Examinations (LAC 46:XXI.309)**

The Department of Economic Development, Board of Examiners of Certified Shorthand Reports is hereby amending LAC 46:XXI.Chapter 3 of the Louisiana Administrative Code relative to the grading of the exam as follows.

#### **Title 46**

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

##### **Part XXI. Certified Shorthand Reporters**

##### **Chapter 3. Examinations**

##### **§309. Grading of Examination**

A. Each candidate's examination will be graded on the basis of ability to accurately transcribe notes, the time occupied in the transcription, knowledge of court reporting procedure and its related terminology, accuracy of 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. The maximum number of errors allowed to pass the dictated and transcribed portions of the skills test is 57 errors on the Q and A portion; 50 errors on the jury charge portion; and 45 errors on the literary portion. For purposes of grading, the Q and A portion of the skills test may be graded first. When an applicant has more than 77 errors on the Q and A portion, grading may cease, and the jury charge and literary portions will not be graded. The jury charge portion of the skills test will be graded if the applicant has 77 errors or less on the Q and A portion. When an applicant has more than 70 errors on the jury charge portion, grading may cease and the literary portion will not be graded. The literary portion of the skills test will be graded if the applicant has 77



errors or less on the Q and A portion and 70 errors or less on the jury charge portion. When an applicant has more than 65 errors on the literary portion, grading may cease.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:2554.

**HISTORICAL NOTE:** Promulgated by the Office of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:678 (October 1983), amended by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 14:530 (August 1988), LR 16:393 (May 1990), LR 17:578 (June 1991), LR 19: (August 1993).

Judge Leon A. Cannizzaro, Jr.  
Chairman

## RULE

### Department of Economic Development Economic Development and Gaming Corporation

#### Corporation Formation, Powers and Liability (LAC 42:IX.Chapters 9-13)

The Department of Economic Development, Board of Directors of the Economic Development and Gaming Corporation adopts LAC 42:IX.Chapters 9-13 concerning articles of corporation, by-laws and rules of procurement as follows:

#### Title 42

#### LOUISIANA GAMING

#### Part IX. Casino Gambling

#### Subpart 2. Economic Development and Gaming Corporation

#### Chapter 9. Articles of Incorporation

#### §901. Statement of Authority

The Louisiana Legislature has expressed its desire to establish a casino in the state of Louisiana, and, to do so the Louisiana Legislature has adopted the Louisiana Economic Development and Gaming Corporation Act, Louisiana Revised Statutes 4:601 et. seq. (sometimes hereafter referred to as the act). In adopting the Louisiana Economic Development and Gaming Corporation Act, the Louisiana Legislature acknowledged that the operation of a casino is unique to state government and legislatively determined that the regulation of the casino should be undertaken by a separate, independent corporate entity and not an agency or political subdivision of the state of Louisiana. Consequently, pursuant to the Louisiana Economic Development and Gaming Corporation Act, the Louisiana Legislature created the Louisiana Economic Development and Gaming Corporation (the "corporation"), which is vested with broad powers to regulate the official gaming establishment casino and to oversee any and all games connected therewith. The Louisiana Economic Development and Gaming Corporation Act further detailed the governance and operation of the corporation by a board of directors (the

"board") and a president (the "president") of the corporation. In accordance with the Louisiana Economic Development and Gaming Corporation Act, the board hereby adopts the following corporate articles setting forth certain matters appropriate to the operation of a corporation of the nature of the Louisiana Economic Development and Gaming Corporation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:601 et seq.

**HISTORICAL NOTE:** Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19: (August 1993).

#### §903. Formation and Continuation

##### A. Commencement of Existence

Pursuant to Section 611 of the Act, the existence of the corporation commenced on the date that a majority of the members of the board of directors of the corporation were confirmed by the Senate, which occurred on or about December 16, 1992.

##### B. Principal Business Office

1. Unless otherwise designated as provided in §903.C.1 the principal business office of the corporation (the "principal business office") shall be located at:

Louisiana Economic Development and  
Gaming Corporation  
One Canal Place  
365 Canal Street, Suite 2700  
New Orleans, LA 70130

2. The corporation may have such other offices within the state of Louisiana as the board deems necessary or appropriate. Notice of the location of the principal business office shall be provided to the Louisiana secretary of state and the recorder of mortgages in East Baton Rouge and Orleans Parishes via the recordation of these corporate articles.

##### C. Change in Location of Principal Business Office

1. A change in the location of the principal business office may be authorized at any time by the board provided that the new principal business office shall be located in Orleans Parish, New Orleans, Louisiana. Within 30 days after a change of location is completed, notice of the change, and the post office address of the new principal business office, shall be filed with the Louisiana secretary of state and with the recorder of mortgages in East Baton Rouge and Orleans Parishes. If the principal business office is vacated by the corporation, a new principal business office shall be designated by the board, and notice of the change and of the post office address of the new office shall be filed with the secretary of state and with the recorder of mortgages of East Baton Rouge and Orleans Parish within 30 days of such designation. If the notice of change provided hereunder is not filed within that period, the New Orleans office of the attorney general shall thereafter be deemed to be the principal business office until the appropriate filing of a notice of a new principal business office with the secretary of state and with the recorder of mortgages of East Baton Rouge and Orleans Parish.

Attorney General Richard Ieyoub's Office  
Attn: Louisiana Economic Development  
and Gaming Corporation  
234 Loyola, 7th Floor  
New Orleans, LA 70130

2. The principal business office shall be considered the domicile of the corporation for all purposes except for venue purposes as described in R.S. 4:606.

#### D. Duration

The corporation shall have perpetual existence, unless earlier dissolved in accordance with §909.A hereof.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:601 et seq.

**HISTORICAL NOTE:** Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19: (August 1993).

### §905. Powers of the Corporation

#### A. Description of Powers

Subject to the limitations stated in the Louisiana Constitution, the act and general provisions of Louisiana law, the corporation shall have the power and authority to regulate the official gaming establishment and do all things related and in furtherance thereof. Without limiting the generality of the foregoing, the corporation shall have the following specific powers and authority:

a. in any legal manner to acquire, hold, use and alienate or encumber property of any kind;

b. in any legal manner to acquire, hold, vote and use, alienate and encumber, and to deal in and with shares, memberships or other interests in, or obligations of, other business, non-profit or foreign corporations, associations, partnerships, joint ventures, individuals or government entities (collectively an "entity");

c. to make contracts and guarantees, including guarantees of the obligations of other entities;

d. to incur liabilities, borrow money and secure any of its past, present or future obligations by the pledge, pawn, mortgage, collateral mortgage, hypothecation or granting of a security interest of any kind of property, which security may be created by security documents which may include a confession of judgment and all other usual and customary Louisiana security document provisions;

e. enter into other obligations or evidences of indebtedness;

f. to lend money for its corporate purposes and invest and reinvest funds, and to take and hold, sell or exchange property or rights of any kind as security for loans or investments;

g. to elect or appoint officers and agents, to define their duties and fix their compensation;

h. to pay pensions and establish pension plans, pension trusts, profit sharing plans and other incentive and benefit plans for any or all of its directors, officers and employees;

i. enter into procurement including issuance of requests for proposals for contracts authorized by the act;

j. sue and be sued in its corporate name, and as a corporate entity;

k. adopt a corporate seal and a symbol;

l. hold copyrights, trademarks, and service marks and enforce its rights with respect thereto;

m. appoint agents upon which process may be served;

n. acquire immovable property and make improvements thereon, subject to the prior approval of the Joint Legislative Committee on the Budget;

o. make, solicit, and bid requests for proposals and

offers for major procurement, in accordance with law or rules and regulations of the corporation including:

i. contracts for major procurement after competitive negotiation, bidding, or other procedure authorized pursuant to the Louisiana Procurement Code, or the corporation may adopt special rules and regulations pursuant to the provisions of this part providing for special procedures whereby the corporation may make any class of procurement including the authority to negotiate a reduced price. Such procedures shall be designed to allow the selection of proposals that provide the greatest long-term benefit to the state, the greatest integrity for the corporation, and the best service and products for the public. In its bidding and negotiation processes, the corporation may do its own bidding and procurement may utilize the services of the division of administration central purchasing agency or other set agency or division. The president of the corporation may with approval of the board declare an emergency for purchasing purposes; and

ii. contracts to incur debt in its own name and enter into financing agreements with the state, its own agencies, or with a commercial bank, excluding the authority to issue bonds.

#### B. Powers of the Board

All of the corporate powers of the corporation shall, to the extent not specifically delegated to other persons, agencies or entities pursuant to the Louisiana Economic Development and Gaming Corporation Law, be vested in, and the business and affairs of the corporation shall be administered by, the board.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:601 et seq.

**HISTORICAL NOTE:** Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19: (August 1993).

### §907. Indemnification and Limitation of Liability

#### A. Right to Indemnification

Each person who was or is a party, or is threatened to be made a party to, or is otherwise involved in, any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a "proceeding"), by reason of the fact that such person is or was a director, officer, employee or agent of the corporation, whether the basis of such proceeding is alleged to be as a result of such person's action or failure to act, may be indemnified and held harmless by the corporation against any and all expenses, attorneys' fees, liabilities, losses, judgments, fines and amounts paid or to be paid in settlement, which amounts are, in any case, actually and reasonably incurred; provided (all the following are met) that such person:

a. must have acted in compliance with the corporation's rules of conduct, as amended from time to time, and any other rules and regulations now or hereafter adopted by the corporation;

b. must have acted in good faith;

c. must have acted in a manner that he or she reasonably believed to be in, or not opposed to, the best interests of the corporation; and

d. in the case of an action or failure to act that may constitute criminal conduct, such person must not have been convicted or entered a plea of guilty, nolo contendere or

similar plea with respect to such conduct.

#### B. Payment of Expenses in Advance

The corporation may pay, in advance of final disposition of a proceeding, a director's, officer's, employee's or agent's reasonable expenses, including attorney's fees, incurred by such person in defending any such proceeding; provided, however, that the payment of such expenses in advance of the final disposition of such proceeding shall be made only upon delivery to the corporation of an undertaking, by or on behalf of such person, in which such person agrees to repay all amounts so advanced if it should be ultimately determined that such person is not entitled to be indemnified under this §907.

#### C. Applicability of Rights

The ability of the board to indemnify or to grant the reimbursement or advancement of expenses pursuant hereto is intended to be retroactive and shall be available with respect to events occurring prior to the adoption hereof. The rights granted hereunder shall continue to exist after the rescission or restrictive modification hereof with respect to events occurring prior thereto, and may be applied to acts or failures to act of officers, directors, employees and agents of the corporation committed or omitted during such person's tenure with the corporation despite the fact that such person no longer serves in such capacity.

#### D. Insurance

The corporation may maintain insurance at its expense to protect itself and any director, officer, employee or agent of the corporation against any expense, liability or loss incurred by such person in connection with his or her service to the corporation.

#### E. Authority of the Board

The board shall make all determinations under this §907 relating to the payment or advance of any moneys and the standard of conduct necessary therefor. However, a director shall not vote on any decision or determination relating to his or her actions, failure to act or other matter under this §907. in which the director has an interest (all directors not so disqualified are hereinafter "disinterested directors"). If any person or persons are disqualified from voting hereunder, the quorum and voting requirements hereunder shall be based on the number of persons not disqualified from voting on such issues. The board may make the payment or advancement of any amounts hereunder subject to such terms and conditions as they deem appropriate.

#### F. Limitation of Liability

No director, officer, employee or agent of the corporation shall be personally liable to the corporation or otherwise for monetary damages for breach of fiduciary duty as a director, officer or employee, except for liability resulting from any of the following:

- a. for breach of the director's, officer's, employee's or agent's duty of loyalty to the corporation;
- b. for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;
- c. for any transaction from which the director, officer, employee or agent derived an improper personal benefit; or
- d. for any action or failure to act that violates the rules of conduct of the corporation, as amended from time to time, and any other rules and regulations now or hereafter adopted

by the corporation. The determination of whether a person has met the applicable standards of conduct under this §907.F shall be made by a vote of disinterested directors.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:601 et seq.

**HISTORICAL NOTE:** Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19: (August 1993).

### §909. Miscellaneous

#### A. Dissolution

The corporation may be dissolved and the operations thereof wound up only upon vote of the Louisiana Legislature to so dissolve and wind up the corporation or to repeal the enabling legislation adopted by the Legislature relating to the corporation and regulation of a casino. Within 90 days of the date of the final adoption of any such legislation, the board shall appoint one or more liquidators, which liquidator or liquidators shall have all of the rights, powers, duties and authority of the officers of the corporation and the board, and the rights, powers, duties and authority of the officers and directors of the corporation shall cease, except the power and authority of the board to remove or replace any of the liquidators, and such other rights, powers, duties and authority as may be retained by the board or granted by law. In all other respects and except as otherwise provided by the legislature, the corporation shall be liquidated in the same manner and according to the same rules that govern the liquidation of Louisiana corporations (Louisiana Revised Statutes 12:141 et seq.). In the event of dissolution or final liquidation of the corporation, the board shall, after paying or making provision for the payment of all the lawful debts and liabilities of the corporation, distribute all the assets of the corporation to the state of Louisiana or any successor corporation, commission, board or entity designated by the legislature.

#### B. No Instrumentality of the State; No Private Inurement

While, as stated in the statement of authority, the corporation is not an agency or political subdivision of the state of Louisiana, the corporation has been formed for a public purpose and shall not be deemed an instrumentality of the state of Louisiana except as otherwise specifically provided in the act or these articles. No part of the net earnings, gains or assets of the corporation shall inure to the benefit of or be distributable to its directors, officers, other private individuals or organizations organized and operated for a profit (except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes hereinabove stated).

#### C. Amendment

An amendment, modification, deletion or alteration (an "amendment") of these corporate articles, or any provision hereof, may be adopted by vote of at least six members of the board at a duly called regular or special meeting of the board; provided that, the text of the proposed amendment shall be submitted to the board at the regular meeting most recently preceding the regular meeting at which such amendment is to be considered. Any amendment so adopted by the board shall not become effective until adopted in accordance with LAC 42:IX.1109 of the corporation's by-laws and rules of procedure.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:601 et seq.

**HISTORICAL NOTE:** Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19: (August 1993).

## **Chapter 11. By-laws and Rules of Procedure**

### **§1101. Statement of Purpose**

The Louisiana Economic Development and Gaming Corporation (the "corporation") was formed pursuant to Louisiana Revised Statutes 4:601 et. seq., which is entitled The Louisiana Economic Development and Gaming Corporation Act (hereafter referred to as the "act"). The act directed the corporation to adopt various rules and procedures governing various aspects of the operation of the corporation. To comply with this mandate, the board of directors of the corporation (hereafter referred to as the "board") has adopted these by-laws and rules of procedure (sometimes referred to as "rules of procedure" or "rules").

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:601 et seq.

**HISTORICAL NOTE:** Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19: (August 1993).

### **§1103. Directors**

#### **A. Number and Classes of Directors**

All of the corporate powers of the corporation shall be vested in, and the business and affairs of the corporation shall be administered by the board which consists of nine members, as more specifically set forth in the act. The governor shall appoint the chairman of the board and the board shall annually elect a vice-chairman and a secretary from among its members. The chairman shall conduct all meetings of the board, and, unless appointed to a committee of the board as a regular member, shall be an ex-officio, non-voting member of each committee of the board. The vice-chairman shall act in the absence of the chairman. The secretary shall give, or cause to be given, notice of all meetings of directors and committees thereof, immediately upon being directed by the persons responsible for providing notice, and all other notices required by law or by these by-laws, and in case of his or her absence or refusal or neglect to do so, any such notice may be given by the director, directors or officer upon whose request the meeting is called as provided in these by-laws. The secretary shall record or cause to be recorded all the proceedings of the meetings of the directors and committees thereof in a book or books to be kept for such purpose. The foregoing officers of the board shall also have such powers, duties, responsibilities and authority as is granted to them by resolution of the board.

#### **B. Place of Meetings**

Regular meetings of the directors may be held at any place within the state of Louisiana as the board may determine by vote of at least five members thereof. If the board does not vote upon, or at least five directors cannot agree upon, a place for any meeting, or if the notice of a meeting does not designate a location for such meeting, such meeting shall be at the corporation's principal business office located as stated in the corporation's corporate articles, as may be changed from time to time in accordance with the corporate articles.

#### **C. Regular Meetings of the Board**

Regular meetings of the board shall be held upon the call

of chairman if the board by resolution adopts a specific day or days of each week or month, as applicable, for the regular meetings of the board. No notice of any such regularly scheduled meeting other than that required by Louisiana Revised Statutes 42:7 shall be required to be delivered to any member. Notice as required by Louisiana Revised Statutes 42:7 shall be given of all meetings of the board or any committee thereof by posting of a copy of the notice at the principal business office of the corporation and by mailing or telecopying a copy of the notice to any member of the news media who has requested notice of meetings. Attendance at any meeting without objection to the notice thereof prior to the conduct of the business of such meeting shall constitute a waiver of notice.

#### **D. Special Meetings of the Board**

Special meetings of the board may be called at any time by call of five or more of the members of the board or by the chairman subject to providing the notice required by Louisiana Revised Statutes 42:7(A)(2). Special meetings shall be held at the principal business office of the corporation unless otherwise agreed to by at least 6 members of the board. The effective date of any notice provided with respect to a special meeting of directors shall not be affected by the subsequent determination to hold a special meeting other than at the principal business office.

#### **E. Reserved**

#### **F. Notice of Meetings**

Notice of meetings of the board and committees thereof shall be given in accordance with R.S. 42:7.

#### **G. Quorum, Proxies and Rules**

At all meetings of the board, the presence of five of the directors in office and qualified to act shall constitute a quorum for the transaction of business, and the action of a majority of the voting power present at any meeting at which a quorum is present shall be the action of the board, unless the concurrence of a greater proportion is required for such action by law, the corporate articles or these by-laws and rules of procedure. If a quorum is not present at any meeting of directors, the directors present may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present. A director may not attend a meeting of the board or any committee thereof by proxy. The board may adopt internal parliamentary procedures for the conduct of its meetings in accordance with the provisions of R.S. 49:951(6) which shall not constitute administrative rules of the corporation.

#### **H. Resignation**

The resignation of a director shall take effect upon the effective date of the delivery of a written resignation to the chairman or on any later date specified therein, but in no event more than 30 days after such receipt.

#### **I. Vacancies**

The office of a director shall become vacant if he or she dies, resigns or is removed in accordance with the act.

#### **J. Reserved**

#### **K. Committees of the Board**

The chairman may designate one or more committees, each committee to consist of the directors of the corporation as determined by the chairman (and one or more directors may

be named alternate members to replace any absent or disqualified regular member of such committee) pursuant to the following provisions:

a. such committee or committees shall have such name or names as may be determined, from time to time, by the chairman. The president and chairman shall each be an ex-officio member of each committee of the chairman. Any vacancy occurring in any such committee shall be filled by the chairman;

b. The presence of a majority of the members of a committee at any meeting thereof shall constitute a quorum, and the business of a committee shall be transacted, and notice provided, in the same manner as set forth herein for the board.

#### L. Reliance on Reports and Records

A director shall, in the performance of his or her duties as a director or a member of a committee, be fully protected, and, if such conduct meets the requirements of the corporate articles, shall be entitled to indemnification under such corporate articles, if such director relies, in good faith, upon the records of the corporation or upon such information, opinions, reports or statements presented to the corporation, the board or any member or members of a committee thereof by the attorney general, by any of the corporation's officers, employees or agents, appraiser, engineer, or independent or certified public accountant selected by the board or any committee thereof with reasonable care, or by any other person as to matters the director reasonably believes are within such other person's professional or expert competence and which person is selected by the board or any committee thereof with reasonable care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19: (August 1993).

### §1105. Officers

#### A. Corporation President

The president of the corporation shall be appointed by the board subject to the approval of the governor. Should the governor refuse to approve the appointed of the president by the board, then the board shall submit another name. The person whose appointment was refused shall not be renamed for approval for a period of two years. The governor shall, within 30 days after the nomination of the president by the board, either approve or reject the nomination.

#### B. Powers and Duties of the President

The president of the corporation shall manage the affairs of the corporation and shall have such powers and duties as specified by the board of directors. The president shall not be a member of the board. The president of the corporation shall serve at the pleasure of the board which shall set the compensation of the president. The president of the corporation (the "president") shall manage the daily affairs of the corporation and shall serve as chief executive officer of the corporation, with general management of the corporation's business and power to make contracts in the ordinary course of business; shall appoint such officers as he or she deems appropriate, including, without limitation, a vice-president and a secretary-treasurer; shall see that all orders and resolutions

of the board are carried into effect and direct the other officers and agents of the corporation in the performance of their duties; shall have the power to execute all authorized instruments; and shall generally perform all acts incident to the office of president, or which are authorized or specified by law or the board, or which are incumbent upon him or her under the provisions of the corporate articles or these by-laws and rules of procedure. The president shall serve at the pleasure and will of the board.

#### C. Vice President

The president shall employ a vice president and a secretary-treasurer with such duties as are assigned by the president. Such officers shall serve at the pleasure of the president. In the absence or disability of the president, the vice-president shall perform the president's duties and exercise his or her powers. The vice-president shall serve at the pleasure and will of the president.

#### D. Secretary-Treasurer

A secretary-treasurer of the corporation (the "secretary-treasurer") shall be appointed by the president and shall have custody of all funds, securities, evidences of indebtedness and other valuable documents of the corporation; shall receive and give, or cause to be received and given, all moneys paid to or by the corporation and receipts and acquittance for moneys paid into or for the account of the corporation; shall enter, or cause to be entered, in the books of the corporation to be kept for that purpose, full and accurate accounts of all moneys received and paid out on account of the corporation, and, whenever required by the president or the board, he or she shall render a statement of his or her accounts; shall keep or cause to be kept such books as will show a true record of the expenses, gains, losses, assets and liabilities of the corporation; shall, in the absence of the secretary of the board, perform the duties and exercise the powers of the secretary; and shall perform all of the other duties incident to the office of secretary-treasurer as determined or directed by the president or the board. If required by the board or the president, the secretary-treasurer shall give the corporation a bond for the faithful discharge of his or her duties and for restoration to the corporation, upon termination of his or her tenure, of all property of the corporation under his or her control. The secretary-treasurer shall serve at the pleasure and will of the president.

#### E. Assistants

Assistants to the president, vice-president or secretary-treasurer may be appointed by the president or, with the approval of the president, by the officer under whom such assistant serves, and shall have such duties as may be delegated to them by the president or the officer under whom such assistant serves. Each assistant shall serve at the pleasure and will of the president.

#### F. Compensation

The compensation of the president shall be fixed by the board, and the compensation of all other officers shall be determined by the president, subject to the prior approval of the board.

#### G. Term of Office

Each officer of the corporation or assistant thereto shall, unless he or she resigns or is earlier terminated by the

corporation, hold office until his or her successor is chosen and qualified in his or her stead. Any officer elected or appointed by the board or president may be removed at any time by the affirmative vote of the board or by action of the president, unless such power is specifically limited to action by the board (e.g., appointment of the president). If the office of any officer or assistant becomes vacant for any reason, the vacancy shall be promptly filled by the president. No vacancy need be filled if the board or the president determines that the office in which such vacancy occurs need not be filled; provided that the corporation shall maintain the offices of president, vice-president and secretary-treasurer.

#### H. Absence

In the case of the absence of any officer of the corporation or an assistant thereto, or for any other reason that the board or president may deem sufficient, the board or president may delegate any of the powers or duties of any officer or assistant to any other officer or employee of the corporation or designee of the board. For purposes of these by-laws, an officer not yet hired or retained shall be deemed absent.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:601 et seq.

**HISTORICAL NOTE:** Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19: (August 1993).

### **§1107. Miscellaneous Provisions**

#### A. Fiscal Year

The fiscal year of the corporation shall begin on July 1 and end on June 30 of each year.

#### B. Checks, Drafts, Notes, Etc.

All checks, drafts or other orders for the payment of money, and notes or other evidences of indebtedness, issued in the name of the corporation shall be signed by such officer or officers of the corporation and in such manner as shall be determined by the board, from time to time, or pursuant to any written forms or instructions filed at any financial institution that issues such checks, drafts or other orders for payment.

#### C. Registered Agent

The register agents of the corporation for service of process shall be the chairman and the attorney general or his designated assistant.

#### D. Notice

1. Whenever any notice is required by these by-laws and rules of procedure to be given, such notice is sufficient if given by:

- a. personal service (which notice shall be effective upon delivery); or
- b. telephone, telecopy, telefax or similar electronic communication; or
- c. delivery of such notice by registered or certified mail, return receipt required; or
- d. air freight, overnight delivery of which is recorded.

2. Any such notice shall be addressed to the person or entity receiving such notice at his, her or its last known address as it appears in the records of the corporation.

#### E. Waiver or Modification of Receipt of Notice

Whenever any notice of the time, place or purpose of any meeting of directors or a committee thereof is required by

law, the corporate articles or these by-laws and rules of procedure, a waiver or modification thereof in writing, signed by the person or persons entitled to such notice and filed with the board secretary's records of such meeting, before or after the holding thereof, or actual attendance at the meeting of directors or committee thereof, is equivalent to the giving of such notice, except with respect to the notice required by Louisiana Revised Statutes 42:7.

#### F. Amendment

An amendment, modification, deletion or alteration (an "amendment") of these by-laws and rules of procedure, or any provision hereof, may be adopted by vote of at least six members of the board at a duly called regular or special meeting of the board. Any amendment so adopted by the board shall not become effective until adopted in accordance with §1109.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:601 et seq.

**HISTORICAL NOTE:** Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19: (August 1993).

### **§1109. Special Procedures for Promulgation of Rules, By-laws and Articles of Incorporation**

#### A. Generally

In accordance with Louisiana Revised Statutes 4:620 and 659, the board has adopted and shall adhere to the following special procedures relating to the adoption and promulgation of rules, by-laws and articles of incorporation.

a. No less than five and no more than 30 days after the board intends to consider a rule, by-law or article of incorporation change or promulgation, the board shall cause to be published in the official journal of the state or the corporation, a notice of intent stating the general subject matters to be covered by its proposed rules, by-laws or articles of incorporation, and the date, time and place of the public meeting at which the proposed change or promulgation will be considered. The notice of intent shall also state that interested persons may appear at the meeting and make comments regarding the proposed rule, by-law or article.

b. Within 40 days of the public hearing and adoption of any such rule or regulation, as described in Subsection A.1 above, the board shall cause to be published in at least one of the publications listed in Subsection A.1 above, a notice of the adoption of such rules or by-law or article. The board may also publish the full text of the rules or regulation in the official journal of the state or the corporation.

c. Within seven days after publication of notice of adoption in the official journal of the state or the corporation, the president shall transmit a copy of any such rule or regulation, the published notice of intent, the notice of adoption and any comments received to the speaker of the House of Representatives, the president of the Senate, and the chairman of the House Committee on the Administration of Criminal Justice and the Senate Committee on Judiciary B.

d. Absent a legislative hearing and decision to reject such a rule or regulation as described in Louisiana Revised Statutes 4:659, the adopted rule, by-law or article of incorporation shall be effective 21 days after receipt of the proposed rules by the presiding officers in accordance with R.S. 4:659 (B).



**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:601 et seq.

**HISTORICAL NOTE:** Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19: (August 1993).

### **§1111. Special Procedures for Hearings on Alleged Violations of the Rules of Conduct**

#### **A. Hearings**

1. The board or the ethics committee established by the board shall not impose any penalty for violation of the corporation rules of Conduct without a hearing and after reasonable notice informing such person or entity of:

- a. the date, time and place of such hearing;
- b. a reference to the specific rules of conduct such person or entity is alleged to have violated; and
- c. a short and plain statement of the matters asserted.

2. At such hearing, the person or entity subject to such hearing shall have the right:

- a. to be represented by counsel;
- b. to call and examine witnesses to the production of evidence;
- c. to introduce evidence and exhibits; and
- d. to cross-examine opposing witnesses.

3. However, no person against whom such a proceeding is instituted may require production of security or confidential records of the corporate corporation unless relevant to the alleged misconduct of the person for whom the hearing is held.

#### **B. Determinations**

After conclusion of a hearing held pursuant hereto, the board or the ethics committee, as the case may be shall begin deliberations on the evidence and then proceed to determine by majority vote whether there has been a violation of the rules of conduct, and, if so, what is an appropriate penalty for such violation. The findings of the board or the ethics committee may, but need not, be made public.

#### **C. Record of Hearings**

The board or the ethics committee, as the case may be, shall cause a record to be made of all hearings held pursuant hereto. Such record may, but need not, be made public.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:601 et seq.

**HISTORICAL NOTE:** Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19: (August 1993).

### **§1113. Other Special Procedures for Hearings**

#### **A. Application**

The procedures stated in this Section shall apply to an appeal by a casino gaming operator, gaming operator, distributor, licensee, permittee, under contractor, or applicant or other person or party of a corporation adjudication, decision or determination rendered in the act. For purposes of this Section, the term "appellant" shall mean a person adversely affected by a decision of the corporation or the board.

#### **B. Appellant Request**

Prior to initiating an appeal of the presidents or other officer's decision, order or adjudication an appellant must send the president a request letter stating the action of which the appellant seeks reconsideration or modification and all reasons the appellant advances for reconsideration or modification. The request letter must state the appellant's name and address,

must enclose copies of all documents relevant to the request and must be signed by the appellant. The appellant must represent that all facts stated in the request letter are correct to the best knowledge of the appellant. The president shall respond to the request letter in writing within 10 days of the corporation's receipt of it, stating all reasons for the response.

#### **C. Notice of Appeal**

An appellant may appeal the president's denial of all or any part of the appellant's request stated in the appellant's request letter by sending the president a notice of appeal. The notice of appeal shall be effective only if it is in writing, states the substance and basis of the appeal, and is received by the corporation within 10 days of the appellant's receipt of the president's letter advising the appellant of the president's determination or decision. The notice may request that the hearing be expedited, provided that such a request shall constitute an undertaking by the appellant to pay the costs assessable under §1113.E. Upon receipt of a notice of appeal, the president shall deliver the notice, the appellant's request letter and the president's denial letter to the board. In the event a corporation president has not been selected, the appellant shall make his or her appeal directly to the board in the same manner as prescribed in §1113.B, including the filing of a request letter with the board.

#### **D. Hearing**

The board shall consider the appeal within 30 days of receipt of the notice of appeal. The chairman may call a special meeting of the board to hear an appeal if the appellant has requested an expedited hearing and the chairman in his sole discretion believes that the appeal warrants an expedited hearing. The president shall give the appellant reasonable notice of the time and location of the board meeting. The appellant shall be permitted to present the appeal orally for a time period determined by the board, committee or hearing officer. The presentation may not include points or subjects which were not included in the appellant's request letter. The corporation shall keep a complete record of the hearing and shall make it available to the appellant. A committee or a board appointed independent hearing officer may make recommendations in writing with supporting reasons to the board for its final action. The board shall render its decision on the appeal by majority vote at the hearing of the appeal.

#### **E. Costs**

If the appellant requested an expedited hearing, and the board conducts the expected hearing at a special meeting called for that purpose and the board denies the appeal, the board may then charge the appellant the corporation's reasonable costs incurred in connection with the special meeting and hearing, including any travel and per diem expenses.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:601 et seq.

**HISTORICAL NOTE:** Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19: (August 1993).

## **Chapter 13. Procurement Policies and Rules**

### **§1301. Policy Statement**

In accordance with the act and particularly with R.S. 4:620, 621 and 623 the board of directors of the Louisiana Economic Development and Gaming Corporation adopts these policies

and rules in order to assure public confidence in the procedures followed by the corporation in procuring the items, products and services necessary to conduct its business and operations as authorized by the act. Public confidence depends on the corporation developing and maintaining procurement procedures that: are subject to the highest ethical standards; promote the acquisition of high quality goods and services at competitive prices; promote administrative efficiency; recognize that the regulation of a casino is a unique activity; and afford fair treatment of all persons offering their products and services to the corporation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:601 et seq.

**HISTORICAL NOTE:** Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19: (August 1993).

### **§1303. General**

#### **A. Definitions**

The following terms shall have the following meanings when used in these policies and rules unless the context clearly indicates otherwise:

**Act or The Act**—the "Louisiana Economic Development and Gaming Corporation act" or the provisions of Louisiana Revised Statutes 4:601 et. seq.

**Authorized Officers**—the president, the vice president, the secretary-treasurer, the procurement officer and all persons designated as division heads in the corporation's organizational structure from time to time.

**Board**—the board of directors of the corporation as established and existing pursuant to the act.

**Business**—any corporation, partnership, individual, joint stock association, sole proprietorship, joint venture, business association, cooperative association, professional corporation or any other legal entity through which business is conducted.

**Contractor**—any vendor, entity or business with which the corporation has entered into a procurement contract.

**Director**—a member of the board.

**Louisiana Laws**—all provisions of the statutes in the Constitution of the State of Louisiana and all statutes, codes, rules and regulations.

**Major Procurement**—shall have the same meaning ascribed to such term in §605(23) of the act.

**Minor Procurement**—shall have the same meaning ascribed to such term in §605(24) of the act.

**Person**—any business, individual, union, committee, club, firm, corporation or other organization or group of individuals.

**Procurement**—the acquisition by the corporation of any goods or services in return for a cash payment or the promise thereof. The term shall not include:

- i. acquisitions from an agency or political subdivision of the state of Louisiana;
- ii. employment contracts with individuals;
- iii. financing; or
- iv. contracts for goods or services provided as part of, or related to, a lease of immovable property.

**Procurement Agent**—the officer of the corporation appointed by the president, or the board in the absence of the president, to manage and supervise procurement from time to time.

**Procurement Authorization Form**—the document prepared by the corporation pursuant these procurement rules by which a procurement is authorized.

**Request for Proposals or RFP**—the document prepared and issued by the corporation pursuant to §1305.B of these policies and rules.

**Special Circumstances**—the circumstances meeting the requirement of or described in §1305.J of these procurement rules.

**Special Procurement**—an emergency or special procurement authorized in §1305.J of these policies and rules.

#### **B. Authority of the Corporation**

These procurement rules are adopted pursuant to the power granted the corporation under the act. These procurement rules are supplemental to and may be utilized in substitution of all Louisiana laws relating to procurement. These policies and rules when utilized shall, pursuant to the Louisiana Economic Development and Gaming Corporation Act, render Louisiana laws on procurement inapplicable to the corporation. Additionally, these policies and rules shall be deemed to incorporate any adopted or promulgated corporation rules of conduct, the Louisiana Code of Governmental Ethics and the act and no procurement rule, policy or practice of the corporation under these special procedures shall be construed to allow any procurement by the corporation which would otherwise be prohibited by the act, the corporation rules of conduct, or the Louisiana Code of Governmental Ethics.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:601 et seq.

**HISTORICAL NOTE:** Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19: (August 1993).

### **§1305. Major Procurement Procedures**

#### **A. Applicability of Section**

The provisions of this Section shall apply to all major procurement.

#### **B. Initiation of Procurement**

The corporation shall initiate a major procurement by preparation of a "procurement authorization form" which authorized the procurement. The procurement authorization form shall to the extent possible clearly state the goods or services to be procured, the corporation's need for the goods or services, an estimate of the anticipated range of cost of the procurement and a listing of potential contractors. The listing of potential contractors shall include all businesses on the list of interested contractors as provided in these rules and who are known to the corporation as being in the business of supplying the desire goods or services and any business from whom a response to the corporation's request for proposals would, in the opinion of the procurement agent, enhance the competition among businesses for the procurement contract. The board may by resolution authorize and designate a person or persons to sign procurement authorizations.

#### **C. Preparation of Request for Proposals**

Upon execution of a procurement authorization, the corporation shall prepare a request for proposals which shall include, at a minimum, the following information:

- a. specifications of the goods or services required by the corporation, prepared in such a manner as to promote comparability of responses by potential contractors;



b. a requirement that all responding proposals be in writing and the time by and place at which all responding potential contractors should submit proposals; and

c. a listing of the criteria the corporation will use in evaluating proposals by responding potential contractors and the relative weight the corporation will give the respective criteria.

#### D. Dissemination of RFP

The corporation shall give public notice of the RFP by advertising its issuance in the official journal of the state or the corporation. The advertisement shall appear at least 20 days before the last day that the corporation will accept proposals by potential contractors unless a shorter period is authorized by the board. The advertisement shall generally specify the goods or services required by the corporation, the last date that the corporation will accept proposals and an address at which a copy of the RFP can be obtained. The corporation may advertise the issuance of a RFP in trade journals which serve the interests of businesses likely to respond to the RFP. Additionally, the corporation shall mail or make available a copy of the RFP to potential contractors who have requested in writing to be notified of major procurement for acquisition of specific products or services in accordance with these procurement rules.

#### E. Cancellation or Amendment of RFP

The corporation may cancel or amend any outstanding RFP by written notice to all businesses to which the RFP was sent or given. The reasons for cancellation or amendment of an RFP shall be stated in the notice sent by the corporation. The corporation shall deliver a copy of the notice and reasons to the directors.

#### F. Acceptance and Evaluation of Proposals

1. The corporation shall consider and evaluate all proposals responding to the RFP which are submitted in compliance with the deadline and other requirements stated in the RFP. The Corporation may waive any deficiency or non-conformity of a proposal or provide the responding business a reasonable period of time to cure the deficiency or non-conformity, provided that the board determines such action does not prejudice the status of other proposals. At any time prior to completion of the evaluation process, the corporation may request any responding potential contractors to clarify or expand upon provisions of their proposals. The corporation shall evaluate proposals in a manner consistent with the RFP. The procurement contract shall be awarded in the corporation's sole and uncontrolled discretion.

2. The RFP may allow potential contractors or bidders to submit written requests for clarification and the procurement agent or the board may conduct one or more bidder conferences which shall be open to all potential bidders or contractors. All potential bidders who have requested clarification or notice thereof shall be transmitted all clarification information.

#### G. Acceptance of RFP Terms and Criteria; Objections to RFP

The submission of a proposal for a major, emergency or minor procurement, without prior written objection to the form, criteria or content of the RFP shall constitute a waiver of any objection thereto. Such a submission shall also

constitute and be an express agreement to be bound by the form, specification, evaluation criteria and content of the RFP as well as the decision of the corporation in awarding the procurement.

#### H. Preparation of Contract

Upon completion of the evaluation and mutual acceptance of all terms of the proposal by the corporation and the contractor, the corporation shall prepare the contract. The contract shall unless specifically otherwise authorized by the board contain, at a minimum, the following:

- a. the name and address of the contractor;
- b. the goods to be delivered or the services to be performed under the contract;
- c. the term of the contract and a statement giving the corporation the right to terminate the contract unilaterally upon 90 days written notice;
- d. a provision giving the corporation the right to audit those financial records of the contractor which relate to the contract;
- e. a provision that the contractor shall not transfer any interest in the contract without the prior written consent of the corporation (except that claims for money due or to become due to the contractor from the corporation under the contract may be assigned to a bank, trust company or other financial institution but that the corporation shall not be bound by the assignment unless furnished timely and sufficient notice of it);
- f. a provision that the contractor shall bear responsibility for paying any taxes which become due as a result of payments to the contractor under the contract;
- g. a provision that upon termination of the contract all records, reports, worksheets or any other materials related to the contract may at the discretion of the corporation become the property of the corporation;
- h. a provision obligating the contractor to provide the corporation with notice of any material adverse change in its condition, financial or otherwise;
- i. a provision requiring the payment of liquidated damages to the corporation upon a material breach of the contract by the contractor; and
- j. a provision that Louisiana laws will govern the contract.

#### I. Authorization and Execution of Contract

The corporation shall not execute a contract for a major procurement unless the board reviews and approves the contract. The board may authorize execution of the contract in a form substantially similar to the form presented to the board for review or approval.

#### J. Preservation of Integrity of Procurement

In order to preserve the honesty, fairness and competitiveness of the procurement process, the following restrictions on dissemination of information shall apply, and non-compliance with any of them shall constitute a violation of the rules of conduct of the corporation:

- a. prior to board consideration of final proposal, directors, officers and employees of the corporation shall not disclose or discuss with any person not employed by the corporation or its consultants, the contents of a proposal or a communication, regarding a proposal, to or with, a potential contractor unless otherwise authorized by the board;

b. directors, officers and employees of the corporation shall not disclose to any potential contractor any information proprietary to the corporation and pertinent to the procurement for which the potential contractor may submit a proposal.

**K. Emergency or Special Procurement**

1. Notwithstanding any other provision of these policies and rules to the contrary, the corporation may make any class of procurement, including major procurement, without complying strictly with the procedures stated in this Section if, to the best of the board's knowledge, any of the following special or emergency circumstances then exist and these circumstances do not reasonably allow compliance with the procurement procedures otherwise required by this Chapter:

a. a threat to public health, welfare or safety or the integrity or operation of the corporation;

b. a unique, non-recurring opportunity to obtain goods or services at a substantial cost savings;

c. a sponsorship arrangement permitting the corporation to acquire goods or services at a reduced cost or cost-free;

d. the structure of the applicable market does not permit the corporation to procure the goods or services via a competitive bidding process;

e. the goods or services which meet the corporation's reasonable requirements can be provided only by a single business;

f. due to time constraints not caused by the corporation, compliance with each of the policies and rules stated in this Section would materially impair the financial performance of the corporation; or

g. the corporation can not commence initial operation without the required goods or services specifically including, but not limited to initial and temporary office space, office equipment, telecommunications and duplication services, insurance coverage including liability insurance and health insurance, office supplies, banking and financial services, office assistance, consulting services, security services, clerical services, and data processing.

2. An emergency or special procurement shall be made only after the board, president, or procurement agent determines the existence of any of the emergency special circumstances and states the reasons for the determination in a report delivered to the board. It must be made in compliance with as many of the requirements of this Section as practicable under the circumstances as determined by the board or the president. The board may, by affirmative action prior to the completion of the emergency and special procurement, reverse the president's determination and direct the corporation not to make the emergency or special procurement.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:601 et seq.

**HISTORICAL NOTE:** Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19: (August 1993).

**§1307. Minor Procurement Procedures**

**A. Applicability of Section**

The provisions of this Section shall apply to all minor procurement.

**B. Supervision by Procurement Officer**

The president, procurement agent or other person designated by the board shall supervise, manage and bear responsibility for all minor procurement. The procurement agent or designated person shall establish written procedures for making competitive minor procurement to the maximum degree possible and will assure the corporations's compliance with these procedures. At the board's request, the procurement officer or designated person shall offer these procedures to the board for review, and the board may modify these procedures in its discretion.

**C. Minimum Requirements of Procedures**

Procedures established by the procurement officer or person designated by the board pursuant to this Section shall, at a minimum, require:

a. that no minor procurement shall be structured as such in order to avoid the policies and rules applicable to procurement stated in §1305;

b. that, in instances where a sole source contractor is used, it shall be fully justified in writing prior to the procurement and retained as part of the file. This requirement will not apply to procurement made under this Section against a standing order contract that was entered into on a competitive basis;

c. that all disbursements by the corporation for minor procurement be by check signed by two authorized or designated persons;

d. that the corporation reasonably justify no changes the need for the minor procurement; and

e. the corporation undertake reasonable steps, considering the size of the minor procurement, to obtain high quality goods or services at competitive costs.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:601 et seq.

**HISTORICAL NOTE:** Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19: (August 1993).

**§1309. Miscellaneous Provisions**

**A. Appeals**

Appeals of any action of the corporation or its officers, employees, agents or board under these policies and rules shall be made in accordance with the by-laws of the corporation.

**B. Amendment**

These policies and rules may be amended according to the by-laws and rules of procedure of the corporation.

**C. List of Potential Contractors or Vendors**

The corporation shall provide a procedure whereby potential contractors or vendors may, in writing, request that they be placed on a list of possible vendors or contractors for particular of specified goods or services which may be the subject of corporation procurement. The board may, by resolution, set a reasonable fee for inclusion on a list of potential contractors or vendors and may charge a fee for delivery of copies of major, emergency or special RFP's. The board may provide for a procedure for removal of a business or person from the list of potential contractors or vendors.

**D. Term of Procurement**

A minor procurement contract shall not obligate the corporation for an initial term in excess of one year without the approval of the board. A contract may contain optional periods for extensions of the contract by the corporation,

provided that any individual option period or extension shall not exceed one year in duration, and any individual option period or extension may become effective only upon the specific, affirmative exercise of the option or the specific, affirmative agreement to the extension, by the corporation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:601 et seq.

**HISTORICAL NOTE:** Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19: (August 1993).

Max Chastain  
Chairman

## RULE

### Department of Economic Development Used Motor Vehicles and Parts Commission

Trade Shows (LAC 46:V.3603 and 3605)

In accordance with R.S. 32, Chapters 4.A - B the Department of Economic Development, Used Motor Vehicle and Parts Commission, has amended the following rules.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part V. Automotive Industry

#### Subpart 2. Used Motor Vehicle and Parts Commission

#### Chapter 36. Motor Vehicle Trade Shows

#### §3603. License, Fees and Applications

\* \* \*

A. - B. ...

1. - 4. ...

5. An application fee of \$100.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 32:772.E.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16:113 (February 1990), amended LR 19: (August 1993).

#### §3605. Qualifications and Eligibility of Motor Vehicle Trade Shows

\* \* \*

I. The executive director may, upon approval by the commission, suspend or modify any portion or portions of these rules and regulations herein when it is in the best interest of the community in which the trade show is being held.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 32:772.E and 32:774.E.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16:114 (February 1990), amended LR 19: (August 1993).

John W. Alario  
Executive Director

## RULE

### Department of Education Quality Science and Mathematics Council

Grant Guidelines (LAC 28:VII.Chapter 1)

The Quality Science and Mathematics Council has adopted the following rules.

Under the requirements of the legislation creating the Quality Science and Mathematics (QSM) Program, a mechanism needed to be established by which a continuous supply of appropriate supplies and materials can be obtained, maintained, and made available to those teachers who are ready and able to use them in providing appropriate and challenging instruction in science and mathematics to their students. The QSM Program is described in the following rule.

#### Title 28

### EDUCATION

#### Part VII. Systemic Initiatives Program

#### Chapter 1. Quality Science and Mathematics Program Grant

#### §101. Distribution of QSM Request for Proposals

A. Direct Solicitation. Requests for proposals will be distributed to each public parish and city school system.

B. Published Announcement. A request for proposals will be published in *The Advocate* (Baton Rouge) and one or more additional newspapers in the state. Requests for proposals will be sent to all parties requesting a proposal.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:371-377.1.

**HISTORICAL NOTE:** Promulgated by the Department of Education, Quality Science and Mathematics Council, LR 19: (August 1993).

#### §103. Submission of Proposals

A. One original proposal, with signatures, and three copies, must be submitted to the QSM office at the address indicated in the request for proposals. Proposals must be in the QSM office, not simply postmarked, by the date and time indicated in the request for proposals.

B. All proposals must conform to the format as set out in the request for proposals.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:371-377.1.

**HISTORICAL NOTE:** Promulgated by the Department of Education, Quality Science and Mathematics Council, LR 19: (August 1993).

#### §105. Proposal Review Process

##### A. Review of QSM Grant Proposals

1. QSM will form panels for the purpose of reviewing proposals.

2. Proposals will be sent to an appropriate review panel.

3. Each panel member will assess proposals according to the "General Guidelines and Criteria for Evaluation of QSM Grant Proposals" as set forth in the latest request for proposals.

4. Each panel will prepare a summary report which separately assesses each proposal.

5. The panel reports will be forwarded to the review teams.

**B. Review Teams**

1. The review teams, one in mathematics and one in science, will be comprised largely of QSM council members.

2. The review teams will:

- a. consider the summary reports of the review panels;
- b. place grant proposals into two categories: recommended for funding and not recommended for funding;
- c. rank the recommended proposals from highest to lowest.

3. The review teams will forward recommendations for funding to the full QSM Council and its executive director.

C. The QSM Council will make funding decisions considering the recommendations of the review teams.

1. The QSM Council will assign a final ranking for funding to all projects from highest to lowest priority.

2. The QSM Council will fund projects, beginning with the highest priority and continuing downward toward the lowest priority, until the total amount approved for project funding approaches, but does not exceed, QSM's allocated budget.

3. The QSM Council may, upon an individual's refusal of a grant award, offer the available money to the next ranked proposal(s) in science or mathematics in the order of ranking, and in accordance with QSM budget guidelines.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:371-377.1

**HISTORICAL NOTE:** Promulgated by the Department of Education, Quality Science and Mathematics Council, LR 19: (August 1993).

**§107. Protest Procedure**

A. An individual whose proposal was not selected for funding may request, in writing, a special review of his/her proposal. The request must be received by QSM at its office in Baton Rouge, Louisiana within 10 days following QSM's announcement of funded grant proposals as specified in the RFP.

B. A special review panel will evaluate the denial of funding of the individual's proposal. The special review panel will be comprised of:

- 1. the chairman of the QSM Council;
- 2. the executive director for the QSM Program;
- 3. dean, LSU College of Education.

C. The special review panel will evaluate the denial of funding by taking into consideration the reports submitted by the review panel, the review teams, and the full QSM Council.

D. The special review panel will forward to the protesting individual a written report of its evaluation. The special review panel's report is a final decision if it affirms the denial of funding.

E. If the special review panel recommends reversal of the denial of funding, the following procedures will be followed:

1. The QSM Council will re-evaluate the proposal with consideration given to the special review panel's report. The council will then make a final decision concerning the proposal's funding.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:371-377.1

**HISTORICAL NOTE:** Promulgated by the Department of Education, Quality Science and Mathematics Council, LR 19: (August 1993).

**§109. Withdrawal of Funding**

A. The Quality Science and Mathematics Program will notify an individual and his/her building administrator, in writing, of the intent to withdraw funding within a funding year. The written notice will include the reason(s) for withdrawal.

B. Upon withdrawal of funding, QSM funds received by an individual must be reimbursed to the equipping fund.

C. The individual may request a hearing within five days of receipt of the notice of withdrawal. The request must be in writing.

D. Upon receiving a request for a hearing, the QSM Council shall schedule a hearing at the earliest possible date.

E. Written notification will be given to the individual and will include:

- 1. date and time of the hearing;
- 2. place of the hearing;
- 3. explicit reason(s) for the withdrawal of funds.

F. A hearing officer shall conduct the hearing and shall render a decision within 10 days after the hearing is completed. Written notification of the decision shall be mailed to the interested parties. The hearing officer's decision will become final within 15 days unless an appeal is filed.

G. An appeal of the hearing officer's decision may be made to the Louisiana State Department of Education's superintendent by submitting, in writing, a request for the superintendent to review the hearing officer's decision. The appeal to review the decision must be received in the superintendent's office no later than 15 days after the hearing officer's decision is received. If no appeal is filed, or an appeal is not filed in a timely manner, the hearing officer's decision is final.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:371-377.1.

**HISTORICAL NOTE:** Promulgated by the Department of Education, Quality Science and Mathematics Council, LR 19: (August 1993).

Dr. Sheila Pirkle  
Executive Director

**RULE**

**Department of Environmental Quality  
Office of the Secretary**

Release Notification (LAC 33:I.Chapter 39;  
LAC 33:III.927 and 5107; LAC 33:XI.713;  
and LAC 33:V.105) (OS15)

Under the authority of the Environmental Quality Act, particularly R.S. 30:2025.J et seq., and in accordance with the

provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended LAC 33:I.Chapter 39; LAC 33:III.927 and 5107.B; LAC 33:XI.713; and LAC 33:V.105 (OS15).

These regulations become effective October 20, 1993.

The regulations establish a uniform reporting procedure to receive notice of releases which cause emergency conditions, thus allowing the Department of Public Safety and Corrections and the Department of Environmental Quality to properly respond to these incidents to protect the health and well-being of the people of the state and to prevent and mitigate damage to property or the environment due to these unauthorized incidents.

The regulations also revise and standardize the requirements for prompt notification to the DEQ of unauthorized discharges which exceed a reportable quantity but do not cause an emergency condition.

This regulation may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA and is available for inspection at the following locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-First Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3945 North I-10 Service Road West, Metairie, LA 70002; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

James B. Thompson, III  
Assistant Secretary

## RULE

### Department of Health and Hospitals Board of Examiners of Nursing Facility Administrators

#### Continuing Education (LAC 46:XLIX.903 and 905)

Under authority of R.S. 37:2501 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators has amended rules and regulations relative to licensing and regulating nursing facility administrators.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XLIX. Board of Examiners of Nursing Facility Administrators

#### Chapter 9. Continuing Education

#### §903. Requirements

A. ...

1. A person newly licensed between January 1, and December 31, of an even-numbered year must complete 30 hours of continuing education for the biennium beginning the following July. A person newly licensed between January 1,

and December 31, of an odd-numbered year must complete 15 hours of continuing education for the second half of the biennium beginning the following July, and complete another 30 hours for the next biennium beginning July of the following odd-numbered year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners for Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 11:864 (September 1985), LR 4:240 (April 1987), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners for Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 19: (August 1993).

### §905. Registration of Institutions as Providers of Continuing Education Courses

\* \* \*

F. Programs offered by organizations that do not seek provider approval may be approved on an individual basis. Individual licensees may seek this approval by applying to the board. When the organization applies there is a fee of \$25. There is no fee when the individual licensee applies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners for Nursing Home Administrators, April 1970, repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners for Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 19: (August 1993).

Van Weems  
Executive Director

## RULE

### Department of Health and Hospitals Board of Examiners of Nursing Facility Administrators

#### Preceptor Update (LAC 46:XLIX.703)

Under authority of R.S. 37:2501 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators has amended rules and regulations relative to licensing and regulating nursing facility administrators.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XLIX. Board of Examiners of Nursing Facility Administrators

#### Chapter 7. Administrator-in-training (AIT)

#### §703. Preceptor

\* \* \*

F. Preceptor Update. Preceptors must undertake biennial

update training sponsored by the board in order to maintain this certification. The training qualifies as required continuing education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners for Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 9:62 (February 1983), LR 10:499 (July 1984), LR 12:511 (August 1986), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners for Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 19: (August 1993).

Van Weems  
Executive Director

## RULE

### Department of Health and Hospitals Board of Examiners of Nursing Facility Administrators

#### Reciprocity License Fee (LAC 46:XLIX.1107)

Under authority of R.S. 37:2501 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana State Board of Examiners of Nursing Facility Administrators hereby gives has amended rules and regulations relative to licensing and regulating nursing facility administrators.

## Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XLIX. Board of Examiners of Nursing Facility Administrators

##### Chapter 11. Licenses §1107. Reciprocity

\* \* \*

E. A Louisiana licensee who applies for reciprocity in another state must pay a \$25 fee to the board to cover costs of completing and mailing necessary forms to the other state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2508.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners for Nursing Home Administrators, April 1970, amended and promulgated LR 9:461 (July 1983), repealed and repromulgated by the Board of Examiners for Nursing Home Administrators, LR 18:181 (February 1992), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 19: (August 1993).

Van Weems  
Executive Director

## RULE

### Department of Health and Hospitals Board of Pharmacy

#### Pharmacies (LAC 46:LIII.Chapter 9)

*(Editor's Note: The following rules, portions of which appeared on pages 1378 through 1380 of the December 1992 Louisiana Register, are being republished to include information which was omitted from that publication.)*

## Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LIII. Pharmacists

##### Chapter 9. Pharmacies

##### §901. Pharmacy

A. Definition. A *pharmacy* is an establishment licensed as such by the board where the profession of pharmacy may be practiced.

B. Qualification. Individuals, partnerships, associations, or corporations desiring to operate a pharmacy establishment in Louisiana, or outside the state when prescription drugs and medications are dispensed and delivered to Louisiana consumers, shall have the pharmacist who is pharmacist-in-charge complete and sign the application to the board for the particular classification of pharmacy. Each application shall contain satisfactory proof of good moral and temperate habits of the owner(s) or major stockholders. The applicants, including the responsible pharmacist-in-charge, may be requested to personally appear before the board prior to a decision on the permit application.

C. Pharmacy Permit.

1. Initial. A pharmacy permit application shall be available from the board and shall be submitted to the board for approval. The licensed pharmacist who will be the pharmacist-in-charge shall complete the form and include the following information:

- a. name and address of pharmacy;
- b. specialty classification of pharmacy;
- c. type of ownership;
- d. name and address of all owners. If a partnership or corporation, the name, title and address of managing officers;
- e. a copy of the lease agreement; or, if the location of the pharmacy is owned by the pharmacy, a statement certifying such location ownership; and
- f. a signature and license number of the pharmacist-in-charge; and
  - i. if the pharmacist-in-charge is not the owner, a signature of the owner; or
  - ii. if a partnership or corporation, the signature of an executive officer.
- g. date of opening;
- h. name and license number of other pharmacists employed; and
- i. notarization of application and/or supporting documents may be required at the discretion of the board.

2. **Renewal.** A pharmacy permit shall be renewed annually by January 1 and, if not renewed, shall be null and void on January 15.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1178.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), repromulgated LR 19: (August 1993).

### **§903. Pharmacy Operation**

A licensed pharmacist, in good standing, shall be on duty at all times during regular open hours of the pharmacy which shall total a minimum of 40 hours per week and consist of a minimum of five days per week with a minimum of six hours per day.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1178.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), repromulgated LR 19: (August 1993).

### **§905. Pharmacist Absence/Disclosure**

When a licensed pharmacist is absent from the prescription department the prescription department must be securely closed and made non-accessible to unauthorized personnel. A sign, the size of 8 1/2 x 11 inches with the following wording in black letters one inch high, "PRESCRIPTION DEPARTMENT CLOSED", shall be displayed in a conspicuous position in front of the prescription department.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1178.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), repromulgated LR 19: (August 1993).

### **§907. Pharmacist-in-Charge**

An initial and renewal pharmacy permit application shall be timely submitted to the board and designate and identify the licensed pharmacist-in-charge who shall be a full-time employee providing sufficient time in supervising to protect the public health, safety, and welfare.

A. **Authority.** The designated pharmacist-in-charge of the pharmacy shall be responsible for complete supervision, management, and compliance with all federal and state pharmacy laws and regulations pertaining to the practice of pharmacy of the entire prescription department.

B. **Circumvention.** It is a violation of the pharmacy permit for any person to subvert the authority of the pharmacist-in-charge by impeding the management of the prescription department in the compliance of federal and state pharmacy laws and regulations.

C. **Termination.** Notice shall be required when the pharmacist-in-charge changes, resigns, retires or is terminated or transferred and this disclosure must be afforded the board in writing by the permit holder and the new pharmacist-in-charge within 10 days of the departure or transfer.

D. **Resignation or Retirement.** A pharmacist-in-charge, practicing in Louisiana, must give 10 days written notice of resignation or retirement to his employer unless replaced in a shorter time period. An employer may excuse any pharmacist for failure to give notice for sickness or for other emergencies.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1178.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), repromulgated LR 19: (August 1993).

### **§909. Prescription**

**Definition.** A prescription means an order for a drug, chemical, device or a combination thereof, either written, given orally or otherwise transmitted to a licensed pharmacist by a licensed physician, dentist or veterinarian, to be dispensed or compounded in a permitted pharmacy and dispensed by a licensed pharmacist to the patient or agent along with necessary and appropriate patient counseling.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1178.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17:779 (August 1991), repromulgated LR 19: (August 1993).

### **§911. Transmission of Prescriptions**

#### **A. Receipt of a Prescription**

1. **Written.** A pharmacist may receive and dispense a bona fide prescription which has been written and/or signed by the practitioner.

2. **Oral.** A pharmacist may receive and dispense a bona fide prescription which has been orally communicated by the practitioner when the prescription has been reduced to hard copy.

3. **Electronic Transmission.** A pharmacist may receive and dispense a bona fide prescription communicated from a practitioner, via facsimile or other means, and then the prescription must be reduced to hard copy. When receiving a prescription transmitted in this manner the pharmacist must indicate on the hard copy the mode of transmission as well as the phone number of the practitioner making the transmission.

B. **Verification.** Verification of the accuracy and authenticity of any prescription is the responsibility of the pharmacist.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1178.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17:779 (August 1991), repromulgated LR 19: (August 1993).

### **§913. Prescription Dispensing**

**Definition.** *Prescription dispensing* is the issuance, by a licensed pharmacist, of one or more doses of medication in a suitable container, properly labeled for subsequent administration, and shall consist of the following procedures or practices:

1. receiving and interpretation of the written or oral prescription order; and

2. assembling the drug products and an appropriate container; and

3. preparing the prescription by compounding, mixing, counting, or pouring; and

4. affixing the proper label to the final container; and

5. patient counseling.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1178.



HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17:779 (August 1991), LR 18:1379 (December 1992), effective January 1, 1993, repromulgated LR 19: (August 1993).

### §915. Patient Counseling

A. Definition of Patient Counseling. Patient counseling shall mean the effective communication by the pharmacist of information, as defined in this regulation, to the patient or caregiver, in order to improve therapeutic outcomes by maximizing proper use of prescription medications and devices.

B. Sign. The use of a sign to alert patients that patient counseling services are available may be appropriate for informing patients of this service, but does not satisfy the requirements for counseling, since many patients may not be able to read or understand the sign.

C. Waiver. No pharmacist or pharmacy may solicit or encourage blanket waivers for patient counseling, however, nothing in this regulation shall prohibit the patient or caregiver from refusing counseling on each prescription.

D. Minimum Requirements. At a minimum, the pharmacist should be convinced that the patient or caregiver, as a result of counseling, is informed of the following:

1. the name and description of the medication;
2. the dosage form, dosage, route of administration, and duration of drug therapy;
3. special directions and precautions for preparation, administration, and use by the patient;
4. common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur;
5. techniques for self-monitoring drug therapy;
6. proper storage;
7. prescription refill information; and
8. action to be taken in the event of a missed dose.

E. The pharmacist may supplement oral information with written information but may not use written information alone to fulfill the counseling requirement.

F. Patient Information. In order to effectively counsel patients, the pharmacist shall be responsible to ensure that a reasonable effort is made to obtain, record, and maintain the following patient information, if significant, but not limited to:

1. name, address, telephone number;
2. date of birth (age), gender;
3. medical history
  - a. disease state(s);
  - b. allergies/drug reactions;
  - c. current list of medications and devices.

This information may be recorded in the patient's manual or electronic profile, or in any other system of records and may be considered by the pharmacist in the exercise of his professional judgment concerning both the offer to counsel and content of counseling. The absence of any record of a failure to accept the pharmacist's offer to counsel shall be presumed to signify that such offer was accepted and that such counseling was provided.

G. Communication to the Patient

1. A pharmacist should counsel the patient or caregiver

"face-to-face" when possible or appropriate. If it is not possible or appropriate to counsel the patient or caregiver "face-to-face", then a pharmacist should counsel the patient or caregiver by using alternative methods. The pharmacist must exercise his professional judgment in the selection of an alternative method.

2. Patient counseling, as described in this regulation should also be provided for outpatient and discharge patients of hospitals and institutions where applicable.

3. Patient counseling, as described herein shall not be required for inpatients of a hospital or institution where a nurse or other licensed health care professional is authorized to administer the medication(s); and

4. The pharmacist shall maintain appropriate patient-oriented reference materials for use by the patient upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 18:1379 (December 1992) effective January 1, 1993, repromulgated LR 19: (August 1993).

### §917. Prospective Drug Review

When professionally relevant a pharmacist shall review the patient record and each prescription drug order presented for dispensing for purposes of enhancing pharmaceutical care and therapeutic outcomes by identifying:

1. over-utilization or under-utilization;
2. therapeutic duplication;
3. drug-disease contraindications;
4. drug-drug interactions;
5. incorrect drug dosage or duration of drug treatment;
6. drug-allergy interactions;
7. clinical abuse/misuse.

Upon recognizing any of the above, the pharmacist using professional judgment shall take appropriate steps necessary to avoid or resolve the problem.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 18:1379 (December 1992) effective January 1, 1993, repromulgated LR 19: (August 1993).

### §919. Pharmacy Support Staff and Supportive Personnel

In an effort to relieve the pharmacist of regular, routine, non-judgmental, mechanical and non-discretionary tasks so that the pharmacist may counsel patients, improve pharmaceutical care and therapeutic outcomes, the board hereby adopts this regulation and allows certain tasks to be performed by pharmacy support staff. Hospital pharmacy support staff person definitions and duties are enumerated in Chapter 25 and not included or authorized in this Section.

A. Definitions

*Pharmacy Support Staff* for a pharmacist denotes an employee who has been trained to assist the pharmacist and perform non-judgmental, technical, manipulative, non-discretionary functions in the prescription department under the pharmacist's immediate and direct supervision.

*Supportive Personnel* encompasses all non-pharmacists who work or perform tasks in a pharmacy (clerk, delivery, typist, janitor, etc.).



**B. Qualifications for Pharmacy Support Staff.** A pharmacy support staff person shall be of the age of majority, a high school graduate or equivalent, be of good moral character and non-impaired. The pharmacy support staff person must, at a minimum, satisfactorily complete a board-approved pharmacy support staff training program. The program shall be designed to train personnel to perform non-professional functions allowed as described in this Section. The pharmacy support staff outline containing minimum guidelines for the training program will be available from the board office.

1. The pharmacy support staff person shall have satisfactorily completed the training program prior to regular performance of the duties authorized in this Chapter.

2. The pharmacist-in-charge shall assure the on-going competency of pharmacy support staff persons through in-service training programs.

3. Documentation of completion of the required board-approved pharmacy support staff training program and all completed in-service training shall be maintained in the pharmacy.

4. Pharmacy support staff persons must be identified by name tag and designation while working in the pharmacy.

#### **C. Supervision**

1. All tasks performed by pharmacy support staff persons in the pharmacy must be accomplished under immediate and direct supervision of a currently licensed pharmacist.

2. Working under a pharmacist's immediate and direct supervision a qualified pharmacy support staff person may perform certain functions of dispensing as enumerated in this Chapter, provided that whenever the pharmacist leaves the prescription department, other than to counsel a patient, all dispensing functions listed in §913 shall cease.

3. Ratio. A ratio of no more than one pharmacy support staff person per supervising pharmacist on duty shall be maintained.

**D. Duties.** The following tasks may be performed by pharmacy support staff persons:

1. retrieve prescriptions or files as necessary;
2. clerical tasks such as typing labels and maintaining patient profiles;
3. secretarial tasks such as telephoning, filing, and typing;
4. accounting tasks such as record keeping, maintaining accounts receivables, third party reimbursements, and posting;
5. inventory control tasks including monitoring, pricing, dating, invoicing, stocking pharmacy, and preparation of purchase orders;
6. help maintain a clean and orderly pharmacy;
7. request, receive and record prescription refill information;
8. other functions which are assigned by the supervising pharmacist.

#### **E. Prohibitive Duties**

1. The support staff person must not interpret the prescription.
2. The support staff person must not accomplish any compounding or reconstitutions.
3. The support staff person must not prepare any IV, enteral, or other sterile medications.

4. The support staff person must not order, stock, dispense, or perform any other physical task involving controlled dangerous substances in Schedules I and II.

5. The support staff person must not counsel patients.

#### **F. Pharmacist Additional Responsibilities**

1. The pharmacist must review the completed prescription for accuracy and compliance before the prescription is released from the prescription department, and

2. The pharmacist is to provide patient counseling or drug information as necessary.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1178.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 18:1380 (December 1992) effective April 1, 1993, repromulgated LR 19: (August 1993).

#### **§921. Labeling**

An appropriate label shall be affixed to a proper container with the following information:

1. pharmacy's name;
2. pharmacy's address and telephone number;
3. prescription serial number;
4. authorized prescriber's name;
5. patient's name;
6. date dispensed;
7. directions for use, as indicated;
8. drug name and strength;
9. pharmacist's last name and initial; and
10. cautionary auxiliary labels, if applicable.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1178.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17:780 (August 1991), LR 19: (August 1993).

#### **§923. Pharmacy Prepackaging**

**A.** Prepackaging is the packing of medications in a unit of use container, by a licensed pharmacist, in a Louisiana permitted pharmacy prior to the receipt of a prescription for ultimate prescription dispensing by a pharmacist in Louisiana.

**B. Labeling.** The label on the prepackaged container shall contain the following information:

1. drug name;
2. dosage form;
3. strength;
4. quantity;
5. name of manufacturer and/or distributor;
6. manufacturer's lot or batch number;
7. date of preparation;
8. pharmacist's last name and initial;
9. expiration date.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1178.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17:780 (August 1991), LR 19: (August 1993).

#### **§925. Drug Administration**

Drug administration is the providing of a single unit final dose form of medication for a patient upon orders and directions for use by a licensed pharmacist in compliance with an authorized prescriber's order.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17:780 (August 1991), LR 19: (August 1993).

### §927. Mechanical Drug Dispensing Devices

Dispensing of prescription legend drugs directly to a patient by mechanical devices or machine is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17:780 (August 1991), LR 19: (August 1993).

### §929. Prescription Department Requirements

A pharmacy commencing operation after January 1, 1989, or an existing operation continuing at a new or remodeled location, must meet the following minimum requirements.

Structure. A prescription department must provide sufficient and adequate structural space for safe and appropriate drug dispensing and compounding.

1. Prescription Department Area. The prescription department is a restricted area that shall be not less than 200 total square feet that is inaccessible to the public.

2. Prescription Counter. A prescription counter on which to compound or dispense medications must have a free working surface of not less than two feet in width nor less than 12 feet in length or a minimum of 24 total square feet. The minimum unobstructed free working surface must be kept clear at all times for the compounding or dispensing of prescriptions.

3. Prescription Aisle Space. The aisle space behind the prescription counter shall not be less than 30 inches in width.

4. Prescription Department Plumbing. The prescription department shall have, in close proximity of the prescription counter, a sink equipped with available hot and cold running water.

5. Drug Inventory/Fixtures. The pharmacy shall provide sufficient shelf and drawer or cabinet space for proper storage of labels, prescription containers, and an adequate prescription inventory in order to compound and dispense prescription orders.

6. Pharmacy Security. The board requires that adequate protection of the prescription and drug department be secured by the installation of partitions and secured entrances, which shall be locked by a pharmacist when the prescription department is closed in order to avoid the diversion of dangerous drugs and shall be inaccessible to the public and the key shall be maintained by the pharmacist-in-charge or a pharmacist designee.

a. For emergency access only, a key to the prescription department may be available elsewhere. When this emergency key is utilized the name of the person entering the prescription department, the date and time of entry, as well as the nature of the emergency shall be entered in a log maintained in the pharmacy department. At the next available opportunity, the pharmacist-in-charge shall sign and date the log verifying the emergency.

b. Storage. Adequately secured storage is required for legend drugs to avert diversion or theft.

7. Contents. The following references, equipment, and supplies shall be required.

a. Reference. Current editions with supplements of the following:

i. Louisiana Board of Pharmacy Laws, Rules, and Regulations;

ii. United States Pharmacopoeia Dispensing Information: Advice for the Patients;

iii. one of the following is required: Pharm-Index or Facts and Comparisons.

b. Equipment Minimum Requirements

i. suitable Class "A" balance;

ii. accurate set of weights;

iii. set of graduates;

iv. mortars and pestles;

v. spatulas;

vi. funnels;

vii. ointment slab; and

viii. typewriter, or equivalent.

c. Supplies

i. prescription files;

ii. bottles, vials, and other suitable containers;

iii. labels;

iv. empty capsules;

v. powder papers, and

vi. filter papers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17:780 (August 1991), LR 19: (August 1993).

Howard B. Bolton  
Executive Director

## RULE

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

### Cholesterol Screening

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following rule in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

## RULE

The Department of Health and Hospitals, Bureau of Health Services Financing, shall approve mobile cholesterol screening units which comply with the following provisions of Act 411 of 1991 Regular Session and the Clinical Laboratory Improvement Amendments of 1988 and the associated federal regulations as contained in the Code of Federal Regulations.

### Definitions

1. *Cholesterol Screening*—determining the cholesterol level present in a person's blood by analyzing a drop of blood taken from him by means of a fingerstick sample.

2. *Department*—the Department of Health and Hospitals.
3. *Fingerstick Samples*—a quantity of blood taken from a person by sticking his finger with a needle of lancet.
4. *Mobile Cholesterol Screening Unit*—a unit or operation that travels from one location to another and provides cholesterol screening services to the public without the necessity of a referral from a licensed physician.
5. *Secretary*—the secretary of the Department of Health and Hospitals.
6. *CLIA '88*—Clinical Laboratory Improvement Amendments of 1988 which were enacted by the United States Congress in 1988 to assure quality laboratory testing at all sites of performance. The standards for the implementation of CLIA '88 are published in the Code of Federal Regulations at 42 CFR 493, et seq.
7. *HCFA*—the Health Care Financing Administration.

#### Standards

1. The cholesterol screening services shall be organized and provided under the general supervision of a licensed clinical laboratory or a licensed physician who is qualified, by education and training, to conduct and interpret the results of the tests offered, and who is knowledgeable regarding quality control, calibration of the instruments, and proper maintenance of the equipment. The physician may be employed or serve as a consultant to the unit.

2. Systems and instruments used for the testing shall be properly calibrated and periodically checked for calibration by a person qualified and trained to do so.

3. The testing shall be performed only by personnel properly qualified, by education and training, in the drawing of blood samples, proper sterile techniques, and the correct operation of the testing instruments.

4.a. No person administering the tests shall attempt to interpret the clinical significance of the test results, render or express a medical diagnosis or in any way suggest the necessity or appropriateness or lack of necessity or appropriateness of any form of treatment.

b. The provisions of R.S. 40:1299.183(4)(a) shall not apply to a licensed physician or other qualified health care professional.

5. Persons tested shall be advised of the necessity of appropriate follow-up with a medical professional should the screening test warrant such, as outlined in the national cholesterol screening program guidelines or equal standards.

#### Penalty

Whoever violates the provisions of the Part shall be guilty of a misdemeanor and upon conviction, shall be fined not more than \$500, imprisoned for not more than six months, or both. For each subsequent offense, the violator shall be fined not more than \$1,000, imprisoned not more than one year, or both.

The Bureau of Health Services Financing shall follow the standards developed for the implementation of CLIA '88 and published at 42 CFR 493.1 through 493.1780 for the approval of mobile cholesterol screening units.

Act 411 specifically requires mobile cholesterol screening units operation in Louisiana to be under the supervision of a licensed physician or licensed clinical laboratory. If the director of the clinical consultant is not a licensed physician in

Louisiana, the laboratory must provide for the services of a physician since Louisiana does not have statutes relative to licensure of clinical laboratories.

Approval of a mobile cholesterol screening unit by the Department of Health and Hospitals shall be contingent on the laboratory possessing a certificate of registration, certificate of accreditation or a certificate issued by HCFA or an agency approved by HCFA.

The department will not inspect a laboratory for compliance with state regulations provided the laboratory was inspected by HCFA or an agency approved by HCFA.

The laboratory shall provide the department with the following documentation:

1. a copy of the CLIA certificate, certificate of registration or certificate of accreditation;
2. a biannual schedule of testing sites, to include dates and times of testing;
3. other information as requested by the Department for implementation of the rule.

Disapproval of this rule by HCFA will automatically cancel the provisions of this rule and former policy would then be the effective policy.

Rose V. Forrest  
Secretary

#### RULE

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

**Home and Community Based Services**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule under the Administrative Procedure Act, R.S. 49:950 et seq.

#### RULE

The Bureau of Health Services Financing is implementing the Home Care for the Elderly Waiver Program. Services are provided under the provisions of the approved waiver agreement between the Health Care Financing Administration and Medicaid of Louisiana.

Termination of this waiver by HCFA will automatically cancel the provisions of this rule and state plan policy will be in effect relative to services for the elderly.

J. Christopher Pilley  
Secretary

## RULE

### Department of Natural Resources Office of Conservation

#### Rule Corrections (LAC 43:XIX.Chapters 31, 39 and 41)

*(Editor's Note: Portions of the following rules, which consecutively appeared on pages 759 through 777 of the June, 1993 Louisiana Register, are being republished to correct typographical errors.)*

#### Title 43

#### NATURAL RESOURCES

#### Part XIX. Office of Conservation: General Operations

#### Subpart 13. Statewide Order No. 29-L-1

#### Chapter 31. Termination of Units

#### §3105. Order

##### A. - D.2. ...

3. in the event a written protest is timely filed, the party filing said protest shall have a period of 15 days from the date of such protest in which to file an application for a public hearing pursuant to Subsection B of Section 6 of Title 30 of Louisiana Revised Statutes of 1950 requesting an order sustaining the unit termination. If the party filing the protest fails to timely file application for public hearing the commissioner shall issue a supplemental order as deemed appropriate without a public hearing.

##### E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 15:741 (September 1989), amended, LR 19:776 (June 1993), repromulgated LR 19: (August 1993).

#### Subpart 17. Rules of Procedure for Hearings and Unit and Survey Plat Requirements

#### Chapter 39. Hearings

#### §3907. Pre-application Notice

##### A. - B.2. ...

3. An explanation of the nature of the proposal and a copy of a unit plat for each sand, if units are involved, prepared in accordance with all applicable memoranda and the procedure for assigning nomenclature of Section II of Statewide Order No. 29-O, with any geological bases for any unit boundary labeled thereon. A reasonable effort shall be made to prepare the plat in sufficient detail to enable affected parties to determine the location of their lands.

##### 4. - 5. ...

##### C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Natural Resources, Office of Conservation, October 1983, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: 760 (June 1993), repromulgated LR 19: (August 1993).

#### §3915. Hearing Application

##### A.1. - 4. ...

5. a unit plat, if units are involved, prepared in accordance with all applicable memoranda and the procedure for assigning nomenclature of Section II of Statewide Order

No. 29-O, with any geological bases for any unit boundary labeled thereon and the other items required by statute or by the commissioner;

##### 6. ...

##### B. - D. ...

E. If differences are not resolved or if any interested owner or represented party desires to oppose or support a proposal by the introduction of evidence at the hearing, then not less than 15 calendar days before the hearing, he must file with the commissioner and furnish to the district manager, the applicant and all persons who attended the pre-application conference his counterplan or supporting plan, including a plat of his proposed units, if units are involved, prepared in accordance with all applicable memoranda and the procedure for assigning nomenclature of Section II of Statewide Order No. 29-O, with any geological bases for any unit boundary labeled thereon, accompanied by a letter explaining any points of difference with the applicant's plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Natural Resources, Office of Conservation, October 1983, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: 761 (June 1993), repromulgated LR 19: (August 1993).

#### §3917. Waiver of Pre-application Notice

##### A. - C.5. ...

6. a unit plat, if units are involved, prepared in accordance with all applicable memoranda and the procedure for assigning nomenclature of Section II of Statewide Order No. 29-O, with any geological bases for any unit boundary labeled thereon, and the other items required by statute or by the commissioner. A reasonable effort shall be made to prepare the plat in sufficient detail to enable affected parties to determine the location of their lands;

##### 7. ...

##### D. - G. ...

H. If differences are not resolved or if any interested owner or represented party desires to oppose or support a proposal by the introduction of evidence at the hearing, then not less than five calendar days before the hearing, he must file with the commissioner and furnish to the district manager, the applicant and all persons who attended the conference his counterplan or supporting plan, including a plat of his proposed unit, if units are involved, prepared in accordance with all applicable memoranda and the procedure for assigning nomenclature of Section II of Statewide Order No. 29-O, with any geological bases for any unit boundary labeled thereon, accompanied by a letter explaining any points of difference with the applicant's plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Natural Resources, Office of Conservation, October 1983, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: 762 (June 1993), repromulgated LR 19: (August 1993).

#### Chapter 41. Unit and Survey Plats

#### §4103. Survey Plats

##### A. - E. ...

F. When the survey plat is completed and before recordation thereof, as many copies as may be needed by the operator, plus two copies of the survey plat and a film overlay on the scale of the unit plat attached to the order, shall be submitted to the Office of Conservation in Baton Rouge for approval. There shall be placed on or attached to each survey plat submitted for approval the following certificate signed by the surveyor:

*THE REQUIREMENTS FOR UNIT PLATS AND SURVEY PLATS  
ADOPTED BY THE COMMISSIONER OF CONSERVATION HAVE BEEN  
COMPLIED WITH IN ALL RESPECTS.*

1. Each producing unit shall be surveyed and the survey plat submitted for approval in accordance with the foregoing within 90 days after the issuance date of the unit order. If a unit is not producing when created, a survey plat thereof shall be submitted within 90 days after the date production commences.

G. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Natural Resources, Office of Conservation, October 1983, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: 765 (June 1993), repromulgated LR 19: (August 1993).

H. W. Thompson  
Commissioner

## RULE

### Department of Natural Resources Office of Management and Finance

#### Rate Schedule for Copies of Computerized Public Records (LAC 43:III.101)

In accordance with LAC 4:I.301.D, "Uniform Fee Schedule for Copies of Public Records", the Department of Natural Resources has amended its rate schedule for copies of computerized public records as contained in LAC 43:III.101.

The amended rule addresses minor changes to existing rates for copies of computerized reports and files, and includes new wording added to reflect on-line access to public records.

#### Title 43

#### NATURAL RESOURCES

#### Part III. Office of Management and Finance

#### Chapter 1. Information Processing Section

#### §101. Rate Schedule for Copies of Computerized Public Records

In accordance with the rule adopted by the Division of Administration pertaining to the uniform fee schedule for copies of public records, the Department of Natural Resources (DNR) has adopted a rule which institutes a schedule of rates to recover its costs in providing copies of computerized public

records to non-governmental, private sector bodies. This schedule includes rates for those records provided on computer magnetic tape, those provided on computer printouts, and those provided via terminals.

A. The rates are as follows:

1. Output from the DNR Information Processing Center

a. Job Set Up/Take Down. Each request received from the private sector for a copy of computerized records requires the involvement of production control technicians who must set up the job, submit the job for processing, review the output according to quality control standards, and prepare the output for transmittal to the requestor. A flat rate of \$20 per job is charged.

b. Systems Analyst and Programmer Involvement. Certain jobs require the involvement of a systems analyst and/or a computer programmer to customize existing "utility" programs to meet the requestor's requirements. Each hour worked by an analyst or programmer is charged at a rate of \$50.

c. CPU-Related Resources. The selection, extraction, processing and sorting of data consume a combination of DNR computer resources, including CPU usage, memory usage, I/O channels, disk access, and tape access. The combined usage of these resources is logged by DNR in units of Standard Unit of Processing (SUP) hour. Each SUP hour is charged at a rate of \$450.

d. Printing. All printing is done on a laser printer producing 8 1/2" x 11" pages. Each image is charged at a rate of \$.10.

e. Magnetic Tapes. Users requesting records on magnetic tape are encouraged to supply their own 2,400 foot tapes. Those not doing so are charged \$25 for each tape provided by DNR.

f. Postage. Charged on an actual cost basis.

2. Output from DNR Computer Terminals. Department of Natural Resources has several computer terminals which are available to the public to access public records. These terminals are located in the Well Files area in the Natural Resources Building in Baton Rouge and in the Conservation District Offices. Currently, no charge is imposed to use these terminals, although there is a \$.25 charge for a copy of any terminal screen which is printed on the terminal printer.

3. Output from non-DNR Computer Terminals. DNR allows private sector individuals and organizations to dial-up the DNR computer and access public records. Each user of this service must pay a one-time set-up charge of \$150, with an annual renewal charge of \$100. Each hour of connect time is charged at a rate of \$49.80 per hour, plus telephone charges for users outside of Baton Rouge. Transaction-based access is provided at no additional charge, while table-based query-oriented access is provided at a uniform cost based on SUP hour usage. Technical support, if required, is provided at a charge of \$50 per hour. Documentation is provided at a charge of \$10 per copy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:241.

HISTORICAL NOTE: Promulgated by the Department of Natural

Robert D. Harper  
Undersecretary

## RULE

### Department of Revenue and Taxation Office of the Secretary

#### Electronic Funds Transfer (LAC 61:I.4910)

As mandated by Act 172 of the 1992 Regular Session and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue and Taxation has adopted the following rule concerning the electronic funds transfer of tax payments.

These regulations establish the department's responsibility to notify taxpayers required to electronically transfer tax payments, taxes required to be electronically transferred, procedures for making payments, payment alternatives, proof of timely payment, and penalties for failure to timely transfer funds electronically.

The department plans to gradually phase in the electronic funds transfer requirement over a two-year period using an initial payment threshold of \$100,000 and targeting specific taxes. Taxpayers will receive written notification and instructions at least 90 days prior to the effective date.

#### Title 61

### REVENUE AND TAXATION

#### Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation

#### Chapter 49. Tax Collection

#### §4910. Electronic Funds Transfer

##### A. Electronic Funds Transfer Effective Dates

1. Taxpayers whose payments in connection with the filing of any return or report, including declaration payments, during the prior 12-month period average \$100,000 or more will be required to remit the respective tax or taxes electronically or by other immediately investible funds, as required by R.S. 47:1519, effective as follows:

- a. gasoline dealers—tax periods beginning September 1, 1993;
- b. severance taxes—tax periods beginning September 1, 1993;
- c. corporation income and franchise taxes—tax returns for tax periods ending December 31, 1993;
- d. sales and withholding taxes - tax periods beginning March 1, 1994;
- e. all other business taxes administered by the Louisiana Department of Revenue and Taxation will be effective with tax periods beginning January 1, 1994.

2. Effective July 1, 1995, the electronic payments or payment by other immediately investible funds will be required of all filers of the above described taxes whose

payments during the previous 12-month period averaged \$50,000 or more.

3. Any taxpayer whose tax payments for a particular tax averages less than \$50,000 per payment may voluntarily remit amounts due by electronic funds transfer with the approval of the secretary. Once a taxpayer requests to electronically transfer tax payments he must continue to do so for a period of at least 12 months.

B. Definitions. For the purposes of this Section, the following terms are defined:

*Automated Clearinghouse Credit*—an automated clearinghouse transaction in which the taxpayer through his or her own bank, originates an entry crediting the state's bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction shall be paid by the person originating the credit.

*Automated Clearinghouse Debit*—an automated clearinghouse transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the taxpayer's bank account and crediting the state's bank account for the amount of tax. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

*Electronic Funds Transfer*—any transfer of funds other than a transaction originated by check, draft, or similar paper instrument, that is initiated electronically so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfer shall be accomplished by an automated clearinghouse debit or automated clearinghouse credit. Federal Reserve Wire Transfers (FedWire) may be used only in emergency situations and with prior approval from the department.

*FedWire Transfer*—any transaction originated by a person and utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits his or her own bank account and credits the state's bank account. Electronic funds transfers may be made by FedWire only if payment cannot, for good cause, be made by automated clearinghouse debit or credit and the use of FedWire has the prior approval of the department. Banking costs incurred for the FedWire transaction shall be paid by the person originating the transaction.

*Other Immediately Investible Funds*—cash, money orders, and cashier's checks.

*Payment*—any amount paid to the Department of Revenue and Taxation representing a tax, fee, interest, penalty, or other amount.

C. Taxes Required to be Electronically Transferred. Tax payments required to be electronically transferred may include corporation income and franchise taxes; income tax withholding; sales and use taxes; severance taxes; excise taxes; and any other tax or fee administered or collected by the Department of Revenue and Taxation. A separate transfer shall be made for each return.

##### D. Taxpayer Notification

1. Those taxpayers required to electronically transfer tax payments will be notified in writing by the department of the electronic funds transfer data format and procedures at least 90 days prior to the required electronic funds transfer effective

date. The taxpayer will be given payment method options (ACH debit, ACH credit, or other immediately investible funds) from which to select. Depending on the method selected, the taxpayer will be required to submit specific information needed to process electronic payments. The taxpayer must use the same payment method for a minimum of one year. After one year, the taxpayer may change payment options by requesting to do so at least 60 days before the effective date. Once a taxpayer is required to remit taxes by electronic funds transfer, he must continue to do so until notified otherwise by the department.

2. Taxpayer accounts will be reviewed annually and those taxpayers who meet the criteria for electronic funds transfer will be notified of their new payment requirements. Taxpayers whose average payments have decreased below the threshold will be allowed the option of discontinuing electronic funds transfer. Taxpayers who continue to meet the electronic funds transfer criteria will not be notified.

E. Failure to Timely Transfer Funds Electronically

1. Remittances transmitted electronically are considered to have been made on the date that the remittance is added to the state's bank account. Failure to make such payment or remittance in immediately available funds in a timely manner, or failure to provide such evidence of payment or remittance in a timely manner, shall subject the affected taxpayer or obligee to penalty, interest, and loss of applicable discount, as provided by state law for delinquent or deficient tax, fee or obligation payments. If payment is timely made in other than immediately available funds, penalty, interest, and loss of applicable discount shall be added to the amount due from the due date of the tax fee or obligation payment to the date that funds from the tax, fee, or obligation payment subsequently becomes available to the state.

2. When the statutory delinquent date falls on a Saturday, Sunday, or Federal Reserve holiday, the payments must be electronically transferred in order to be received by the first business day following the delinquent date.

3. If a taxpayer has made a good faith attempt and exercises due diligence in initiating a payment under the provisions of R.S. 47:1519 and this rule, but because of unexpected problems arising at financial institutions, Federal Reserve facilities, the automated clearinghouse system, or state agencies, the payment is not timely received, the delinquent penalty may be waived as provided by R.S. 47:1603. Before a waiver will be considered, the taxpayer must furnish the department with documentation proving that due diligence was exercised and that the delay was clearly beyond his control.

4. The filing of a tax return or report is to be made separately from the electronic transmission of the remittance. Failure to timely file a tax return or report shall subject the affected taxpayer or obligee to penalty, interest, and loss of applicable discount, as provided by state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1519.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Office of the Secretary, LR 19: (August 1993).

Ralph Slaughter  
Secretary

## RULE

### Department of Revenue and Taxation Sales Tax Division

#### Leases and Rentals (LAC 61:I.4303)

Under the Authority of R.S. 47:302 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the sales and use tax regulations, LAC 61:I.4303.

The current language contained within LAC 61:I.4303 does not effectively describe the sales tax collection requirements of a dealer who rents or leases tangible personal property which moves in and out of Louisiana's taxing jurisdiction during the term of its lease or rental. This amendment, which reflects the holdings in a number of recent judicial decisions concerning the lease and rental of property occurring both within and without Louisiana, will provide a basis and method by which the tax shall be collected, while giving due consideration to the rights of other states to collect any sales taxes which are properly due them on such transactions.

#### Title 61

#### REVENUE AND TAXATION

#### Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation

#### Chapter 43. Sales and Use Tax

#### §4303. Imposition of Tax

\* \* \*

B. R.S. 47:302(B) imposes a tax upon the lease or rental of tangible personal property within this state at the rate of two percent and R.S. 47:321(B) and R.S. 47:331(B) impose an additional two percent tax on the lease or rental of tangible personal property within Louisiana. *Lease or rental* is defined by LAC 61:I.4301.7 as the granting of possession or use of tangible personal property by the owner thereof to another person for a consideration, without the transfer of title to the property. Since the statute levies the tax upon lease or rental transactions "within this state", the site of the transaction and the location of the leased or rented property are of concern in determining the tax to be levied. And since tangible personal property is mobile by its nature, it follows that lease or rental transactions, which may be several months or years in duration, may occur both within and without the state of Louisiana, and thus bear the tax consequences of more than one state. With respect to the location of lease or rental transactions, the following will apply:

1. The Louisiana state sales/rental tax will be due on the full amount of lease and rental payments where possession of the leased or rented property is transferred from the lessor to the lessee or renter in Louisiana, including Louisiana-destination shipments originating from outside of the state. Lease/rental property will not be considered as having been transferred from the lessor to the lessee or renter in Louisiana in those cases where the Louisiana lessor delivers the lease-rental property from Louisiana to his customer outside the state of Louisiana, either in his own vehicles or by an authorized public carrier.



2. In cases where the possession of leased or rented property is transferred from the lessor to the lessee or renter outside of the state of Louisiana, but the property is used in Louisiana during the lease/rental period, the Louisiana state sales/rental tax will be due on the entire amount of rental proceeds for the payment period when the property was used in Louisiana. In cases where all or some portion of lease/rental proceeds are determined under the laws of another state to be subject to sales/rental taxation in that state, the portion of the lease/rental proceeds subject to and actually taxed by the other state can be deducted from the total proceeds before applying the applicable Louisiana tax rate to the remainder. No credit will be allowed against the Louisiana sales/rental tax based on taxes paid to a state from where a lessor originated an interstate shipment of lease/rental property to a Louisiana customer. In the case of property rented on a monthly lease basis, or for a longer period of time, the total tax will be four percent of the amount paid monthly, or on whatever other agreed payment schedule is provided by the lease. Rental transactions are to be reported by the dealer on a "cash receipts" basis, as provided by R.S. 47:306(A)(2). The gross proceeds derived from the lease or rental of all properties, whether or not this is the established business of the taxpayer or is merely incidental thereto, are subject to the lease or rental tax. Operating expenses and maintenance costs for keeping the property in repair cannot be deducted from gross proceeds in arriving at the taxable base.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:302.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Division, LR 13:107 (February 1987), amended LR 19: (August 1993).

Ralph Slaughter, C.P.A.  
Secretary

## RULE

### Department of Social Services Office of The Secretary

Child Care Assistance Providers;  
Payment (LAC 67:I.103-104)

The Department of Social Services, Office of the Secretary has adopted the following rule in the Child Care and Development Block Grant Program effective August 20, 1993.

In §103, only items A and B are new material; the other items in that section have only been reformatted.

#### Title 67

### SOCIAL SERVICES

#### Part I. Office of the Secretary

#### Chapter 1. Child Care Assistance Program

#### §103. Child Care Providers

A. Provider is defined as an individual operating a Family Day Care Home, providing in-home child care, or serving in

an administrative capacity with a Class A child care center, i.e. owner, director, officer of the board, etc.

B. Under no circumstances can the following individuals be considered eligible child care providers:

1. members of the child's household, and
2. the child's parent or guardian, regardless of whether that individual lives with the child.

C. The parent or guardian is assured freedom of choice in selecting from a variety of child care categories, including center-based child care, family child care, and in-home child care. The parent or guardian will be afforded the maximum freedom to select the child care provider of his choice.

D. Under the Child Care and Development Block Grant Program, relatives providing child care must be at least 18 years of age and must be providing child care to only grandchildren, nieces, and/or nephews. The use of funds for sectarian worship or instruction, or the purchase of land or buildings, is prohibited.

E. Purchase of service contracts using Child Care and Development Block Grant funds will be used to develop or enhance resources necessary to meet the needs of Special Needs Children, who require care for which specialized training, equipment or facilities are essential. Contracts could be used for developing licensed Class A centers or upgrading existing programs in such centers to handle crack/HIV/severely handicapped or emotionally disturbed infants and young children. Contracts would be designed to preserve parental freedom of choice in selecting providers.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98, 45 CFR Part 99, 45 CFR Part 255 and 45 CFR Part 257.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:288 (March 1992), amended LR 18:1269 (November 1992), LR 19: (August 1993).

#### §104. Payment

\* \* \*

Gloria Bryant-Banks  
Secretary

## RULE

### Department of Treasury Louisiana Housing Finance Agency

Home Investment Partnership Program  
(LAC 16:II.Chapter 1)

*(Editor's Note: A portion of the following rules, which appeared on pages 908 through 909 of the July 20, 1993 Louisiana Register, is being republished to correct a typographical error.)*

#### Title 16

### COMMUNITY AFFAIRS

#### Part II. Louisiana Housing Finance Agency

#### Chapter 1. Home Investment Partnership Program

#### §101. Home Program Application Fees

A. Rehabilitation



Project Size	Application Fee
1 to 4 units	\$ 200
5 to 16 units	\$ 500
17 to 32 units	\$ 1,000
33 to 60 units	\$ 1,500
61 to 100 units	\$ 2,000
Over 100 units	\$ 5,200

<b>B. Home Buyer Assistance</b>	
Single family dwellings (1-4 units)	\$ 200

**AUTHORITY NOTE:** Promulgated in accordance with the Louisiana Housing Finance Act, R.S. 40:600.1, et seq.

**HISTORICAL NOTE:** Promulgated by the Department of the Treasury, Louisiana Housing Finance Agency, LR 19: (July 1993), repromulgated LR 19: (August 1993).

V. Jean Butler  
President

# NOTICES OF INTENT

## NOTICE OF INTENT

Department of Agriculture and Forestry  
Office of Forestry

Increase in Specific Forest Management Fees  
(LAC 7:XXXIX.20701)

In accordance with R.S. 3:4276, the Office of Forestry proposes to increase the fees charged for forest management services provided by the agency. Timber marking services will change from \$10 per acre to \$15 per acre. Prescribed burning for the purpose of brush control and fuel reduction will change from \$5 per acre to \$7 per acre, including fireline construction. Prescribed burning for the purpose of site preparation in cutover forest stands will change from \$8 per acre to \$10 per acre, including fireline construction. Fireline plowing for fire pre-suppression or preparation for burning by other parties will change from \$40 per hour to \$50 per hour. Approved tractor work, such as best management practice installation, insect control in pre-commercial stands, bladed firelines and other practices approved by the state forester will change from \$40 to \$50 per hour.

## Title 7 AGRICULTURE AND ANIMALS

### Part XXXIX. Forestry

#### Chapter 207. Forest Landowner Assistance

##### §20701. Management Service Fees

The Department of Agriculture and Forestry, Office of Forestry, shall, under the direction of the state forester, provide private landowners with assistance in the management of their forestlands.

#### A. Direct Services

1. Prescribed Burning (brush control & fuel reduction) \$7 per acre
2. Prescribed Burning (site preparation, cutovers) \$10 per acre
3. Fireline Plowing Only \$50 per acre
4. Timber Marking \$15 per acre
5. Approved Tractor Work \$50 per hour

#### B. Indirect Services\*

1. Tree Planting \$38 per acre
2. Direct Seeding \$ 5 per acre
3. TSI (Light) \$22 per acre
4. TSI (Heavy) \$25 per day

\*Labor and material only; seedlings, seed and herbicide not included.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 56:1476 [renumbered R.S. 3:4276] and R.S. 3:4274.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Forestry, Forestry Commission, LR 8:419 (August 1982), amended by the Department of Agriculture and Forestry, Office of Forestry, Forestry Commission LR 11:1178 (December, 1985), LR 19:

Written comments may be submitted through September 30, 1993, to Paul D. Frey, State Forester/Assistant Commissioner, Office of Forestry, Box 1628, Baton Rouge, LA 70821.

Bob Odom  
Commissioner

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Increase in Specific Forest Management Fees

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Implementation of this rule will result in an increase in Self-generated state revenue of \$70,000 that is calculated to offset the actual costs of providing the related services. There will be no administrative or mandatory fiscal impact on local government units from the implementation of the proposed rule. If a local government requested forest management services from the Office of Forestry, they would pay the same minor fee increase assessed to any individual or other user.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
This rule will result in an increase of approximately \$70,000 in self-generated revenue for the Office of Forestry, if demand for services continues at present levels.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
Forest landowners who choose to use the Office of Forestry

services will be affected by the proposed action. The Office of Forestry offers forest management services to all forest landowners with some restrictions on the amount of work that can be done for a single owner. The service fees increased by this rule will result in an additional 25 percent to 50 percent charge to the land owner, depending on the service requested.

Vendors providing similar services as the Office of Forestry may realize and increase in business and income, if the fee increases by the Office of Forestry send more landowners to them for services. The goal of the Office of Forestry continues to be the provision of needed forest management services to private landowners whose enterprises may not be commercially manageable otherwise.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Office of Forestry provides management services to forest landowners whose enterprises may not be commercially manageable otherwise. The agency's role is to assist landowners for their benefit and for the benefit of the forest resource in the state. This agency fee increase, designed to recover expenses for these operations, may allow more private vendors to provide these services profitably, increasing their business, revenue and eventually employment.

Richard Allen  
Assistant Commissioner

John R. Rombach  
Legislative Fiscal Officer

### NOTICE OF INTENT

#### Department of Civil Service Civil Service Commission

#### Withholding of Merit Increases

At a special meeting on July 20, 1993, the Department of Civil Service, Civil Service Commission adopted Emergency Rule 17.10.1, according to Civil Service Rule 2.10(f), to be effective that same date.

The revised text of this emergency rule, as proposed below, will be considered for final rule adoption at the Wednesday, September 15, 1993 commission meeting. The public hearing will be conducted at 9 a.m. in the Commission Hearing Room in the Department of Transportation and Development Annex Building, 1201 Capitol Access Road, Baton Rouge, LA.

#### PROPOSED RULE

##### 17.10.1 Withholding of Merit Increase

When an appointing authority determines that it is necessary to withhold merit increases after June 30, 1989, of all employees under his jurisdiction in order to avoid a layoff, reduce or minimize a layoff, or to avoid substantial impairment to the ability of the appointing authority to provide essential services, he may do so subject to the following provisions:

(a) Any withholding of merit increases must receive approval of the director, no later than 14 calendar days after the effective date, based on written certification from the appointing authority that his department does not have sufficient funds to give such increases to all employees. This

justification shall include the reasons for the withholding of merit increases, the names and jobs of those employees to be excluded, if any, and reasons for their exclusion, the proposed effective dates and periods of time involved, and the organizational unit(s) and geographic areas(s) affected. If the request or any part thereof is not approved by the director, the employees included in the plan or portion of the plan not approved must be paid their merit increase for that period of time between the proposed effective date and date of the director's determination. In all cases of disapproval by the director, his decision shall be subject to the commission's ratification at its next regularly scheduled meeting.

(b) Authority for such withholding of merit increases shall not exceed one 12 consecutive-month period, subject to Rule 17.6.

(c) Employees whose merit increases are withheld according to the provision of this Rule shall retain their eligibility for such increases.

Persons interested in making comments relative to this proposal may do so at the September 15th public hearing or by writing to the director of Civil Service, Box 9411, Baton Rouge, LA 70804-9111.

If any special accommodations are needed, please notify us prior to this meeting.

Herbert L. Sumrall  
Director

### NOTICE OF INTENT

#### Department of Economic Development Racing Commission

#### Health Certificate Necessary (LAC 35:I.1303)

The Department of Economic Development, Racing Commission hereby gives notice that it intends to repeal LAC 35:I.1303, Health Certificate Necessary, since it is obsolete.

#### Title 35

#### HORSE RACING

#### Part I. General Provisions

#### Chapter 13. Health Rules

#### §1303. Health Certificate Necessary

Repealed in its entirety.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:141 and 142.

**HISTORICAL NOTE:** Adopted by the Louisiana State Racing Commission in 1971, amended and promulgated by the Department of Commerce, Racing Commission, LR 2:423 (December 1976), repromulgated LR 3:19 (January 1977), amended LR 4:271 (August 1978), repealed by the Department of Economic Development, Racing Commission, LR 19:

The domicile office of the Racing Commission is open from 8:00 a.m. to 4:30 p.m. and interested parties may contact Paul D. Burgess, executive director; C. A. Rieger, assistant director; or Tom Trenchard, administrative manager, at (504) 483-4000 (LINC 8-635-4000), holidays and weekends

excluded, for more information. All interested persons may submit written comments relative to this proposed rule through Monday, September 6, 1993, to 320 North Carrollton Avenue, Suite 2B, New Orleans, LA 70119-5111.

Paul D. Burgess  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Health Certificate Necessary**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There are no costs to implement this rule repeal.
- 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 repeal of this rule benefits horsemen by eliminating the obsolete requirement of a health certificate for a horse to run.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no effect on competition nor employment.

Paul D. Burgess  
Executive Director

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 741-Nonpublic

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 for advertisement, an amendment to Bulletin 741 - Nonpublic, Standard 6.099.01 to delete the requirement for computer literacy for all students. This amendment was also adopted as an emergency rule and printed in the July, 1993 issue of the *Louisiana Register*.

The present policy requires that a student must earn 1/2 unit of credit in Computer Literacy in order to meet graduation requirements. This rule change eliminates Computer Literacy as a graduation requirement, but still allows it to remain as an elective.

Interested persons may submit comments on the proposed amendment until 4:30 p.m., October 8, 1993 to: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

AUTHORITY NOTE: 17:7.

HISTORICAL NOTE: LR 19:

Carole Wallin  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Bulletin 741-Nonpublic**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The only cost would be \$100 for the cost of printing and distributing the policy changes in Bulletin 741.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There would be 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)  
There are no estimated costs or economic benefits to directly affected persons or groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There would be no effect on competition and employment.

Marlyn Langley  
Deputy Superintendent for  
Management and Finance

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 746-Louisiana Standards for State Certification  
of School Personnel

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 for advertisement, a revision to the certification requirements for elementary and secondary school principals as stated below. This is an amendment to Bulletin 746, Louisiana Standards for State Certification of School Personnel and is a deletion of the five-year renewal provision.

**Elementary School Principal (page 63)**

\* \* \*

F. Persons who have met the requirements of Items A through E-2 above are eligible for a provisional elementary school principal endorsement. Upon employment as a principal or assistant principal, an individual with a provisional principal endorsement must enroll in the two-year Principal Internship Program under the auspices of the Administrative Leadership Academy.

G. An elementary school principal endorsement will be added to the standard Type A certificate upon satisfactory completion of the two-year Principal Internship Program.

**Secondary School Principal (page 65)**

\* \* \*

F. Persons who have met the requirements of Items A through E-2 above are eligible for a provisional secondary school principal endorsement. Upon employment as a

principal or assistant principal, an individual with a provisional principal endorsement must enroll in the two-year Principal Internship Program under the auspices of the Administrative Leadership Academy.

G. A secondary school principal endorsement will be added to the standard Type A certificate upon satisfactory completion of the two-year Principal Internship Program.

Interested persons may submit comments on the proposed amendment until 4:30 p.m., October 8, 1993 to: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA 70804-9064.

AUTHORITY NOTE: R.S. 17:7.

HISTORICAL NOTE: LR 19:

Carole Wallin  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Bulletin 746**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The adoption of this policy will cost the Department of Education approximately \$50 (printing and postage) to disseminate the policy. Since the proposed rule will eliminate the evaluation required for renewal of a five-year principal endorsement, it will result in a savings to the State Department of Education. The evaluation process has not been implemented; therefore, the savings is an undetermined amount resulting from the elimination of a cost which would have been borne by the department.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy will have no effect on revenue collections

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

The policy change will provide for a person to receive a permanent elementary or secondary principal endorsement rather than a five-year renewable endorsement.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change will not have an effect on competition and employment.

Marlyn Langley  
Deputy Superintendent for  
Management and Finance

David W. Hood  
Senior Fiscal Analyst

Carole Wallin  
Executive Director

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Bulletin 1566 - Guidelines for Pupil Progression**

In accordance with R.S. 49:950 seq., the Administrative Procedure Act, notice is hereby given that the Board of

Elementary and Secondary Education approved for advertisement, revised Bulletin 1566, Guidelines for Pupil Progression (1993).

This bulletin contains statewide regulations for student placement and pupil progression to be administered at the local school level, including the promotion, retention, remediation, acceleration, and transfer of regular and exceptional students. Local option factors for student placement and promotion, are authorized and delineated. The bulletin contains procedures for developing local pupil progression plans in compliance with state law and board policies. Further, it contains regulations for the implementation of state funded remedial education programs for students who have educational deficits identified by the state testing program.

Bulletin 1566, Guidelines for Pupil Progression, may be seen in its entirety in the Office of the State Register located on the Fifth Floor of the Capitol Annex, in the Bureau of Elementary Education in the Department of Education, or in the Office of the Board of Elementary and Secondary Education located in the Education Building in Baton Rouge, LA. This document has been sent to all LEAs, Special School District 1, and the board's special schools. Bulletin 1566 was adopted as an emergency rule, effective July 22, 1993.

Bulletin 1566 is referenced in the Louisiana Administrative Code, Title 28 as stated below:

**Title 28  
EDUCATION**

**Part I. Board of Elementary and Secondary Education  
Chapter 9. Bulletins, Regulations, and State Plans  
§907. Pupil Progression and Remedial Education**

**A. Bulletin 1566**

1. Bulletin 1566 (1993), Guidelines for Pupil Progression, which includes regulations for the implementation of state-funded education remedial programs, is adopted, as revised.

\* \* \*

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 19:

Interested persons may submit comments on the proposed rule until 4:30 p.m., October 8, 1993 to: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Bulletin 1566, Guidelines for Pupil Progression**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is estimated that approximately \$350 would be needed to print Bulletin 1566 (revised 1993) and to disseminate this information to all public school systems in the state.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections at the state or local level.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There should be no effect on costs or benefits to directly affected persons in non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no impact on competition and employment.

Marlyn Langley  
Deputy Superintendent for  
Management and Finance

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Bulletin 1822-Competency Based Postsecondary Curriculum Guides**

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 for advertisement, the title and length of a new curriculum offered by the technical institutes and printed in Bulletin 1822, Competency Based Postsecondary Curriculum Guides:

**NEW CURRICULUM**

TITLE - Practical Nursing Articulation Instructor Guide

LENGTH - 1666 hours, 15 months, 5 quarters

Interested persons may submit comments on the proposed rule until 4:30 p.m., October 8, 1993 to: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

AUTHORITY NOTE: R.S. 1993.

HISTORICAL NOTE: LR 19:

Carole Wallin  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES  
RULE TITLE: Bulletin 1822**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

In 1983, the Board of Elementary and Secondary Education adopted the implementation of uniform course titles and time requirements. These amendments to this bulletin are updates on title names, course lengths and content. The cost to implement this change would be approximately \$75. This would be for printing and postage to mail out the revisions. This amount also includes extra cost for the implementation of a new course

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This amendment is an update to Bulletin 1822, "Competency-

Based Postsecondary Curriculum Outlines." When updates occur, the length of attendance for various courses may be increased or decreased. As courses are increased, the technical institutes will realize additional revenue and as they are decreased, will realize a decrease in revenue. As new courses are added, the potential for greater enrollment is better thus providing additional revenue for the technical institutes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

As courses are increased or decreased in length, the technical institute students will realize an increase or decrease in the amount of tuition costs. However, a more adequately trained worker will be available for employment in business and industry.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

All technical education students will receive the same minimum curriculum from each technical institute attended. If a student transfers from one institute to another, there will be no lost time. The technical institutes will be producing better products as a result of up-to-date curricula.

Marlyn Langley  
Deputy Superintendent for  
Management and Finance

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Bulletin 1903- Louisiana Dyslexia Law**

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 for advertisement, Revised Bulletin 1903, Regulations for the Implementation of R. S. 17:7(11), the Louisiana Dyslexia Law. Revised Bulletin 1903 was adopted as an emergency rule and printed in its entirety in the July, 1993 issue of the *Louisiana Register*.

Bulletin 1903 may be seen in the Office of the State Register, located in the Capitol Annex; in the Office of the Board of Elementary and Secondary Education, located in the Education Building in Baton Rouge; or in the Office of Academic Programs in the Department of Education.

This Bulletin is referenced in the Administrative Code, Title 28 as noted below.

**Title 28  
EDUCATION**

**Part 1. Board of Elementary and Secondary Education  
Chapter 9. Bulletins, Regulations, and State Plans  
§901. School Approval Standards and Regulations**

\* \* \*

J. Dyslexia Regulations

1. Revised Bulletin 1903, Regulations for the Implementation of R. S. 17:7(11), the Louisiana Dyslexia Law is adopted. It includes regulations for implementing the five-

step process for evaluation and determination of program eligibility.

\* \* \*

Interested persons may submit comments on the proposed rule until 4:30 p.m., October 8, 1993 to: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

AUTHORITY NOTE: Promulgated in accordance with R. S. 17:7(11).

Carole Wallin  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Bulletin 1903-Louisiana Dyslexia Law**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
It will cost the state approximately \$4,000.00 to print and distribute copies of this bulletin. One copy will be sent to each public school and copies will be made available to nonpublic schools upon request.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There would be no effect on revenue collection of state of local governmental units
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
There are no estimated costs or economic benefits to directly affected persons or groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There would be no effect on competition and employment.

Marlyn Langley  
Deputy Superintendent for  
Management and Finance

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Migrant State Education Plan, FY 1994 (LAC 28:I.933)**

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 for advertisement, the ESEA, Chapter 1 FY-94 Migrant Education State Plan.

The Migrant Education State Plan is authorized under Chapter 1, Part D, Sections 1201-1203, of P. L. 100-297 (the Hawkins-Stafford Education Amendments of 1988). The Migrant Program was created to serve the special educational needs of migratory children of migratory agricultural workers and migratory fishermen. The FY-94 State Plan was written

according to instructions provided by the Office of Migrant Education.

The Migrant Education State Plan may be seen in its entirety in the Office of the State Register, located on the Fifth Floor of the Capitol Annex, Room 512 and in the Office of the Board of Elementary and Secondary Education, located in the Education Building in Baton Rouge, or in the Bureau of Migrant Education, located at 654 Main Street, Second Floor, Baton Rouge, LA.

This Plan is referenced in the Administrative Code as noted below:

**Title 28  
EDUCATION**

**Part I. State Board of Elementary and  
Secondary Education**

**Chapter 9. Bulletins, Regulations, and State Plans  
§933. Migrant Education State Plan**

- A. The Migrant Education State Plan, FY-94 is adopted.

\* \* \*

AUTHORITY NOTE: P. L. 100-297, R. S. 17:3(3)

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 19:

Interested persons may submit comments on the proposed rule until 4:30 p.m., October 8, 1993 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: FY-94 Migrant State Plan**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Participating Local Education Agencies (LEAs) and Community Action Agencies (CAAs) will expend approximately \$2,315,595 and the Louisiana Department of Education (LDE) will expend approximately \$260,218 to implement the provisions of the FY-94 Louisiana State Plan for Migrant Education.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Participating LEAs and CAAs will collect approximately \$2,315,595 and the LDE will collect approximately \$260,218 in federal funds.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
Approximately 7,500 children living in Louisiana for at least a portion of the school year will receive instructional or supportive services through the Migrant Education Programs. A decrease is expected with a FY-94 allocation of \$2.5 million. The FY-93 allocation was 2.9 million.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The Migrant Education Program creates full-time instructional positions for more than 215 persons, most of whom are paraprofessional teaching aides. Approximately 45 additional full-time positions are funded for recruitment personnel, records personnel, and state office staff. A number of part-time or share-timed positions are also funded with these monies. The program has little if any effect on competition.

Marlyn Langley  
Deputy Superintendent

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of Air Quality and Radiation Protection  
Radiation Protection Division**

Fee System of the Air Quality Control Program (LAC 33:III.6523) (AQ77)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2014 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 Office of Air Quality and Radiation Protection Regulations, LAC 33:III.6523 (AQ77).

The rule, LAC 33:III.6523, is being amended to correct technical errors created during the initial promulgation of the rule pertaining to asbestos. The edits are needed because of the difference between normal processing delays and expedited processing activities which require a 50 percent surcharge. This is in reference to fee numbers 2020, 2040, 2060 and 2090.

These proposed regulations are to become effective on November 20, 1993, or upon publication in the *Louisiana Register*.

**Title 33  
ENVIRONMENTAL QUALITY  
Part III. Air**

**Chapter 65. Rules and Regulations for the Fee System  
of the Air Quality Control Programs  
§6523. Fee Schedule Listing**

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ADDITIONAL PERMIT FEES AND ADVF FEES		
Fee Number	Fee Description	Amount
	* * *	
2020	The Issuance of an Asbestos Demolition Verification Form (ADVF) - (at least 10 working days notification given)	50.00
2030	The Issuance of an Asbestos Demolition Verification Form (ADVF) - (less than 10 working days notification given)	75.00
2040	Agent Accreditation: Includes Contractor/Supervisor, Inspector, Management Planner, or Project Designer - Normal Processing (greater than 3 working days after receipt of required documentation and fees)	200.00
2050	Agent Accreditation: Includes Contractor/Supervisor, Inspector, Management Planner, or Project Designer - Emergency Processing (less than or equal to 3 working days after receipt of required documentation and fees)	300.00
2060	Worker Accreditation - Normal Processing (greater than 3 working days after receipt of required documentation and fees)	50.00
2070	Worker Accreditation - Emergency Processing (less than or equal to 3 working days after receipt of required documentation and fees)	75.00
	* * *	
2090	Training Organization Recognition Plus Trainer Recognition Per Trainer - Normal Processing (greater than 3 working days after receipt of required documentation and fees)	300.00 50.00
2100	Training Organization Recognition Plus Trainer Recognition Per Trainer - Emergency Processing (less than or equal to 3 working days after receipt of required documentation and fees)	450.00 75.00
	* * *	

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2054.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:

A public hearing will be held on September 24, 1993, at 1:30 p.m. in the Maynard Ketcham Building, (Room 326), 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability

need an accommodation in order to participate please contact David Hughes at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than September 27, 1993, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA, 70810 or to fax number (504)765-0486. Commentors should reference this proposed regulation by the Log AQ77.

James B. Thompson, III  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Fee System of the Air Quality Control Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No effects to cost or savings are anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There are no changes being made to fees. No effects to revenue collections are anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
Because the changes being made consist of verbiage clarification only and do not effect the fee schedule or the regulated community no costs or economic benefits to affected persons are anticipated. The impact is on time and planning. The changes require greater advance notice of a project and allow this agency more time in processing paperwork.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is expected to be no effect on competition and employment.

Gus Von Bodungen  
Assistant Secretary

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of Air Quality and Radiation Protection  
Radiation Protection Division**

**Radiation Protection Regulations  
(LAC 33:XV.Chapters 1, 2, 6, 9, 10) (NE03)**

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2101 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 Radiation Protection Division Regulations, LAC 33:XV.Chapters 1, 2, 6, 9, 10 (NE03).

This proposed rule will amend the Radiation Protection Division's regulations concerning medical and dental x-ray units, (Chapter 6). This rule will also modify standards for protection against radiation, and involve a different methodology for calculating doses to the public and radiation workers (Chapters 1, 2, 6 and 10). With this rule change, the state regulations will be updated to be in compliance with federal regulations published on May 21, 1991, Vol. 56/No. 98, page 23391.

These proposed regulations are to become effective on November 20, 1993, or upon publication in the *Louisiana Register*.

This proposed regulation can be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA and is available for inspection at the following DEQ locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3945 North I-10 Service Road West, Metairie, LA 70002; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

A public hearing will be held on September 24, 1993, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact David Hughes at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than September 27, 1993, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA, 70810 or to fax number (504) 765-0486. Commentors should reference this proposed regulation by the Log NE03.

James B. Thompson, III  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: LAC 33:XV.Chapters 1,2,6,9 and 10**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No significant effect of this proposed rule on implementation costs to state or local governmental units is anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No significant effect of this proposed rule on state or local governmental revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)



No implementation cost or economic benefit to directly affected persons is anticipated as a result of this rule, since it is required to maintain authorization from the NRC to regulate radioactive material.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effect of this proposed rule on competition and employment is anticipated.

Gustave Von Bodungen  
Assistant Secretary

David W. Hood  
Senior Fiscal Analyst

### NOTICE OF INTENT

#### Department of Environmental Quality Office of Air Quality and Radiation Protection Radiation Protection Division

##### Standards for Protection Against Radiation (LAC 33:XV.Chapter 4)(NE07)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2101 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 Radiation Protection Division Regulations, LAC 33:XV.Chapter 4, (NE07).

This rule will amend standards for protection against radiation, and will involve a different methodology for calculating doses to the public and radiation workers. With this rule change, the state regulations will be updated to be in compliance with federal regulations published on May 21, 1991, Vol. 56/No. 98, page 23391.

These proposed regulations are to become effective on November 20, 1993, or upon publication in the *Louisiana Register*.

A public hearing will be held on September 24, 1993, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact David Hughes at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than September 27, 1993, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA, 70810 or to fax number (504)765-0486. Commentors should reference this proposed regulation by the Log NE07.

This proposed regulation is available for inspection at the Office of the State Register, Box 94095, Baton Rouge, LA 70804-9095 and at the following DEQ locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, 4th Floor,

Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3945 North I-10 Service Road West, Metairie, LA 70002; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

James B. Thompson, III  
Assistant Secretary

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Standards for Protection Against Radiation

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No significant effect of this proposed rule on implementation costs to state or local governmental units is anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No significant effect of this proposed rule on state or local governmental revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
No implementation costs or economic benefit to directly affected persons is anticipated as a result of this rule, since it is required to maintain authorization from the NRC to regulate radioactive material.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No significant effect of this proposed rule on competition and employment is anticipated.

Gustave Von Bodungen  
Assistant Secretary

David W. Hood  
Senior Fiscal Analyst

### NOTICE OF INTENT

#### Firefighters' Pension and Relief Fund City of New Orleans and Vicinity

##### Payment of Death Benefits

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and R.S. 11:3362, the Board of Trustees of the Firefighters' Pension and Relief Fund of New Orleans and Vicinity gives notice of its intent to adopt rules pertaining to the payment of death benefits.

#### Rules and Regulations for Payment of Death Benefits Under R.S. 11:3361 et seq.

##### I. Definitions

In connection with La. R.S. 33:§3378, §3381, and related provisions and/or when used in these Rules and Regulations, the following terms shall have the following meanings:

*Accumulated Contributions*—contributions made by an active firefighter through monthly salary deductions. Interest shall accrue as determined by the board.

**Active Firefighter**—one who is still actively employed and has not yet retired.

**Actuarial Equivalent of the Participant's Benefit**—the actuarial cost of furnishing a single life benefit to the participant based on his years of service and salary as defined in §3384 and other applicable statutory provisions.

**Children**—children of the participant or of the surviving spouse who are dependent upon the firefighter for support [§3378(D)].

**Deferred Vested Firefighter**—one who is vested by years of service but is no longer employed as a firefighter and is not yet receiving retirement benefits, whether or not he is yet eligible by age to retire.

**Dependent or Dependent upon the Firefighter for Support**—shall mean that prior to the firefighter's death, he or she contributed 50 percent or more to the support of said dependent.

**Legal Representatives**—the person or persons designated in the first of the following classes which is applicable to the deceased firefighter in question:

- a) the surviving spouse;
- b) the surviving children;
- c) the surviving parents;
- d) if a succession has been opened, the firefighter's estate or succession;
- e) the heirs.

**Vested Firefighter**—a person who has accumulated at least 20 years of continuous service under the new system, in accordance with §3381.

**Widow**—the surviving spouse to whom the firefighter is married at the time of death.

**Widowed Mother**—a parent of either sex who has survived the deaths of both the firefighter and the other parent. (§3390).

## II. Beneficiary Designations and Election of Retirement and Death Benefits

1. At the time a firefighter elects to retire, his spouse, if any, shall be furnished a copy of his retirement application and any beneficiary designation attendant thereto.

2. Any designation of beneficiary made by a firefighter pursuant to the statute shall be made in writing by completing the applicable beneficiary designation form required by the board.

3. Whenever a retirement benefit election includes a survivor annuity in any amount, a certified copy of the said survivor's birth certificate shall be furnished as proof of age. The retiree shall keep the board advised at all times of all changes of address of himself and said beneficiary.

4. Each firefighter in the new system and any employee in the old system electing coverage in the new system shall designate a beneficiary in writing and deposit it with the board of trustees.

5. Any such designation of beneficiary may be changed at any time prior to retirement but such change shall have no effect until deposited in writing with the board of trustees.

6. If a firefighter dies without having designated a beneficiary in accordance with the statute and a benefit is payable thereunder, the applicable death benefit shall be paid

to the firefighter's legal representatives as defined herein, in the order defined herein.

## III. Calculation of Death Benefits

1. If a death benefit is payable as a result of the death of an eligible participant prior to retirement, the present value of his benefit shall be calculated as if he had retired on the day before he died, except where otherwise indicated in the statute or herein.

2. The fund's actuary shall be required and authorized to calculate all benefits payable in accordance with such assumptions as he shall have incorporated into the fund's actuarial valuations and reports; and the trustees' reliance upon his calculations of the amounts of retirement and death benefits payable shall be conclusive proof of the reasonableness of the trustees' decisions in this regard.

## IV. Preretirement Death Benefits

### A. Non-duty Deaths

1. If an actively employed firefighter in the new system or one in the old system electing coverage under the new system, who is eligible by age and service to retire, should die a non-duty death, and if he had been married for two years or more at the time of his death, the surviving spouse may elect one of the following death benefits:

1) the surviving spouse shall receive an annuity payable for the duration of her life and calculated as if the employee had retired prior to death [§3385, Option 2, penultimate paragraph]; or

2) the surviving spouse may alternatively receive a refund of the employee's accumulated contributions, in lump sum.

2. If an actively employed firefighter in the new system or one in the old system electing coverage under the new system, who is eligible by age and service to retire, should die a non-duty death, and if the firefighter had been married for less than two years or was unmarried at the time of his death, the designated beneficiary may elect one of the following death benefits:

1) the designated beneficiary shall receive an annuity payable for the duration of his or her life and calculated as if the employee had retired prior to death [§3385, Option 2, penultimate paragraph]; or

2) the designated beneficiary may alternatively receive a refund of the employee's accumulated contributions, in lump sum.

3. If an actively employed firefighter in the new system or one in the old system electing coverage under the new system, who is eligible by age and service to retire, should die a non-duty death, and if the firefighter had been married for less than two years or was unmarried at the time of his death, and if the firefighter has failed to designate a beneficiary to receive any death benefits payable, a refund of the employee's accumulated contributions, in lump sum, shall be paid to the person or persons who meet the trustees' definition of *Legal Representatives*, as defined in Article I.5 hereof.

Where no beneficiary has been designated, the legal representative shall receive a refund of the employee's contributions plus interest earned thereon.

4. If an actively employed firefighter in the new system, or one in the old system electing coverage under the new

system, who is not eligible by age and service to retire when he suffers a non-duty death, his designated beneficiary may elect payment to the statutory beneficiaries of the benefits set forth in §3378(A)(2) and §3378(B), or may elect to receive a refund of the employee's contributions.

5. If an actively employed firefighter in the new system, or one in the old system electing coverage under the new system, who is not eligible by age and service to retire when he suffers a non-duty death, and he fails to designate a beneficiary to receive any death benefits payable, a refund of the employee's accumulated contributions, in lump sum, shall be paid to the person or persons who meet the definition of *Legal Representatives*, as defined in Article I.5 hereof.

6. If an actively employed firefighter in the new system, or one in the old system electing coverage under the new system, who is not eligible by age and service to retire when he suffers a non-duty death, and the firefighter is survived by dependent minor children or physically or mentally handicapped dependent children, each child will receive a death benefit set forth in §3378(A)(2).

#### B. On-duty Deaths

1. If an actively employed firefighter in the new system, or one in the old system electing coverage under the new system, whether or not he is eligible by age and service to retire when he suffers death in the line of duty, the surviving spouse shall elect one of the following death benefits:

1) the surviving spouse shall receive an annuity payable for the duration of her life and calculated as if the participant had survived till he had 20 years service at the same salary and elected to retire under §2117.4, Option 2 with no reduction for age at the date of retirement. The Option 2 calculation shall be based on his age and the age of his widow at the date of death [§3385, last paragraph]; OR

2) the surviving spouse may alternatively receive a refund of the employee's accumulated contributions, in lump sum.

2. If an actively employed firefighter in the new system, or one in the old system electing coverage under the new system, whether or not he is eligible by age and service to retire when he suffers death in the line of duty, and if the employee is unmarried at the time of death, his designated beneficiary may elect one of the following death benefits:

1) the designated beneficiary shall receive an annuity payable for the duration of her life and calculated as if the participant had survived till he had 20 years service at the same salary and elected to retire under §3385, Option 2 with no reduction for age at the date of retirement. The Option 2 calculation shall be based on his age and the age of his designated beneficiary at the date of death [§3385, last paragraph]; OR

2) the designated beneficiary may elect to receive a refund of the employee's accumulated contributions, in lump sum.

3. If an actively employed firefighter in the new system, or one in the old system electing coverage under the new system, whether or not he is eligible by age and service to retire when he suffers death in the line of duty, and is unmarried at the time of death but has failed to designate a beneficiary, a refund of the employee's accumulated

contributions, in lump sum, shall be payable to the person or persons who meet the trustees' definition of *Legal Representatives*, as defined in Article I.5 hereof.

Where no beneficiary has been designated, the legal representative shall receive a refund of the employee's contributions plus interest earned thereon.

#### V. General

1. A spouse or parent may receive only one pension [§3378.A(1)(2)].

2. Neither a retiree nor a surviving spouse shall receive a pension less than \$300 per month (§3383).

3. Once a firefighter has retired and elected an optional benefit under §3385, neither the designated joint annuitant nor the optional form of benefit may be changed. When the survivor designated as a joint annuitant dies, no further survivor benefit shall be payable.

4. No benefit or joint annuity payable under §3385 shall exceed the actuarial value of the participant's benefit.

5. Unless the benefit payable is a refund of the participant's own contributions together with any interest payable thereon, or is payable under §3378(B), no lump sum benefits shall be payable by this fund (La. R.S. 11:155).

A public hearing regarding these proposed rules will be conducted by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans on Monday, September 27, 1993 at 10 a.m., at 329 South Dorgenois Street, New Orleans, LA 70119.

Any interested party may submit data, views, or arguments orally or in writing concerning these proposed rules. This hearing is being conducted pursuant to the authority granted to the board in R.S. 49:953 and R.S. 11:3361 et seq. By direction of the board, any interested party may make inquiries concerning the adoption of these proposed rules to Bernard V. Nicolay, secretary-treasurer of the Board of Trustees, 329 South Dorgenois Street, New Orleans, LA 70119.

William Carrouche  
Chairman

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Payment of Death Benefits

##### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The only estimated implementation cost which is anticipated will be the cost of printing and distributing copies of the proposed rules and regulations to persons making a request for a copy of such rules and regulations. Copying cost (if every participant in the Firefighters' and Relief fund requested one copy) is estimated at \$262.92.

##### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Adoption and implementation of the Rules and Regulations for Payment of Death Benefits should not have any 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)

Adoption and implementation of the Rules and Regulations for Payment of Death Benefits should not have any effect on cost and/or economic benefits to any person or entity.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Adoption and implementation of the Rules and Regulations for Payment of Death Benefits should not have any effect on competition and employment.

Jeanne Cresson  
Fund Counsel

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Office of the Governor  
Office of Elderly Affairs**

**Long Term Care Assistance Program (LAC 4:VII.1237)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to amend the GOEA Policy Manual, effective November 20, 1993. This proposed rule change is subsequent to Act 462 of the 1993 Regular Session of the Louisiana Legislature.

An emergency rule adopting this change effective July 9, 1993 was published in the July, 1993 issue of the *Louisiana Register* (Vol. 19, No. 7).

**Title 4**

**ADMINISTRATION**

**Part VII. Governor's Office of Elderly Affairs**

**Chapter 11. Elderly Affairs**

**Subchapter E. Uniform Service Requirements**

**§1237. Long Term Care Assistance Program**

\* \* \*

**E. Program Benefits**

1. The benefits under the Long Term Care Assistance Program shall be up to \$350 per month, as established by the commissioner of administration, with oversight by the Senate and House Committees on Health and Welfare.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:2802(D).

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 18:1257 (November 1992), amended LR 19:627 (May 1993), LR 19:

A public hearing on this proposed rule will be held on Tuesday, September 28, 1993, in the GOEA Conference Room, 4550 North Boulevard, Second Floor, Baton Rouge, LA 70805, at 1:30 p.m. All interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Interested persons may submit written comments to the following address: Governor's Office of Elderly Affairs, Box 80374, Baton Rouge, LA 70898-0374. Betty Johnson is the person responsible for responding to inquiries concerning this

proposed rule. Comments will be accepted until 5 p.m. September 27, 1993.

James R. Fontenot  
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Long Term Care Assistance Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The proposed rule will result in \$15,249,866 savings to the Governor's Office of Elderly Affairs in FY 1994.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
This rule change will not affect revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
This rule change is in accordance with Act 462 of the 1993 Regular Session of the State Legislature. It will affect participants in the Long Term Care Assistance Program. R.S. 40:2802(C) originally provided that benefits would be exactly \$350 per month. It now provides that the benefits shall be established by the commissioner of administration, with oversight by the Senate and House Committees on Health and Welfare, through rules and regulations, and shall be up to \$350 per month. The commissioner has set the rate for FY 1994 at \$109 per month. Therefore each client will receive \$2,892 less for the year [(350 - 109) x 12]. Unless nursing home rates are reduced by an equal amount, each client will have higher out-of-pocket nursing home costs.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
The proposed rule change will not affect competition and employment.

James R. Fontenot  
Executive Director

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Nursing**

**Licensure by Examination/Endorsement; Temporary Permits  
(LAC 46:XLVII.3349, 3351, 3353)**

Notice is hereby given that the Department of Health and Hospitals, Board of Nursing, under the authority of R.S. 37:918(K), and in accord with R.S. 49:950 et seq., intends to amend LAC 46:XLVII.3349, 3351 and 3353 as follows:

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLVII. Nurses**

**Subpart 2. Registered Nurses**

## Chapter 33. General Rules

### Subchapter D. Registration and Licensure

#### §3349. Licensure by Examination

A. In order to be licensed as a registered nurse in Louisiana, all registered nurse applicants shall take and pass the National Council Licensure Examination for Registered Nurses (NCLEX-RN).

1. The licensing examination (NCLEX-RN) shall be authorized by the Board of Nursing in accordance with the contract between the board and the National Council of State Boards of Nursing, Inc.

2. Each examination shall be given under the direction of the executive director of the board or another designee of the board.

3. Individual results from the examination shall be released to individual candidates and to the director of their nursing education program. Aggregate results are published for statistical purposes.

B. Requirements for eligibility to take the NCLEX-RN in Louisiana include:

1. completion of a nursing education program approved by the Board of Nursing in the state in which the school is located.

\* \* \*

5. freedom from restrictions by any health regulatory board of any state.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, 920 and 921.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:77 (March 1981), amended LR 11:348 (April 1985), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:

#### §3351. Licensure by Endorsement

\* \* \*

B.2. The applicant is not under restriction of any form by any health regulatory board in any state.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, 920 and 921.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:77 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:

#### §3353. Temporary Permits

A. In accordance with R.S. 37:920, the Board of Nursing may issue the following temporary permits to practice as a registered nurse:

1. A working permit may be issued to graduates of approved schools pending the results of the first licensing examination, provided the examination is taken within three months after graduation from the approved nursing education program.

\* \* \*

B.3. There be no record of conviction or pending charge of felonious crime. If information relative to conviction of a felonious crime, or an investigation of same, is received during the 90-day permit interval, the permit will be recalled.

4. There is no allegation of cause for denial of licensure according to R.S. 37:921. If information relative to a cause

for denial of licensure, or an investigation of same, is received during the 90-day permit interval, the permit shall be recalled.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, 920 and 921.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:78 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:

Comments concerning the proposed rules may be directed in writing, until October 1, 1993, to Barbara L. Morvant, R.N., executive director, Board of Nursing, 150 Baronne Street, Suite 912, New Orleans, LA 70112.

Barbara L. Morvant., R. N., M. N.  
Executive Director

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Licensure by Examination/ Endorsement; Temporary Permits

##### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the savings associated with the change from paper-and-pencil to a computerized licensing examination will be approximately \$16,000 for FY 1993-94 and approximately \$31,000 every year thereafter. The revision of these rules to provide consistency with other existing rules will facilitate the disciplinary activities of the board.

##### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No change in revenue collection is anticipated because of the proposed revisions in the rules.

##### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Applicants for Louisiana R.N. licensure will be directly affected by the change in the method for the administration of the licensure examination. A particular advantage will be the significant decrease in the length of time between graduation from nursing school and the opportunity to take the examination for licensure. This will result in faster transition from applicant for licensure to registered nurse, with resultant higher salary at an earlier date. A small number of applicants for licensure by endorsement may be adversely affected at an earlier time because they can be denied a temporary permit if there is a cause for later denial of licensure. At the same time, patients will be better protected against unsafe nurses who may be seeking Louisiana licensure.

##### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition and employment except that the applicants for licensure will be able to fill registered nurse positions in a shorter period of time, thus reducing the nurse shortage at a faster rate.

Barbara L. Morvant, R. N., M. N.  
Executive Director

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Optometry Examiners

Continuing Education; License to Practice  
(LAC 46:LI.301 and 503)

Act No. 202 of the 1993 Regular Session of the Louisiana Legislature amended portions of Chapter 12 of Title 37 of the Revised Statutes (R.S. 37:1041 et seq.) to expand the scope of optometric practice by authorizing optometrists to obtain certification to treat abnormal conditions and pathology of the human eye and its adnexa, including employment of therapeutic pharmaceutical agents. The legislation directed the Board of Optometry Examiners to adopt rules implementing the Act. In accordance with the authority set forth in R.S. 37:1048, notice is hereby given that the Department of Health and Hospitals, Board of Optometry Examiners intends to amend LAC 46:LI.301, regarding continuing education and LAC 46:LI.503.G, regarding use of diagnostic drugs.

LAC 46:LI.301 amends the continuing education requirements set forth in Act No. 202 of the 1993 Louisiana Legislature for optometrists who receive certification to treat diseases and to use and prescribe pharmaceuticals. No change will be made to the existing rules applicable to non-therapeutically certified optometrists.

LAC 46:LI.503.G amends the requirements for certification for use of therapeutic privileges. The existing rule regarding certification for the use of drugs for diagnostic purposes will be readopted as Paragraph 1 without substantive change. Paragraph 2 will be added to §503.G and will set forth the certification requirements for optometrists wishing to treat eye abnormalities and diseases, including required refresher courses if the prerequisite education was taken during certain periods as set forth in the rules.

The amended and readopted rules will read as follows:

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LI. Optometrists

#### Chapter 3. License

#### §301. Continuing Education

Each licensed optometrist shall comply with the following continuing education requirements:

A. Standard optometry certificate holders and diagnostic pharmaceutical certificate holders shall complete between January 1 and December 31 of each calendar year at least 12 classroom hours of continuing education courses approved by the Louisiana State Board of Optometry Examiners.

B. Certificate holders authorized to treat pathology and use and prescribe therapeutic pharmaceutical agents shall complete between January 1 and December 31 of each calendar year at least 16 classroom hours of continuing education courses approved by the Louisiana State Board of Optometry Examiners, of which at least eight classroom hours shall consist of matters related to ocular and systemic pharmacology and current diagnosis and treatment of ocular disease. Such certificate holders will be entitled to apply the CPR continuing

education to their required annual continuing education, provided that such CPR continuing education shall not count towards the required eight classroom hours related to ocular and systemic pharmacology and current diagnosis and treatment of ocular disease, and provided further that no more than four hours of CPR continuing education may be applied to the continuing education requirement in any two calendar year period.

C. Written evidence of satisfaction of continuing education requirement for the prior calendar year shall be submitted on or before the first day of March of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048 and R.S. 37:1061(17).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Optometry Examiners, 1970, amended by Department of Health and Hospitals, Board of Optometry Examiners, LR 19:

#### Chapter 5. Practicing Optometry

#### §503. License to Practice Optometry

\* \* \*

#### G. Certification to Use Diagnostic and Therapeutic Drugs and to Treat Ocular Pathology

An optometrist may be certified to use ocular diagnostic and therapeutic pharmaceutical agents and to treat ocular pathology. In order to obtain such certification, an optometrist shall comply with the following requirements:

##### 1. Certification to Use Diagnostic Drugs

a. In order to be approved as an optometrist authorized to use diagnostic drugs, as set forth in Act 123 of the 1975 Session of the Louisiana Legislature, an optometrist shall present to the secretary of the Louisiana State Board of Optometry Examiners for approval by the board, the following:

i. evidence that the applicant is a licensed Louisiana optometrist, holding a current license in compliance with all license renewal requirements of the Louisiana Optometry Practice Act for the year in which he applies for certification;

ii. transcript credits, in writing, evidencing that the applicant has completed a minimum of five university semester hours in pharmacology from an accredited university or college of optometry, subsequent to December 31, 1971. The pharmacology hours shall consist of a minimum of two hours in general pharmacology and a minimum of three hours in ocular pharmacology.

b. Upon submission of the above, the secretary shall present same to the board for approval at the next regular meeting. Upon approval by the board, the secretary shall cause to be issued to the optometrist a certificate indicating compliance with the legislative requirement and intent.

c. The certificate issued by the secretary shall be over the secretary's signature and bear a number identical to the number on the license originally issued by the board to the optometrist.

##### 2. Certification to Treat Ocular Pathology and to Use and Prescribe Therapeutic Pharmaceutical Agents

a. Definitions. For purposes of this Paragraph 2 the following definitions shall apply:

*Application Date*—the date the board receives in its office by certified mail return receipt requested an application for certification under this Paragraph 2.

*Approved Educational Institution*—an educational institution providing education in optometry that is approved by the board and is accredited by a regional or professional accrediting organization which is recognized or approved by the Council of Post-secondary Accreditation of the United States Department of Education.

*Board*—the Louisiana State Board of Optometry Examiners.

*TMOD*—Treatment and Management of Ocular Disease test administered by the International Association of Boards of Optometry.

b. Requirements for Certification. In order to obtain certification under this Paragraph 2, an optometrist shall present to the secretary of the Louisiana State Board of Optometry Examiners for approval by the board:

i. a certified transcript from an approved educational institution evidencing satisfaction of the educational prerequisites for certification to use diagnostic pharmaceutical agents as set forth in LAC 46:LI.503.G.1.a.ii or evidence of current certification by the board for the use of diagnostic pharmaceutical agents under LAC 46:LI.503.G.1; and

ii. certification from the American Heart Association or the American Red Cross evidencing current qualification to perform cardiopulmonary resuscitation (CPR). The certification must show completion of the basic CPR course or re-certification within six months of the application date in order to be considered "current"; and

iii. a signed statement from the applicant stating that he or she possesses operable and unexpired child and adult automatic epinephrine injector kits in every office location in which the applicant practices; and

iv. a certified transcript from an approved educational institution evidencing satisfactory completion after January 1, 1985 of 46 clock hours of classroom education and 34 clock hours of supervised clinical training which are equivalent to at least five semester hours of postgraduate education in the examination, diagnosis and treatment of abnormal conditions and pathology of the human eye and its adnexa. The board shall obtain such written certification as it deems appropriate to satisfy itself that the courses reflected on the transcript satisfy the statutory course requirements set forth in R.S. 37:1051(C). Inability of the board to obtain satisfactory written certification as set forth in the preceding sentence shall result in rejection of the optometrist's application under this Section; and

(a). if the applicant's transcript reflects graduation from an accredited school of optometry or completion of the required five semester hours in the examination, diagnosis, and treatment of abnormal conditions and pathology of the human eye and adnexa, between January 1, 1989 and December 31, 1992, the applicant shall also provide written evidence of satisfactorily completing, within the previous year of the application date, at least 12 clock hours of board approved update training in recent ocular and systemic pharmacology and current diagnosis and treatment of ocular disease; or

(b). if the applicant's transcript reflects graduation from an accredited school of optometry or completion of the

required five semester hours in the examination, diagnosis, and treatment of abnormal conditions and pathology of the human eye and adnexa, between January 1, 1985 and December 31, 1988, the applicant shall also provide written evidence of satisfactorily completing, within the previous year of the application date, at least 20 clock hours of board approved update training in recent ocular and systemic pharmacology and current diagnosis and treatment of ocular disease; or

v. in lieu of the requirements of LAC 46:LI.503.G.2.b.iv above, written proof of having passed the TMOD and a certified transcript from an approved educational institution evidencing successful completion of 34 clock hours of supervised clinical training after January 1, 1985 which are equivalent to at least two semester hours of postgraduate clinical education in the examination, diagnosis and treatment of abnormal conditions and pathology of the human eye and its adnexa.

3. Certificates. The board will provide each optometrist certified under the provisions of this Subsection with a certificate bearing the original optometric license number followed by a therapeutic certification number.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1048 and R.S. 37:1051.

**HISTORICAL NOTE:** Adopted by the Department of Health and Human Resources, Board of Optometry Examiners, September 1975, promulgated LR 1:463 (October 1975); amended by the Department of Health and Human Resources, Board of Optometry Examiners, LR 13:241 (April 1987), amended by the Department of Health and Hospitals, Board of Optometry Examiners, LR 19:

Oral or written comments or inquiries regarding the proposed amendments should be addressed to Chesley Gregory, O.D., 927 Benton Road, Bossier City, LA 71111.

A public hearing will be held at 1:30 p.m., Friday, September 24, 1993, at the Holiday Inn Convention Center, Alexandria, LA. Oral and written comments will also be accepted at said hearing.

Chesley Gregory, O.D.  
President

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Continuing Education and Diagnostic Drugs  
(LAC 46:LI.301 and 503)**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rules may result in some impact on Medicaid payments, either by an increase in overall utilization or by a shifting of payments for certain services from ophthalmologists to optometrists or both. Sufficient data is not available to accurately project the net effect.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The impact on revenues cannot be determined. A net increase in costs to the Medicaid program would generate additional federal revenues to the state, while a net savings would result in a federal revenue decrease.



III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Optometrists who choose to become certified for therapeutic treatment will bear the cost of the required education which is currently estimated to range from \$180 to \$960. Those who qualify will benefit from increased payments due to the expanded services provided.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules may result in some shift of payments for these treatment services away from ophthalmologists and other health care providers who have previously provided such services. As stated in part I above, sufficient data is not available to determine whether the net effect will be budget neutral. The net impact on consumer prices resulting from increased competition between provider groups cannot be estimated.

Chesley Gregory, O.D.  
President

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Veterinary Medicine

#### Certified Animal Euthanasia Technician (LAC 46:LXXXV.Chapter 12)

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. 37:1518 et seq., notice is hereby given that the Louisiana Board of Veterinary Medicine intends to adopt LAC 46:LXXXV.Chapter 12.

Chapter 12 codifies policies adopted by the board for the regulation of Certified Animal Euthanasia Technicians as required by R.S. 37:1551-1558.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LXXXV. Veterinarians

#### Chapter 12. Certified Animal Euthanasia Technicians

##### §1200. Definitions

All definitions used in this chapter shall have the meaning assigned to them in R.S. 37:1552. In addition, the following definitions shall be applied:

*Board*—the Louisiana Board of Veterinary Medicine.

*CAET*—Certified Animal Euthanasia Technician.

*Full Certification*—a certificate of approval granted to an applicant who has fulfilled all requirements of this Chapter. Such certificates shall expire annually.

*Temporary Certification*—a certificate of approval granted to an applicant who has not taken an examination for full certification. Such certificates shall expire upon publication of the scores from the next available CAET course offered by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:

#### §1201. Applications for Certificates of Approval

A. Applicants will be required to submit an approved application form provided by the board which shall require that all provisions of R.S. 37:1553 have been met.

B. In addition to the application form, the board may require that the applicant furnish all of the following:

1. A current passport type photograph of the applicant;

2. an official copy of a birth certificate or a notarized copy of a current driver's license as proof of age;

3. an official transcript of the applicant's high school records or photocopy of the applicant's high school diploma or GED or an official transcript indicating attendance at an institution of higher learning;

4. certified scores on any previous examinations in animal euthanasia and/or proof of successful completion of a board-approved course in animal euthanasia;

5. certification by the applicant that he has never been convicted, pled guilty or pled nolo contendere to either a felony or misdemeanor, other than a minor traffic violation. 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. certification that the applicant has never had certification as a certified animal euthanasia technician revoked, suspended, or denied. 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;

7. a list of all certificates or licenses that the applicant currently holds and/or has held;

8. two letters of reference on board-approved forms from licensed veterinarians or other professional persons who can attest to the applicant's professional capabilities and ethical standards;

9. a release waiver form to authorize a background check regarding the applicant's history with dangerous and/or controlled substances to be performed by the Drug Enforcement Agency or other law enforcement agency at the board's request. A photostatic copy of the applicant's authorization is accepted with the same authorization as the original.

C. The board may require such application to be sworn to by the applicant, notarized, and/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, veterinary technology, or euthanasia technology with sodium pentobarbital in this state without a license, temporary permit, exception, or certificate of approval during the two-year period immediately prior to the date of application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.



HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:

#### §1203. Examinations

A. The board may formulate, administer and grade an examination (herein defined as such written examination, oral interviews, and/or practical demonstrations as the board may request or require) or may select an agency whose qualifications for performing any or all of these functions are recognized by the board and charge said agency with the formulation, administration and/or grading of the examination.

B. All applicants for full certification must take and pass the examination(s) adopted by the board.

C. The administration of the examination(s) shall be in accordance with rules, practices, policies, or procedures prescribed by the board or by the designees of the board or by any person or person with whom the board may have contracted to administer said exam. The exam may be administered by members of the board or any of the agents, employees, or designees of the board.

D. The examination may be prepared, administered and graded by the members of the board 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 board.

E. The course shall consist of presentations in the areas of legal concerns (Veterinary Practice Act), record-keeping requirements (Veterinary Practice Act and DEA), human safety, and a general knowledge of sodium pentobarbital and proper euthanasia techniques.

F. The administration of the course shall be in accordance with rules, practices, policies, or procedures prescribed by the board or its designees. Instruction may be provided by the members of the board or any agent, employee, or designee of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:

#### §1204. Passing Scores

A. A passing score on any written and/or oral portions of the examination shall be deemed to be the correct answering of seventy percent of the questions contained on that portion of the examination.

B. A passing grade on the practical portion of the examination will be determined by the successful completion of a series of hands-on demonstrations which indicate that the applicant has been properly trained in procedures which will enable him to safely and effectively perform humane euthanasia with sodium pentobarbital.

C. Applicants who fail to achieve a passing score on any portion of the examination, either written or practical, will not be eligible for a certificate of approval nor may they apply for a temporary certificate of approval.

D. Appeals concerning the examination must be made in writing to the board within 30 days of the administration of the examination. All such formal appeals will be reviewed at the next available meeting of the board. The board may call witnesses and/or hold public hearings as it deems necessary although it is not required to do so unless otherwise specified

by statute. The decision of the board regarding such appeals is final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:

#### §1205. Certificates Without Examination.

The board shall not issue full certificates of approval without examination under any circumstances, except as provided in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:

#### §1207. Temporary Certificate of Approval.

A. The board may issue a temporary certificate of approval when an applicant meets all of the following requirements:

1. applicant has submitted proof of training by a licensed veterinarian on forms approved and/or provided by the board, and

2. applicant has submitted a complete application package as required by this Chapter, and

3. applicant has submitted a release waiver form and successfully passed a background check by the Drug Enforcement Agency or other law enforcement agency as selected by the board;

4. applicant or applicant's employer has paid the fee for temporary certification as assessed by the board.

B. Applicants will not qualify for a temporary certificate if they fail to comply with any requirement listed in this rule or if any of the following conditions apply:

1. Applicant has previously failed a board approved course in animal euthanasia in the State of Louisiana or in any other state, district, or territory of the United States.

2. Applicant does not have or is not actively and continuously working towards completion of a high school diploma or its equivalent. The board may require periodic progress reports of applicants pursuing a high school diploma while holding temporary certification. Failure to continuously work towards completion of the diploma program may result in immediate revocation of the temporary certificate.

3. Applicant has defaulted on a student loan obligation.

4. Applicant has falsified any information provided to the board for the purposes of obtaining certification.

C. Temporary certificates will be issued with a number which indicates year issued. All such certificates will expire 30 days after the next available course in animal euthanasia offered by the board unless otherwise extended by the board.

D. Applicants who hold certification in another state, territory, or district of the United States may be granted a temporary certificate which shall expire 30 days after the next available course in animal euthanasia offered by the board unless otherwise extended by the board.

E. A temporary certificate may be summarily revoked by a majority vote of the board without a hearing.

F. No person shall be issued more than one temporary certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:

#### §1209. Fees

A. The board hereby adopts and established the following fees for CAET program:

Annual renewal of certificate	\$ 25
Examination fee - not to exceed	\$100
Late renewal fee	\$ 25
Original fee - full certification	\$ 50
Temporary certification fee	\$ 25

B. Holders of temporary certificates who successfully pass the next available board approved examination in animal euthanasia shall be credited with payment of one-half of the fee for full certification and shall be charged an original certification fee of \$25.

C. Renewals received after the expiration date as provided in R.S. 37:1546, shall be charged a late renewal fee.

D. The board may direct that examination fees be assigned or remitted directly to the agency selected to prepare, administer, and score the examination in animal euthanasia. Said agency may not assess fees in addition to those set by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:

#### §1211. Renewal of Certificates.

A. All certificates of approval shall expire annually at midnight June 30th. Certificates shall be renewed by completing a re-registration form which shall be provided by the board and by payment of the annual renewal fee established by the board.

B. Each year, 90 days prior to the expiration date of the license, the board shall mail a notice to each certified animal euthanasia technician stating the date his certificate will expire and providing a form for re-registration.

C. The certificate of approval will be renewed for any person who complies with the requirements of this chapter.

D. Re-registration forms for renewal of certificates of approval, complete with payment of fee and any other documents required by this chapter, shall be postmarked no later than the expiration date of the license each year. Re-registration forms postmarked after midnight of the expiration date will be subject to a late renewal fee as established by the board. This fee is in addition to the regular fee for annual renewal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:

#### §1213. Revoked Certificate

A. A certified animal euthanasia technician whose certificate has been revoked under the provisions of R.S. 37:1554 may be reinstated by the board after proof that the failure to renew was not a willful or evasive act and upon payment of all accrued renewal and/or late fees for each year in which the certificate was revoked.

B. The board may impose an additional penalty, not to exceed twice the amount of the delinquent fees, to reinstate a revoked certificate of approval.

C. Any certificate which was revoked under the provisions of R.S. 37:1554 shall require approval of the board before reinstatement.

D. The identifying number of a revoked certificate of approval shall not be issued to any person other than the original holder of that number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:

#### §1215. Appeals and Review

A. Any applicant for a certificate of approval desiring to review his examination and/or the master answer sheet and/or the examination questions shall make arrangements with the board, its agent, designee or any other person, firm, corporation or entity charged with the preparation, grading and/or administration of the course for such review.

B. Any certified animal euthanasia technician aggrieved by a decision of the board, other than a holder of a certificate of approval against whom disciplinary proceedings have been brought pursuant to R. S. 37:1551 et seq. 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.

D. Upon receipt of such petition, the board 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 CAET against whom disciplinary proceedings have been instituted and against whom disciplinary action has been taken by the board pursuant to R. S. 37:1551 et seq, 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. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:

#### §1217. Storage of Sodium Pentobarbital

All sodium pentobarbital shall be stored either in a securely locked cabinet which is of substantial construction or in a safe or in a locked metal cabinet. The cabinet, safe or locker shall be locked at all times. The CAET(s) shall have the responsibility for the safekeeping of the keys and/or combination to the cabinet, safe, or locker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:

#### §1219. Usage Log

A. A usage log shall be maintained to account for the use of each cubic centimeter (cc) or parts thereof of sodium pentobarbital. The log shall include:

1. the date of usage, and

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Certified Animal Euthanasia Technicians**

2. the lot number and bottle number used, and
3. the amount (in cc's) of usage, and
4. the tag number or other identification number for the animal, and
5. the name of the person who drew the sodium pentobarbital, and
6. any amount of drug wasted, spilled, or lost, and
7. the name of a witness to the waste, spillage, or the lost of sodium pentobarbital.

B. The usage log shall be maintained on a standardized form provided by the board or its designated agent. Copies of the log so provided may be made by the shelter.

C. Usage logs shall be made available to any official of the Drug Enforcement Administration without prior notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:

**§1221. Inventory**

A. An inventory of all sodium pentobarbital shall be done every three months or more frequently if required by the Drug Enforcement Administration.

B. The inventory shall indicate the amount of sodium pentobarbital ordered, the amount presently on hand, the amount used for euthanasia, the amount lost due to spillage or waste, the amount lost due to the drug's expiration, and the time of day the inventory was taken.

C. The inventory shall be made and signed by the certified animal euthanasia technician(s) or licensed veterinarian who is the registrant of the Drug Enforcement Administration.

D. Upon written request from either the Louisiana Board of Veterinary Medicine or the Department of Health and Hospitals, the certified animal euthanasia technician shall provide a copy of the inventory records.

E. Inventory logs shall be made available to any official of the Drug Enforcement Administration without prior notification.

F. The inventory log shall be maintained on a standardized form provided by the board or its designee. Copies of the form so provided may be made by the shelter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:

Interested parties may submit written comments to Vikki Riggle, Executive Director at the office of the Louisiana Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA 70801-1203. Comments will be accepted through the close of business on September 15, 1993. A public hearing on the proposed changes will be held on September 29, 1993 at the office of the Louisiana Board of Veterinary Medicine at 10 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Vikki L. Riggle  
Executive Director

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Program has been in place for several years. Minor implementation costs of approximately \$1,000 were experienced at program's inception; however, no exact records of those costs is currently available. No further implementation costs or savings are anticipated by the adoption of the proposed rules.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No change is anticipated. Revenues are and have been collected by the Louisiana Board of Veterinary Medicine for examinations and issuance of licenses. Annual revenues from program are approximately \$750 for renewals, \$1,000 for issuance of original licenses, and \$1,500 for course participants. These revenues offset the costs of administration of this program.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
Local governmental units who wish to certify technicians under this program are charged an established fee for a certification course and for licensure of employees. Certification of employees is not required except where shelters chose to participate in this program for humane euthanasia.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No impact is anticipated.

Vikki Riggle  
Executive Director

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

**Continuing Veterinary Education  
(LAC 46:LXXXV.Chapter 4)**

In accordance with the provisions of R.S. 49:950 et seq., 37:1518 and 37:1523 et seq., the Louisiana Board of Veterinary Medicine proposes to amend Chapter 4 in its entirety.

The proposed changes to this chapter substantially alter the method by which licensees are required to obtain approval for and the reporting mechanism of continuing education hours. In particular, the board has determined that it is necessary to require proof of attendance to be submitted annually as a prerequisite to re-registration of the license to practice veterinary medicine. The board has also added a requirement that all submissions be from programs which the board has pre-approved and has provided a mechanism for obtaining such

approvals. Eliminated is a grace period for new licensees during which no continuing education is required. Added are circumstances under which the board will consider the granting of extensions and/or exemptions and the procedure to be followed by the licensee to request special considerations for hardship circumstances.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LXXXV. Veterinarians**

#### **Chapter 4. Continuing Veterinary Education**

##### **§400. Definitions**

*American Veterinary Medical Association (AVMA)*—the recognized organization for veterinary education standards.

*Contact participation*—consists of physical attendance at seminars, lectures, conferences, or workshops.

*Continuing veterinary education*—approved, accredited experience obtained from participation in postgraduate 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.

*Continuing veterinary education units*—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.

**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 19:

##### **§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 the annual veterinary re-registration of a license to practice in Louisiana. 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 16:224 (March, 1990), amended LR 19:

##### **§403. Continuing Veterinary Education Requirements**

A. A minimum of 1.6 continuing veterinary education units (16 actual hours) is required each fiscal year (July 1 through June 30) as a prerequisite for licensure. A maximum of four hours of credit may be achieved in approved video-tape, self-test program(s), and/or self-help instruction.

B. Proof of attendance, which shall include the name of the course, date(s) of attendance and units or hours obtained, shall be attached to the annual re-registration form.

C. All hours shall be obtained in the twelve months preceding the renewal period of the 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 16:224 (March, 1990), amended LR 19:

##### **§405. Exceptions and Exemptions**

A. A licensee who has failed to obtain a minimum of 16 hours within the prescribed twelve-month period will not meet the requirements for re-registration of his license. Said licensee shall have his license suspended until such time as the requirements have been met and documented to the satisfaction of the board. Any late fees and/or fines assessed by the board must be paid before the suspension will be lifted.

B. The board may grant extensions of time for extenuating circumstances. The licensee requesting the extension must petition the board at least 30 days prior to the expiration date of the license. The board may require whatever documentation it deems necessary to verify the circumstances necessitating the extension. The board may also assess a late fee and/or fine as a result of granting the extension of time.

C. Exemptions from these requirements may be made for persons in the following categories:

1. Physically disabled licensees for whom participation in a program represents undue hardship. A request for a physical disability exemption must be documented by submitting a physician's statement which shall include the nature and length of time of the disability. The documentation must be submitted annually with the re-registration form.

2. Licensees who have returned a notarized affidavit of retirement as provided by the board for this purpose. An affidavit must be executed and submitted annually with the re-registration form.

3. Licensees on active military duty in a foreign country where no continuing education programs are available. An affidavit or other sworn document from the licensee's commanding officer must accompany the annual re-registration form. No such exemption shall be granted for more than two consecutive renewal years.

**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 19:

##### **§407. Expired License Renewals**

Persons who have not renewed their license and wish to do so pursuant to R.S. 37:1525, may be required to submit proof of continuing education for each year for which the license was not renewed. Where insufficient hours have been acquired, the board may require additional hours to be obtained as a condition of licensure and/or as a condition of renewal for the next fiscal year.

**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 19:

##### **§409. 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 units or hours from contact participation programs

accredited by the American Veterinary Medical Association, the Louisiana Veterinary Medical Association and/or sponsored by organizations listed on the pre-approved list of the Louisiana Board of Veterinary Medicine shall be accepted;

B. the list of organizations for whom automatic pre-approval has been granted will be updated as needed and published annually by the Louisiana Board of Veterinary Medicine;

C. additions to the list of pre-approved programs may be requested by writing to the board office and submitting documentation as required by the office. All programs not on the pre-approved list must be submitted for pre-approval at least fourteen days prior to the date of the program for the units or hours to be credited. Pre-approval may be obtained by writing or calling the board office 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 16:224 (March 1990), amended LR 19:

#### **§411. 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 are 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 16:224 (March 1990), amended LR 19:

#### **§413. 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 Louisiana R.S. 37:1526(14).

C. Failure to submit records of continuing veterinary education pursuant to §405.C or falsifying certification shall be considered a violation of Louisiana R.S. 37:1526(14) and/or (15).

D. Failure to obtain the required number of hours in the specified time period shall be considered a violation of the rules of professional conduct. A grace period of no more than 90 days may be granted by petitioning the board for an extension. A late fee of \$25 and a fine of up to \$50 may be levied.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1518.

**HISTORICAL NOTE:** Promulgated as by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:224 (March 1990), amended LR 19:

Interested parties may submit written comments until September 15, 1993 to the office of the Louisiana Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA 70801-1203, Attn: Vikki Riggle, Executive Director.

A Public Hearing will be scheduled for 10 a.m. on Wednesday, September 29, 1993.

Vikki Riggle  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Continuing Veterinary Education**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
No implementation costs or savings are anticipated by the amendments proposed.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
The board anticipates a collection of approximately \$500 annually from persons who violate this chapter and are assessed a late fee and/or disciplinary fine.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**  
Licensees who do not acquire sufficient continuing education hours to meet the requirements of this chapter may be charged a late fee of \$25 and/or a disciplinary fine of up to \$50.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**  
No impact is anticipated.

Vikki Riggle  
Executive Director

David W. Hood  
Senior Fiscal Analyst

### **NOTICE OF INTENT**

#### **Department of Health and Hospitals Board of Veterinary Medicine**

#### **Fees (LAC 46:LXXXV.Chapter 5)**

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. 37:1518 et seq., notice is hereby given that the Louisiana Board of Veterinary Medicine intends to amend LAC 46:LXXXV.505 and adopt LAC 46:LXXXV.500.

Section 500 establishes a definitions section for this Chapter. LAC 46:LXXXV.505 is amended to replace the date reference for late fees with a reference to the governing statute.

### **Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LXXXV. Veterinarians**

#### **Chapter 5. Fees**

#### **§500. Definitions**

*Active Status*—fees charged to persons who wish to practice veterinary medicine in the state of Louisiana

**Duplicate License Fee**—a charge assessed for the replacement of a certificate.

**Inactive Status**—fees charged to persons who wish to retain a Louisiana license but who will not practice in the state of Louisiana during the fiscal year. Inactive status licenses may be upgraded to active status by written request and by payment of the difference between the two fees.

**Original License Fee**—the fee charged for the first issuance of a Louisiana license and includes the cost of preparation of the licensee's certificate. The original license may be issued in any month but shall expire on the next renewal date as specified in R.S. 37:1524 except where the license is issued in May or June. Licenses issued in these months will be valid for the next immediate fiscal year.

**Temporary License Fee**—the fee charged for the issuance of a temporary license according to the rules found in Chapter 3. The temporary license is valid for a maximum of 12 months. At the time of regular licensure, an original licensing fee shall be assessed.

**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 19:

#### **§505. License Renewal Late Charge**

Any license renewed after the published expiration date stated in R.S. 37:1524 shall be subject to an additional charge of \$25 as a late fee.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1518.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 10:208 (March 1984), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:

Interested parties may submit written comments to Vikki Riggle, Executive Director at the office of the Louisiana Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA 70801-1203. Comments will be accepted through the close of business on September 15, 1993.

A public hearing on the proposed changes will be held on September 29, 1993 at the office of the Louisiana Board of Veterinary Medicine at 10 am. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Vikki L. Riggle  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Fees**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No implementation costs or savings are anticipated by the amendments proposed.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No impact is anticipated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

No impact is anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact is anticipated.

Vikki Riggle  
Executive Director

David W. Hood  
Senior Fiscal Analyst

## **NOTICE OF INTENT**

### **Department of Health and Hospitals Board of Veterinary Medicine**

#### **Zoo Personnel (LAC 46:LXXXV.Chapter 13)**

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. 37:1518 et seq., notice is hereby given that the Board of Veterinary Medicine intends to adopt Chapter 13.

This Chapter is being established to promulgate rules governing the use of dangerous, controlled substances by employees of licensees of the Board of Veterinary Medicine to ensure that the use of such drugs is properly supervised, recorded, and regulated in keeping with the board's responsibility to protect the public health and welfare.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LXXXV. Veterinarians**

#### **Chapter 13. Zoo Personnel**

#### **§1300. Definitions**

**Chemical Restraint Drugs**—legend or scheduled (controlled) drugs used in the capture and/or restraint of dangerous animals.

**Dangerous Animal**—a zoo animal which poses a threat or risk of harm to a human being, to itself, to another animal, to zoo property, or to private property.

**Licensed Veterinarian or Veterinarian**—a veterinarian licensed to practice veterinary medicine in the state of Louisiana as provided in R.S. 37:1513(6).

**Storage and Use Plan**—a written protocol stating the storage, inventory, and record keeping requirements for the use of chemical restraint drugs used in the capture of dangerous animals.

**Trained Layperson**—an employee of a zoo who has been trained by a licensed veterinarian according to the requirements of §1303 of this Chapter.

**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 19:

#### **§1301. Administration of Chemical Restraint Drugs**

A trained layperson may administer chemical restraint drugs

to a dangerous animal when said animal has escaped from its usual area of confinement in a zoo.

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 19:

### §1303. Training Requirements for Zoo Personnel

A. Laypersons who are employed by a zoo and who will administer chemical restraint drugs must be trained by a veterinarian.

B. Trained by a veterinarian means:

1. that the veterinarian has provided the employee with:  
a. a list of each species of animal which may require capture by the use of chemical restraint drugs;

b. the specific drug to be used on a particular species;  
and

c. the specific amount, listed in cc's, of said drug for each species with an appropriate dosage range to account for the varying weights for the particular animal which necessitates capture by chemical restraint drugs.

2. that the veterinarian has demonstrated to the employee the safe and proper use of capture equipment.

C. A certificate offering proof of training for each employee shall be filed with the board by the licensed 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 19:

### §1305. Protocols and Plans

A. An escape and capture protocol to be used by the veterinarian in the training of zoo employees shall be submitted to the board for approval.

B. A storage and use plan for capture drugs which meets or exceeds the requirements of all federal drug enforcement agencies and the standards for record-keeping found in Chapter 7 of these Rules shall be submitted to the board for the board's approval.

1. Use plans shall include a requirement that each use of a controlled substance shall be documented for review by the licensed veterinarian responsible for the purchase and inventory of that drug.

2. Review of each use shall be indicated on the usage log by providing a place for the responsible veterinarian to enter his or her initials.

C. An inventory protocol for all capture drugs which meets or exceeds the requirements of all federal drug enforcement agencies and the standards for prescribing and dispensing drugs found in Chapter 7 of these Rules shall be submitted to the board for the board's approval.

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 19:

### §1307. Penalties

Failure of a licensed veterinarian to comply with any or all provisions of this chapter shall be considered a violation of the Rules of Professional Conduct. Said veterinarian may be subject to disciplinary action as provided for in R.S. 37:1518 and 1526.

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 19:

Interested parties may submit written comments to Vikki Riggle, Executive Director at the office of the Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA 70801-1203. Comments will be accepted through the close of business on September 15, 1993.

A public hearing on the proposed adoption will be held on September 29, 1993 at the office of the Board of Veterinary Medicine at 10 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Vikki L. Riggle  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Zoo Personnel

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Minor implementation costs to develop an approved form, mailings to zoo directors, and review of initial program set-up documents may be experienced.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No impact is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
Some minor costs may be experienced to establish forms and draft required documents for submission to Board of Veterinary Medicine for review.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No impact is anticipated.

Vikki Riggle  
Executive Director

David W. Hood  
Senior Fiscal Analyst

### NOTICE OF INTENT

#### Department of Health and Hospitals Radiologic Technology Board of Examiners

#### Actions Before the Board (LAC 46:LXVI.Chapter 7)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Department of Health and Hospitals, Radiologic Technology Board of Examiners (board), pursuant to the authority vested in the board by R.S. 37:3207, intends to amend LAC 46:LXVI.Chapter 7, regarding procedures for processing complaints, informal proceedings/consent orders and conduct of a formal hearing.



**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part LXVI. Radiologic Technologists**

**Chapter 7. Actions Before the Board**

**§703. Procedures for Processing Complaints**

A. A complaint may be initiated by any person, corporation, association, public officer, or by the board on its own initiative.

1. Anonymous sources of complaint against individuals or institutions shall not be recognized as the sole basis for the issuance by the board of a full notice as provided for under §707.A(3). However, the executive director and his/her designee or staff may informally investigate anonymous allegations or complaints received by the board.

2. If the information provided to the board by the complainant is insufficient, the board may request further information by either written correspondence or through an informal proceeding.

B. All complaints received shall be assigned a sequentially ordered complaint code number which shall be utilized in all official references.

C. The board shall act upon all complaints received without unreasonable delay.

D. The board shall take one of the following actions on a complaint:

1. no action;
2. informal proceeding/consent order;
3. formal hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(6)

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR:11:869 (September 1985), LR 19:

**§ 705. Informal Proceeding/Consent Order**

**A. Informal proceeding**

1. The allegation(s) against a licensee may be concluded through informal proceedings without the necessity of a formal hearing if the executive director does not deem the allegation(s) to be sufficiently serious to necessitate the convening of a formal hearing. The informal resolution of the allegation(s) may be accomplished through correspondence between the executive director and the licensee; by conference of the executive director and the licensee; or by consent order between the licensee and the board.

2. The executive director shall be authorized by the board to propose a recommended consent order to the licensee which would outline the details of disciplinary action between the parties as a consequence of the allegations.

B. When such allegation(s) are concluded by this informal procedure/or proposed consent order, these recommendations shall be submitted by the executive director to the board at its next regularly scheduled meeting for ratification.

C. The proposed consent order offered by the board through its executive director shall not be deemed as absolute and final until such time as the board ratifies the provisions of the said order.

D. A consent order between the board and the licensee or prospective licensee shall describe the disciplinary action

which will be taken. The consent order shall be signed by the licensee or prospective licensee, the chairman and the vice-chairman of the board.

E. If a matter is not concluded by informal proceedings and a formal hearing is deemed necessary by the executive director, a formal hearing shall be initiated pursuant to the provisions of LAC 46:LXVI.707.A, et seq.

F. If, at any point during investigation or during informal/formal proceedings as described herein, the board finds that public health, safety, or welfare imperatively requires emergency actions, the board is hereby authorized to immediately suspend the license of the licensee during the course of the proceedings. If the board decides to institute a formal hearing, the hearing shall be instituted and conducted at the board's next regularly scheduled board meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(6)

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR:11:869 (September 1985), amended by the Department of Health and Hospital, Radiologic Technology Board of Examiners, LR 19:

**§707. Conduct of a Formal Hearing**

**A. Initiating the Process**

1. The board initiates a formal hearing by issuing full notice of the hearing. A formal hearing may be the result of a complaint made by any manner specified in §§703 and 705 of this Chapter.

2. Once full notice of the formal hearing has been served, no board member or officially designated hearing officer may communicate with any party to a formal hearing or to that party representative concerning any issue of fact or law involved in that formal hearing unless all parties or their representatives are present.

3. Full Notice. The written notice shall recite specific acts which the licensee is alleged to have committed and shall assert that those acts violate a statute or rule of the board.

**a. The notice shall include:**

- i.* a statement of the date, time, place, and nature of the hearing;
- ii.* a statement of the legal authority and jurisdiction under which the hearing is to be held;
- iii.* a reference to the particular sections of the statutes, rules or ethical standards involved.
- iv.* a short and plain statement of the matters asserted which shall be the subject of the hearing;
- v.* a statement of the rights of the parties.

**b. Notice shall be given to all parties 30 days in advance of the proceedings to allow a reasonable opportunity for preparation.**

**c. The notice shall be delivered by registered or certified mail, return receipt requested. If the licensee cannot be found by this or other reasonable methods, the board may hold a hearing in the licensee's absence.**

**d. The content of the notice limits the scope of the hearing and of the evidence which may be introduced.**

**e. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Therefore, upon application, a more definite and**



detailed statement shall be furnished.

4. The chairperson of the board shall appoint a hearing officer who may be a member of the board whose primary role shall be to hear evidence and arguments and make recommendations to the board.

a. Any hearing officer appointed who because of bias or interest, is unable to assure a fair hearing, shall be recused from that particular proceeding on his own notice or motion of any member of the board, or motion of any party, if the majority of the board determines the recusal is warranted.

b. At the hearing, the charge shall be prosecuted by the board's personnel who conducted the investigation, and by the board's attorney, who shall present evidence that disciplinary action should be taken against the licensee.

c. Upon motion filed before hearing served on all parties to the proceeding, the hearing officer may, in his discretion, permit any interested person to intervene in the proceedings if the panel determines that such person's interest would be substantially affected by the proceedings and is not adequately represented by another party to the proceedings, and that intervention would not cause serious delay, disruption or otherwise burden the hearing process.

#### B. Prehearing Procedure

##### 1. Discovery

a. Depositions and interrogatories of witnesses may be taken and shall be admissible in the proceedings.

b. Evidence which was not made available to both parties at least five days in advance may be barred from introduction.

c. Evidence not within the scope of the notice may be excluded.

d. When the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

e. Documentary evidence in possession of the board may be received in the form of copies of excerpts, or by incorporation by reference.

f. Official notice may be taken of generally recognized technical or scientific facts. However, parties shall be afforded an opportunity to contest the material so noticed.

2. Subpoenas. The board is empowered by statute to issue subpoenas when requested in writing by any party in a contested case.

a. The board, or its designated hearing officer, may sign and issue subpoenas when requested in writing by any party to a contested case. The cost of issuance of the subpoena(s) shall be assessed to the requesting party.

b. The information called for by a subpoena shall be reasonable, shall relate to the matter under consideration, and shall not be privileged.

c. If the person fails to comply with a subpoena, the board may apply to the judge of the appropriate district court for rule to show cause why the person should not be requested to comply.

##### 3. Motions

a. A request to the board or the hearing officer by a party for particular action should be made in the form of a motion.

b. A motion may be made before, during or after a hearing.

c. All motions must be made at an appropriate time, according to the nature of the request.

d. Motions are directed to the hearing officer who shall dispose of them appropriately.

e. Motions made before or after the hearing shall be in writing. A motion made during the course of a hearing may be made orally.

f. The hearing officer may refer a motion to the board.

#### C. Hearing Procedure

##### 1. Conduct of the Hearing

a. The hearing officer may refer a motion to the board.

b. The hearing will be conducted in accordance with the Administrative Procedure Act, R.S. 49:955-966.

i. Opportunity shall be afforded all parties to respond and present evidence on all issues of fact involved and argument on all issues of law and policy involved and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

ii. Objections to evidentiary offers may be made and shall be noted in the record.

c. The hearing will be open to the public.

##### 2. Order of Proceedings

a. The hearing officer calls the session to order, identifies the case, subject of the case and cites the authority for holding the hearing.

b. The hearing officer asks the parties to identify themselves and their counsel.

c. All testimony be given under oath, such oath to be administered by the hearing officer.

d. Customary order of the proceedings shall be followed at the discretion of the hearing officer.

##### 3. Evidence

a. In determining the admissibility of evidence, the hearing officer must follow the rules governing administrative hearings in Louisiana.

b. Constitutional guarantees of due process give the licensee a right to a decision based on evidence presented at the hearing. The hearing officer preparing the recommended decision shall only consider evidence presented at the hearing or officially noted in the record.

##### 4. Records of Hearing:

a. all papers filed and served in the proceedings;

b. all documents and other materials accepted as evidence at the hearing;

c. statements of matters officially noticed;

d. notices required by the statutes or rules, including notice of the hearing;

e. affidavits of service or receipts for mailing of process or other evidence of service;

f. stipulations, settlement agreements or consent orders, if any;

g. records of matters agreed upon at a pre-hearing conference;

h. reports filed by the hearing officer;

i. orders of the board and its final decision;

j. actions taken subsequent to the decision, including requests for reconsideration and rehearing;

k. a transcript of the proceedings, if one has been made, or a tape or stenographic record.

5. The record of the proceeding shall be retained until the time for any appeal has expired, or until the appeal has been concluded. The record is not transcribed unless a party to the proceeding so requests, and the requesting party pays for the cost of the transcript.

6. Cost for reproduction of the records of the hearing or any part thereof shall be assessed to the requesting party as prescribed by the board.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3207(6).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR:11:870 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 19:

Interested persons may submit written comments on this proposed rule to Richard S. Whitehorn, L.R.T., Executive Director, Radiologic Technology Board of Examiners, 3108 Cleary Avenue, Suite 207, Metairie, LA 70002. Written comments must be submitted to and received by the board within 30 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Richard S. Whitehorn, L.R.T.  
Executive Director

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

##### **RULE TITLE: Actions Before the Board (LAC 46:LXVI.Chapter 7)**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no estimated implementation of costs or savings to the Louisiana State Radiologic Technology Board of Examiners 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 Radiologic Technology Board of Examiners 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 benefit to directly affected persons or non-governmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

Richard S. Whitehorn  
Executive Director

David W. Hood  
Senior Fiscal Analyst

## **NOTICE OF INTENT**

### **Department of Labor Board of River Port Pilot Commissioners**

#### **Pilot Application/Licenses/Operations**

The Board of River Port Pilot Commissioners pursuant to R.S. 34:991(B)(3) and the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice that it intends to amend its rules as follows.

#### **RULE 2**

Before being accepted as a candidate to become a River Port Pilot, each petitioner who submits an application after September 30, 1993 must meet the below listed requirements and any petitioner eligible to be a candidate who submits a petition prior to October 1, 1993 must meet the pre-existing 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, mile 104.7 AHP, to the Head of Passes, mile 0.0, and for the Inner Harbor Navigation Canal (Industrial Canal) from the Mississippi River to Lake Pontchartrain, "and for the Intracoastal Waterway (ICW) from the intersection of the Industrial Canal and the ICW to and including the Michoud Canal, and for the Mississippi River Gulf Outlet from the intersection of the Intracoastal Waterway to Mile 28.3. The present location of Beacon number 78 in the Mississippi River Gulf Outlet.

2) Each petitioner must hold 1) a United States Coast Guard Masters' License of Steam or Motor Vessel of any gross tons upon inland waters or upon rivers or upon Western rivers, or 2) a United States Coast Guard Second Mates' License (or any upgrade thereof) of Steam or Motor Vessels of any gross tons upon oceans, 3) a United States Coast Guard Third Mates' License of Steam or Motor Vessels of any gross tons upon oceans, and 180 days service after acquisition of the Third Mates' License aboard vessels of 100 gross tons or greater, or towing vessels. This service may include pilot observer trips over the route to be recognized as one day's service per calendar day, or 4) the petitioner must hold a Bachelor's Degree or Diploma granted by a college or university accredited by the American Association of Colleges and Secondary Schools and 180 days service after acquisition of the First Class Pilots License aboard vessels of 100 gross tons or greater, or towing vessels. This service may include pilot observer trips over the route to be recognized as one day's service per calendar day.

#### **RULE 4**

Replace the number "20" with the "forty (40)" after the phrase "under the tutelage of not less than" and before the phrase "commissioned river port pilots."

The first sentence is to read as follows:

*The apprentice must serve a minimum of 12 months of apprenticeship in his proposed calling, handling deep draft ships over the operating territory of the river port pilots under the tutelage of not less than "forty (40)" commissioned river port pilots.*

**RULE 5**

Repealed. (Rule 5 has been incorporated into Rule 2, Subpart 1.)

**RULE 8**

Amend Paragraph 2 Part a) replacing 30.00 feet with 35.00 feet; Part b) replacing 35,000 Deadweight with 50,000 Deadweight; Part c) replacing 600.00 feet with 700.00 feet. The last three sentences of Paragraph 2 shall read as follows:

- a) Vessels up to 35.00 feet in draft,
- b) Vessels up to 50,000 Deadweight tons,
- c) Vessels up to 700.00 feet in length.

Amend Paragraph 4 Part a) replacing 35.00 feet with 40.00 feet; Part b) replacing 50,000 Deadweight with 75,000 Deadweight; Part c) replacing 700.00 feet with 800.00 feet. The last three sentences of Paragraph 4 shall read as follows:

- a) Vessels up to 40.00 feet in draft,
- b) Vessels up to 75,000 Deadweight tons,
- c) Vessels up to 800.00 feet in length.

Amend Paragraph 6 Part a) replacing 40.00 feet with 45.00 feet; Part b) replacing 75,000 Deadweight with 100,000 Deadweight; Part c) replacing 800.00 feet with 900.00 feet. The last three sentences of Paragraph shall read as follows:

- a) Vessels up to 45.00 feet in draft,
- b) Vessels up to 100,000 Deadweight tons,
- c) Vessels up to 900.00 feet in length.

All interested persons may submit written comments relative to this rule through October 15, 1993 to the Captain Donald Short, Board of River Port Pilot Commissioners, Box 848, Belle Chasse, LA, 70037.

Captain Donald Short  
President

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Pilot Application/Licenses/Operations**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The proposed amendments to the rules and regulations of the Board of River Port Pilot Commissioners will not result in any costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The proposed amendments to the rules and regulations of the Board of River Port Pilot Commissioners will not affect the revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
The proposed amendments will require river port pilot petitioners to acquire additional practical experience prior to filing a petition to be a river port pilot. There are no direct costs to the petitioners, however, the petitioners will be required to obtain approximately 180 days of additional maritime work experience prior to filing a petition to be a river pilot.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
The proposed amendments to the rules and regulations of the Board of River Port Pilot Commissioners will not directly affect

the competition and employment of those petitioners seeking to be river port pilots.

Captain Donald Short  
President

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Labor  
Plumbing Board**

**Licensing and Renewal Fee Changes  
(LAC 46:LV.Chapter 3)**

In accordance with the Administrative Procedure Act, R.S. 49:50 et seq., notice is hereby given that the Plumbing Board intends to amend its Regulations to comply with Act No. 43 of 1993, which relates to the licensing of master plumbers. The proposed rule changes also would enact adjustments in master plumber licensing and renewal fees. The Board is empowered to adopt such regulations by R.S. 37:1366(D).

The proposed rule changes are as follows:

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS  
Part LV. Plumbers**

**Chapter 3. Licenses**

**§301. Licenses Required**

A. - C. ...

D. No natural person shall engage in the work of a master plumber unless he possesses a master plumber's license or renewal thereof issued by the board. The board shall issue a master plumber license to any person who qualifies under the board's regulations and who desires to engage in doing the work of a master plumber if he passes a written examination given by the board and pays the fees established by the board. A written examination shall not be required for persons applying pursuant to §301.I and §303.C. A master plumber shall not engage in the work of a journeyman plumber unless he also possesses a journeyman plumber's license issued by the board or previously possessed a journeyman plumber's license issued by the board. A person issued a master plumber's license shall designate to the board, as required by the rules of the board, an employing entity, which may be a corporation, partnership, or sole proprietorship. A licensed master plumber shall notify the board of any change of employment status with an employing entity within 30 days of the effective date of change in employment status. A master plumber shall designate no more than one employing entity at any time. The board may charge a reasonable fee for processing such redesignations.

\* \* \*

I. A restricted master plumber license, as permitted by R.S. 37:1368.(C) and (D), shall be issued by the board to any natural person who, prior to July 1, 1990, possessed a master plumber license issued by a local governmental jurisdiction or

to a journeyman plumber licensed by this board who was permitted by local law to conduct a plumbing business in a local governmental jurisdiction as an employing entity. Any person holding a restricted master plumber's license shall not perform the work of a journeyman plumber unless he currently possesses or previously possessed a journeyman plumber's license issued by the board. This restricted master plumber license shall permit the license holder to perform the work and business of plumbing only in the geographic area previously covered by the local governmental authority and only within the scope of plumbing work or business permitted by such local license or local law. Any employing entity designated by a restricted master plumber shall likewise be limited to the conduct of its plumbing business to the geographic area and scope of plumbing work or business described in the license issued to the restricted master plumber.

J. An inactive master plumber, as that term is used in R.S. 37:1368(E), shall mean a natural person who is licensed by the board as a master plumber or who successfully applies for and passes the examination for master plumber license administered by the board pursuant to §305 of these rules. An applicant for inactive master plumber status must state in a form supplied by the board that he does not wish or intend to practice as a master plumber. An inactive master plumber shall not be permitted to designate an employing entity, or knowingly allow an employing entity to hold itself out as employing him as a master plumber. An inactive master plumber can convert his status to that of a master plumber by submitting to the board an appropriate form supplied by the board and upon payment of a fee established by the board. During the period of his inactive status the inactive master plumber shall pay a fee established by the board. An inactive master plumber converting his status under this Section shall designate an employing entity. Persons issued a restricted master plumber license under §301.I of these rules shall likewise be permitted to apply for inactive master plumbing status. However, should that person convert his status to that of master plumber such converted status shall be subject to the same restrictions applicable to his original restricted license. An inactive master plumber shall be permitted to work as a journeyman plumber during the period or periods he maintains an inactive plumber's license, if he is currently or was previously licensed by the board as a journeyman plumber.

**AUTHORITY NOTE:** Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

**HISTORICAL NOTE:** Adopted by the Department of Labor, Plumbing Board, 1968, repromulgated as amended, by Department of Employment and Training, Plumbing Board, LR 17:49 (January 1991), amended by the Department of Labor, Plumbing Board, LR 19:

**§309. Fees**

A. ...

B. The fees and charges of the board relative to master plumbers, restricted master plumbers and inactive master plumbers shall be as follows:

1. - 2. ...

3. Initial license fee \$180

- 4. Renewal fee \$180
- 5. Revival fee \$ 60
- (If renewed after March 31st) \$120
- 6. - 9. ...
- 10. Fee for conversion of inactive master plumber license to active master plumber \$150

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1366 and R.S. 37:1377.

**HISTORICAL NOTE:** Promulgated by the Department of Labor, Plumbing Board, 1968, amended by the Department of Employment and Training, LR 17:53 (January 1991), amended by Department of Labor, Plumbing Board, LR 19:

Interested persons may submit written comments to Don Traylor, Executive Director, Louisiana State Plumbing Board, 603 Europe Street, Baton Rouge, LA 70802 on or before September 30, 1993.

Don Traylor  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Plumbers**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There are no implementation costs or savings, since the proposed rule amends and replaces an existing rule relating to licensing of plumbers and the proposed fee adjustments are revenue neutral.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no effect on revenue collection.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
The proposed rule relieves a class of master plumbers of the obligation to obtain additional journeyman plumber licensing. The concomitant fee adjustments cause a combination of the previously required separate master and journeyman license fees. No added fees are proposed.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
The proposed rule will have a slight positive effect on competition because of its effect of streamlining licensing requirements for master plumbers.

Louis L. Robein, Jr.  
Board Attorney

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of Alcoholic Beverage Control**

**Beer and Wine Sampling (LAC 55:VII.317)**

Under the authority of the Alcoholic Beverage Control Law, particularly R.S. 26:287 and R.S. 26:150(A), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the commissioner gives notice that rulemaking procedures have been initiated to amend the Liquor Credit Regulations, LAC 55:VII.317(D) (6).

LAC 55:VII.317(D) (6) is being revised to reflect the department's authority to permit wine sampling on the premises of a Class A or B permit holder for the maximum duration of one day, restricted to sampling twice per month if the permit holder grosses 75 percent of its average monthly revenue from the sale of alcoholic beverages.

**TITLE 55**

**Part VII. Alcoholic Beverage Control**

**Chapter 3. Liquor Credit Regulations**

**§317. Regulation Number IX. Prohibition of Certain  
Unfair Business Practices in Malt Beverage  
Industry**

\* \* \*

**D. Exceptions**

\* \* \*

**6. Trade Calls**

a. Bar spending during trade calls, wherein the beer purchased by a manufacturer or wholesaler for a consumer is consumed on retail licensed premises in the presence of the giver, shall be lawful so long as the state's laws regulating retail establishments such as the legal drinking age, etc., are observed and not more than \$150 is expended during the trade call. No such trade calls may occur on college campuses. Manufacturers and wholesalers may be accompanied by entertainers, sports figures and other personalities during trade calls. The trade calls may be pre-announced to consumers in the retail account through table tents, posters and other inside signs. No outside advertising of such events through signs or any media is allowed.

b. The gift of beer as a purely social courtesy to unlicensed friends and associates of a manufacturer or wholesaler shall be lawful.

c. Beer sampling tests for the purpose of determining consumer taste preferences may be conducted on premises holding a regular Class A or B permit, provided that notification in writing is provided the department at least one week prior to the date of the testing.

d. Wine sampling tests for the purpose of determining consumer taste preferences may be conducted on premises holding a regular Class B permit if the permittee grosses at least 75 percent of its average revenue from the sale of alcoholic beverages.

i. No wholesaler or manufacturer shall furnish, give or lend any equipment, fixtures, signs, supplies, money, services or other thing of value, directly or indirectly, for such wine sampling tests.

ii. No wine sampling in a greater quantity than two ounces per bottle for each type of wine shall be offered or provided any one individual at any one sampling test.

iii. All wine sampling tests shall be limited in duration to one day.

iv. No more than two wine sampling tests shall be conducted on the same licensed premises in each month.

v. Written notification shall be provided the Office of Alcoholic Beverage Control at least one week prior to the date of the wine sampling.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 26:287 and R.S. 26:150(A).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety, Office of Alcoholic Beverage Control, LR 4:463 (November 1978), amended LR 4:464 (November 1978), LR 5:11 (January 1979), amended by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 17:607 (June 1991), LR 19:

These proposed regulations are scheduled to become effective on November 20, 1993, or upon publication in the *Louisiana Register*.

All interested persons are invited to submit written comments on the proposed regulations no later than 4:30 p.m., October 30, 1993, to Ray Holloway, Commissioner, Box 66404, Baton Rouge, LA 70896. Commentors should reference this proposed regulation by the log number §317.

Raymond E. Holloway  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Beer and Wine Sampling**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There should be no additional implementation costs to the state or to local governmental units because the additions represented can be handled by existing staff.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There should be on effect on revenue collections of the state or to local governmental units as the additions represented will not add or delete permit requirements nor will the additions represent increased or reduced permit fees charged.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

There should be an economic benefit to permit holders as wine sampling will give them the potential to reach additional customers.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

Raymond E. Holloway  
Assistant Secretary

John R. Rombach  
Legislative Fiscal Officer

## NOTICE OF INTENT

### Department of Social Services Office of Family Support

#### Food Stamps—Educational Assistance Income Exclusions (LAC 67:III.Chapter 19)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 3, the Food Stamp Program.

Food Stamp Policy Memorandum SOE 93-69 dated June 24, 1993, directed that, effective July 1, 1993, certain exclusions from educational assistance income have been revised. This action was mandated by Public Law 102-325. Revisions have also necessitated corrections in codification of Subsections A through D, with no language changes made in A through C.

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 3, Food Stamps.

#### Title 67

#### SOCIAL SERVICES

#### Part III. Office of Family Support

#### Subpart 3. Food Stamps

#### Chapter 19. Certification of Eligible Households

#### Subchapter E. Students

#### §1937. Student Related Provisions

A. The term institution of higher education has been changed to institution of post secondary education. The definition has also been expanded to include any public or private educational institutions which admit persons who are age 16 or older provided that the institution is legally authorized or recognized by the state to provide an educational program beyond secondary education or provides a program of training to prepare students for gainful employment.

B. Educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like that are provided to a third party on behalf of the household for living expenses such as rent or mortgage, personal clothing or food eaten at home shall be treated as money payable directly to the household and not excluded as a vendor payment.

C. Origination fees and insurance premiums on student loans are excludable charges. Only the amount of the loan after these charges have been excluded is to be considered income.

#### D. Exclusions from Education Assistance

1. The entire amount of the following types of educational assistance are excluded without regard to earmarking or verification of actual school expenses:

a. Title IV, Higher Education Act, for school period beginning on or after July 1, 1993.

b. Title IV, College Work Study, Federal, for school period beginning on or after July 1, 1993. Not all Federal College Work Study come under Title IV; these are handled the same as State College Work Study funds.

c. Title IV, Bureau of Indian Affairs, for school period beginning on or after July 1, 1993.

d. Job Training Partnership Act (JTPA). Earnings from on the job training under Section 204(5) Title II for household members over 18 years of age are considered earned income, subject to the 20 percent earned income deduction.

e. Title XIII, Indian Higher Education Programs, effective October 1, 1992.

2. All other educational assistance will be excluded in the same manner regardless of the source of the assistance, i.e., an exclusion from educational income shall be granted based on amounts either earmarked by the institution, school program, or other grantor or verified by the student as made available for the specific costs of tuition, mandatory fees, books, supplies, transportation, and miscellaneous personal expenses (other than living expenses).

3. The definition of mandatory fees includes the rental or purchase of any equipment, materials, and supplies related to the pursuit of the course of study involved.

4. The maximum age level of students attending institutions of higher education who are prohibited from receiving food stamp assistance is 50 years of age.

5. Eligible student status shall be granted to students participating in a state or federally financed work study program during the regular school year and the work incentive program under Title IV of the Social Security Act or its successor programs.

6. The funds from PASS (Plan for Achieving Self-Support) accounts will be excluded as income for the food stamp program.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 271.2, 273, and 278, F.R. 51:30045 et seq. and P.L. 102-325.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security LR 12:756 (November 1986), amended LR 13:91 (February 1987). Amended by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 19:885 (July 1993), LR 19:

Interested persons may submit written comments within 30 days to the following address: Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA, 70804-4065. Mr. Prejean is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held at 9 a.m. on September 28, 1993 in the Second Floor Auditorium, 755 Third Street, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Gloria Bryant-Banks  
Secretary

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Food Stamps—Educational Assistance Income Exclusions

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated cost to state government to implement the proposed action is the cost of printing a two page executive

bulletin and a two page manual revision which inform staff of the policy changes. The total cost for printing is \$96.62. The rule will have no impact on any local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposal will increase benefits to some Food Stamp recipients in that they may have less countable income in determining eligibility, but the economic benefits cannot be readily identified.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposal will have no impact on competition and employment.

Howard L. Prejean  
Assistant Secretary

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

### Department of Social Services Office of Rehabilitation Services

#### Personal Care Attendant Policy (LAC 67:VII.1101-1125)

In accordance with the provisions of R.S. 49:953 (B) of the Administrative Procedure Act, the Department of Social Services, Rehabilitation Services is proposing revisions to the rules governing its Personal Care Attendant Program, LAC 67:VII.1101 through 1125.

This proposed action is necessary to correct information concerning participation in the Personal Care Attendant Program.

#### Title 67

### SOCIAL SERVICES

#### Part VII. Louisiana Rehabilitation Services

#### Chapter 11. Personal Care Attendant Policy

#### §1101. Mission

A. General Statement. The Legislature of Louisiana recognizes the right of people with severe physical disabilities to lead independent and productive lives. With this in mind, this same legislature created the Personal Care Assistance (PCA) Program in order that required PCA services to assist in the tasks of daily living be provided. The mission of the PCA Program is to provide for an orderly sequence of services related to the PCA needs of those persons with severe disabilities who are determined eligible for the program.

B. Program Administration. The Department of Social Services, through the Louisiana Rehabilitation Services (LRS) Office, is responsible for the administration of the PCA Program.

C. The Manual's Function. This manual sets forth the policies of the LRS in carrying out this mission.

D. Exceptions. The secretary or secretary's designee shall

have the sole responsibility for any exceptions to this policy manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:

#### §1103. Enabling Legislation

Act 653, Chapter 27-A of Title 46 of the Louisiana Revised Statutes of 1950, comprising R.S. 46:2116 through 2116.5 relative to PCA services for individuals with severe disabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:

#### §1105. Definitions

The following terms shall have the meaning ascribed to them in Act 653, unless the context clearly requires otherwise:

*CIL*—a Center for Independent Living is an agency designated and funded by LRS to provide independent living services to individuals with severe disabilities according to the Title VII Part B guidelines.

*Department*—the Department of Social Services.

*Evaluation Team*—the individuals who determine the eligibility of individuals with severe disabilities for PCA services pursuant to Act 653 and shall be composed of the following three individuals:

a. a representative from LRS with experience in providing services to individuals with severe physical disabilities;

b. an occupational therapist with experience in providing services to individuals with severe physical disabilities;

c. a representative from the Office of Eligibility Determinations, Long Term Care Program.

*Individuals with Severe Disabilities*—an individual with loss of sensory or motor functions interfering with activities of daily living to the extent that the person requires assistance with nonmedical personal care needs, domestic or cleaning needs, dressing and undressing, moving into and out of bed, ambulation, related services including but not limited to meal preparation, laundry, and grocery shopping, and other similar activities of daily living.

*Personal Care Assistance Services*—services which are required by individuals with severe disabilities between 18 and 55 years of age to achieve greater independence and which include but are not limited to services related to:

a. routine bodily functions, such as bowel or bladder care;

b. dressing;

c. preparation and consumption of food;

d. housecleaning and laundry;

e. moving in and out of bed;

f. routine bathing;

g. ambulation;

h. any other similar activity of daily living.

*Qualified Provider*—must be a Center for Independent



Living as defined by the Rehabilitation Act of 1973, as amended in 1978 and 1992.

*Secretary*—the secretary of the Department of Social Services.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:

### §1107. General Requirements

#### A. Non-Discrimination

1. All programs administered by and all services provided by the agency shall be rendered on a non-discrimination basis without regard to race, creed, color, sex, religion, age national origin, or status with regard to public assistance in compliance with all appropriate state and federal laws and regulations.

2. Discrimination Prohibited. Title VI of the Civil Rights Act of 1964 states: "No person in the United States shall, on the grounds of race, color or national origin, be excluded from participation, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance."

B. Compliance with state laws, federal laws and regulations, and departmental policies and procedures. Staff involved in the PCA Program shall comply with all state and federal laws, including Department of Social Services, LRS policies and procedures and Civil Service rules and regulations as applicable.

C. Cost-Effective Service Provision. PCA services shall be provided in a cost effective manner without supplanting any existing services for attendant care.

D. Case File Documentation. All providers of PCA services must maintain a case file for each PCA applicant/client. The case file shall contain documentation to support the decision to provide, deny, or amend services. Documentation of the amounts and dates of each service provided to support all claims for reimbursement must also be included in the case file.

E. Expedient Service Delivery. All referrals, applications and provision of services will be handled expeditiously and equitably.

F. Civil Rights and Equal Employment Opportunities with Regard to Employees of Affected Programs. Title VI of the Civil Rights Act of 1964, as amended, prohibits job discrimination because of age, race, color, sex or national origin, and Title V of the Rehabilitation Act of 1973, prohibits job discrimination because of a handicapping condition. The provisions of these Acts apply to services and programs administered by the Louisiana Rehabilitation Services.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:

### §1109. Confidentiality

A. General Statement. All personal information in the possession of the agency/provider shall be used only for purposes directly connected with the administration of the program.

B. Notification to Clients. Individuals asked to supply information for the agency/provider shall be informed of the agency/provider's need to collect confidential information and the policies governing its use, release, and access including:

1. the confidentiality of information provided in the case file must contain documentation that the individual has been advised of the confidentiality of information pertinent to his case;

2. the principal purpose for which the agency/provider intends to use or release the requested data;

3. whether they may refuse or are legally required to supply the requested data;

4. any known consequence arising from not providing requested information;

5. the identity of other agencies to which information is routinely released.

C. Release of Confidential Information. The case file must contain documentation concerning any information released with the individual's written consent where needed. Informed written consent is not needed for the release of personal records in the following conditions. The client must be advised of these conditions:

1. public assistance agencies or programs from which the client has requested services or to which he is being referred for services under the circumstances for which his consent may be presumed;

2. doctors, hospitals, clinics, rehabilitation centers and independent living centers providing services to clients as authorized by the agency/provider;

3. confidential information will be released to an organization or an individual engaged in research, audit, or evaluation only for purposes directly connected with the administration of the state program (including research for the development of new knowledge or techniques which would be useful in the administration of the program) and if the organization or individual furnishes satisfactory assurance that the information will be used only for the purpose for which it is provided; that it will not be released to persons not connected with the study under consideration; and that the final product of the research will not reveal any information that may serve to identify any person about whom information has been obtained through the state agency without written consent of such person and the state agency. Information for research, audit, or evaluation will be issued only on the approval of the secretary or secretary's designee.

D. Client Access to Data. When requested in writing by the client or his representative, clients or applicants have the right to see and obtain in a timely manner copies of any information that the agency/provider maintains on them, including information in their case files, except:

1. medical and/or psychological information, when the service provider states in writing that disclosure to the individual would be detrimental to the client's physical or mental health;

2. medical, psychological, or other information which may be harmful to the client. NOTE: Such information may not be released directly to the individual, but must be released, with the individual's informed consent, to the client's representative, or a physician or a licensed or certified psychologist;



3. when personal information has been obtained from another agency or organization, it may be released only by or under the conditions established by the other agency or organization.

E. Informed Consent. Informed consent means that the client has signed an authorization to release information, which:

1. is in language that the individual understands;
2. is dated;
3. is specific as to the nature of the information which may be released;
4. specifically designates the parties to whom the information may be released;
5. is specific as to the purpose(s) for which the released information may be used;
6. is specific as to the expiration date of the informed consent, which must not exceed one year.

F. Court Orders, Warrants and Subpoenas. Subpoenaed case records and depositions are to be handled in the following manner:

1. with the written informed consent of the client, after compliance with the waiver requirements (signed informed consent of client or guardian), the court will be given full cooperation.

2. without the written informed consent of the client, when an employee is subpoenaed for a deposition or receives any other request for information regarding a client, he should:

- a. honor the subpoena;
- b. take subpoenaed case record or case material to the place of the hearing at the time and date specified on the subpoena;
- c. if called upon to testify or to present the case record information, inform the court of the following:
  - i. that the case record information or testimony is confidential information;
  - ii. the subpoenaed case record information is in agency/provider's possession;
  - iii. agency/provider personnel will testify and/or release the case record information only if ordered to do so by the court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:

### **§1111. Applicant and Client Appeal Rights**

A. Any individual who is aggrieved by a decision of the Louisiana Rehabilitation Services Agency with regard to a request for provision of PCA services may appeal said decision within 10 days from the date of the letter informing them of the denial decision taken on the PCA application or reduction in services by requesting an informal administrative review. This request must be made in writing to the director of Louisiana Rehabilitation Services, Post Office Box 94371, Baton Rouge, LA 70804-9371. The request can be prepared personally or with any other person of the individual's choice. The findings of the informal administrative review

must be determined within 45 working days from receipt of the request.

B. If the client is dissatisfied with the finding of this informal administrative review, within 10 days from the date of the informal administrative review decision, the request for a fair hearing must be made in writing to the director of Louisiana Rehabilitation Services, P.O. Box 94371, Baton Rouge, LA 70804-9371. The request can be prepared personally or with aid of any other person of the individual's choice. The fair hearing must be held within 45 working days of receipt of the request.

C. The impartial hearing officer will make a decision based on the provisions of the Louisiana Rehabilitation Services PCA Policy Manual and the law and provide to the applicant or client, or if appropriate, the representative, and to the director of LRS a full written report of the findings and grounds for the decision within 30 working days of the completion of the hearing.

D. PCA benefits shall remain unchanged during the appeal process until the final decision is reached.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:

### **§1113. Eligibility and Ineligibility Decisions**

A. Non-Discrimination and Non-Exclusion. The evaluation team must apply eligibility requirements without regard to sex, race, creed, color or national origin of the individual applying for service.

B. Eligibility Criteria set forth in Louisiana R.S. 46:2116.2 and as stated below are:

1. is an individual with severe disabilities;
2. is between the ages of 18 and 55. An individual who begins to receive services between the ages of 18 and 55 shall continue to receive services after age 55, provided that all other eligibility requirements are met;
3. has applied for Title XIX;
4. needs not less than 14 nor more than 35 hours a week of personal assistance services from this program or needs an attendant at night which services are necessary to prevent or remove the client from inappropriate placement in an institutional setting or enhance the client's employability;
5. written documentation from the treating physician must clearly state that the client is medically stable and is capable of directing the activities of a PCA attendant;
6. must have received Skilled Nursing Facility (SNF) or Intermediate Care Facility (ICF) services for at least 90 days during the 12 months prior to receiving PCA services. If the client has not received the required SNF or ICF services he/she must show evidence of needing Personal Care Assistant Services as listed in §1105, Definitions, on a permanent basis in order to achieve activities of daily living.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:

### **§1117. Care Plan for PCA Services**

A. A care plan is to be developed to determine the level of care needed. A care plan shall be initiated and updated every six months or more often, if indicated. The care plan and all updated plans shall be contained in the client's case record. The initial plan should be included with the application sent to the PCA evaluation team.

B. Client Participation. The client is to participate fully in the development of the care plan, including all changes and amendments. Client's signature is required for the care plan and any amendments.

C. Minimum content of the care plan:

1. identification of specific services to be delivered;
2. the frequency of service(s);
3. the beginning date and service review dates;
4. total number of hours per week per service.

D. Amendment of the Care Plan. When the client or provider identifies a need for a change to the original care plan, the client and the provider shall amend the plan to address the client's need(s). The amended plan shall be submitted to the PCA evaluation team if such changes are markedly different from the original plan.

E. Bi-Annual Care Plan Review. Every six months a review of the care plan is mandatory and shall be reflected on the amended plan. A review can be done before six months, if indicated. In all cases, the client shall be involved in any review and/or changes to his/her care plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:

### **§1119. Financial**

A. Prior Authorization. If an emergency situation exists where PCA services need to begin prior to the provider's receipt of written acceptance of client's application for PCA services, documentation in the client's case record must be given confirming verification of the emergency and the authorization received from the LRS program manager that PCA services can begin. The program manager must also follow up such authorization in writing within five days to the appropriate provider following such verbal authorization.

B. The recipient of PCA services will invoice provider bi-monthly in arrears for PCA services purchased and include copies of time sheets as verification of the services being provided. The invoice shall contain the following:

1. dates of services;
2. number of hours of PCA services per day;
3. rate of pay;
4. signature of PCA;
5. signature of PCA client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:

### **§1121. Qualified Provider Responsibilities**

A. Shall maintain a registry of persons interested in providing PCA services.

B. Shall maintain a waiting list of individuals wanting to apply for PCA services.

C. Shall take a pre-application on clients maintained on the waiting list in order to determine priority order as funds become available for serving additional clients. The provider shall utilize the pre-application form to determine the priority order to serve individuals on the waiting list.

D. When funds are available, the provider shall send the pre-application and application on the prioritized individual to the LRS program manager for determination or redetermination of eligibility.

E. Shall maintain a case record on each recipient or a pre-application. The case record must include, as a minimum, the pre-application form and, if applicable, a copy of the ineligibility letter, care plan and all amendments to this plan, documentation from medical and/or other appropriate sources, and any other additional material which is a necessary part of the application and/or reconsideration for PCA services.

F. A reconsideration is required to be completed bi-annually on all PCA recipients. If there is a change in circumstances, a revised care plan must also accompany the reconsideration which are to be sent to the LRS program manager.

G. Shall make available personal care management training to all individuals receiving services under this program.

H. Shall advise the applicant/client of the evaluation team's decision within five working days from receipt of the team's decision if found eligible for PCA services.

I. Shall maintain copies of the time sheets on the attendants in order to document the number of days and hours worked. Payments for the time worked shall be paid within a reasonable period of time after the invoice is received by the provider.

J. Shall investigate information brought to the provider's attention which causes question of continued eligibility. This could include such items as falsification of time sheets, misuse of PCA funds, and any other violation of the policy stated herein. This information shall be provided to the LRS program manager for disposition. If the information provided is substantiated, this shall be reason for denial of services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:

### **§1123. Evaluation Team Responsibilities**

A. Shall determine the eligibility of the person with a severe disability for PCA services, and

B. Re-evaluate the PCA recipient through bi-annual reviews of the reconsideration and care plan if applicable to determine the continued need for PCA services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:

### **§1125. Responsibilities of the Agency in the Eligibility Decision**

A. The agency shall follow the recommendations of the evaluation team; or

B. Shall give notice to the person within 20 days of receipt of the recommendations of the evaluation team of its reasons for not following the team's recommendations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:

Public hearings beginning at 10 a.m. will be held on September 27, 28, and 29, 1993, in Shreveport, Alexandria, and New Orleans, respectively. The hearing locations are as follows: Shreveport at 1525 Fairfield Avenue, LRS Regional Office; Alexandria at 900 Murray Street, LRS Regional Office; New Orleans at 2026 St. Charles Avenue, LRS Regional Office.

All interested persons will be afforded an opportunity to express issues, views, or concerns at the hearings. Written commentary will also be accepted by LRS prior to the hearings, during the hearings and through October 12, 1993, after the hearings. The written comments should be submitted to May Nelson, director, Louisiana Rehabilitation Services, Box 94371, Baton Rouge, LA 70804-9371.

Gloria Bryant-Banks  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Personal Care Attendant Policy Manual**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no anticipated implementation costs or savings.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Louisiana Rehabilitation Services has sufficient funds to provide Personal Care Attendant services as Act 14 was approved by the Louisiana Legislature.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
Louisiana Rehabilitation Services has \$750,000 State General Funds to provide services to individuals.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no proposed change in competition and employment in the public and private sectors.

May Nelson  
Director

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Social Services  
Office of The Secretary**

Child Care Assistance Program (LAC 67:I.Chapter 1)

The Department of Social Services, Office of the Secretary proposes to amend the following rule in the Child Care and

Development Block Grant Program effective January 1, 1994.

**Title 67**

**SOCIAL SERVICES**

**Part I. Office of the Secretary**

**Chapter 1. Child Care Assistance Program**

**§101. Child Care and Development Block Grant --**

**Eligibility Requirements:**

A. ...

1. household income does not exceed 75 percent of the state median income for a household of the same size.

a. Income is defined as gross earnings from all sources of employment. Earnings must be verified, using a minimum of four check stubs from the most recent four pay periods, or the standard verification form from the employer.

b. Medical expenses are deducted from the household's total earned income to determine income eligibility if they are:

- i. verified by the applicant;
- ii. regular and incurred at least once each month;
- iii. non-reimbursable by insurance or other sources;
- iv. not covered by Medicaid;
- v. \$35 or more each month.

Verification can consist of receipts from a drugstore or a doctor's office, etc., but must be sufficient to satisfy the criteria listed above. Deductions shown on check stubs for hospitalization or dental insurance are deducted as medical expenses;

\* \* \*

2. the family includes a child in need of child care services who is under age 13, or age 13 to age 18 and physically or mentally incapable of caring for himself or herself, as verified by a physician or certified psychologist, or under court supervision. If the child is not already placed with a child care provider, care must be scheduled to begin no later than 12 weeks following the date of application.

3. the child customarily resides fulltime with a parent(s) or guardian(s) who is applying for child care services;

4. the parent(s) or guardian(s), regardless of age, as well as all household members 18 years of age and older, is:

a. employed at least 20 hours per week (parent(s) or guardian(s) must also be earning gross wages equivalent to the federal minimum wage multiplied times 20 hours per week); or

b. attending a job training or educational program that is legally authorized by the state for at least 20 hours per week (attendance at a job training or educational program must be verified, including the date of completion); or

c. some combination of employment and training or education as defined in §101.A.4.b., above, that equals at least 20 hours per week, or the child is in need of or receiving protective services, in which case the parent(s) or guardian(s) and all adult members of the household are not required to be employed or attending a job training or educational program. Protective services status must be verified by the Office of Community Services.

5. the child for whom application is being made is not eligible for or receiving child care benefits through the Aid to Families with Dependent Children (AFDC) program (including AFDC Child Care Assistance, Project Independence child care, Transitional Child Care, etc.). A parent or guardian can

apply for Child Care Assistance 12 weeks prior to the termination of the child's eligibility for Transitional Child Care (TCC); if otherwise eligible, the applicant's name is placed on the waiting list until TCC eligibility is exhausted.

\* \* \*

7. Eligible cases are assigned a certification period of three to six months, beginning with the first month in which the eligibility determination is made. The parent or guardian of a child is required to report any changes that could affect eligibility or benefit amount within 10 days of knowledge of the change. Specifically, parents or guardians must report:

- a. address changes;
- b. household composition changes;
- c. employment or earned income changes;
- d. changes in attendance at training or educational programs;
- e. changes in regular medical expenses;
- f. changes in child care providers;
- g. receipt of Aid to Families with Dependent Children (AFDC);
- h. absences from child care of five or more consecutive working days;
- i. changes in the number of days or hours that a child is attending.

Failure to report a change that affects eligibility or benefit amount can result in action to recover ineligible benefits.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98, 45 CFR Part 99, 45 CFR Part 255 and 45 CFR Part 257.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:288 (March 1992), amended LR 18:1133 (October 1992), LR 18:1415 (December 1992), LR 19:

#### §102. Waiting Lists

A. ...

B. When all the funds for the current year have been obligated, no payments can be made for any additional children determined eligible. Instead, a waiting list is maintained for each parish. Eligibles on the waiting lists are assigned a priority code according to the following criteria:

1. A - children in need of protective services;
2. B - special needs children;
3. C - all other children.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98, 45 CFR Part 99, 45 CFR Part 255 and 45 CFR Part 257.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:1269 (November 1992), amended LR 19:

#### §103. Child Care Providers

A. - C. ...

D. Family child day care home providers and in-home child care providers must be at least 18 years of age to be eligible for participation. Under the Child Care and Development Block Grant Program, relatives providing child care to only grandchildren, nieces, and/or nephews must apply for registration as a Family Child Day Care Home, and must meet registration requirements within one year. The use of funds for sectarian worship or instruction, or the purchase of land or buildings, is prohibited.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98, 45 CFR Part 99, 45 CFR Part 255 and 45 CFR Part 257.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:288 (March 1992), amended LR 18:1269 (November 1992), LR 19:659 (May 1993), LR 19:784 (June 1993), LR 19:

#### §104. Payments

A. - D. ...

E. Payments will be authorized at the following rates, for the following number of hours:

1. Payment rate shall be the lesser of:
  - a. the standard state maximum hourly rate, or
  - b. the actual hourly rate charged, determined by dividing the provider's actual weekly charges by the child's actual number of weekly hours of attendance.
2. The number of hours authorized for payment:
  - a. for a child attending school shall be the lesser of:
    - i. the total number of hours per week the parent(s) or guardian(s) is working or in school or training, minus the number of hours the child is in school while the parent is working or in school or training, plus one hour for each day the parent(s) or guardian(s) is working or in school or training, or
    - ii. the number of hours the child is actually in care.
  - b. for all other situations shall be the lesser of:
    - i. the total number of hours per week the parent(s) or guardian(s) is working or in school or training, plus one hour for each day the parent(s) or guardian(s) is working or in school or training, or
    - ii. the number of hours the child is actually in care

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98, 45 CFR Part 99, 45 CFR Part 255 and 45 CFR Part 257.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:288 (March 1992), amended LR 18:1269 (November 1992), LR 19:784 (June 1993), LR 19:

Interested persons may submit written comments by September 24, 1993 to the following address: William Ludwig, deputy secretary, Department of Social Services, Box 3776, Baton Rouge, LA 70821. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on September 24, 1993 in the Second Floor Auditorium, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

Gloria Bryant-Banks  
Secretary

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Child Care Assistance Payment for Services

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no fiscal impact resulting from this proposed rule, as it simply revises eligibility requirements, specifies that waiting lists are maintained for each parish, details registration requirements for relatives providing child care, and defines the rates and hours of payments that will be authorized.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact 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)

In FFY 92/93, the Child Care and Development Block Grant allocated to Louisiana \$23,623,963 (of which 75 percent, or \$17,717,972, can be expended by the Child Care Assistance Program). In FFY 93/94, the allocation will be \$25,562,882, of which \$19,172,162 will be spent for Child Care Assistance. It is anticipated that future allocations will be slightly higher. This action will not change the total funds allocated to Louisiana. Eligibility requirements have been revised to allow more persons to become or remain eligible; management of waiting lists of over 5900 eligible children is explained; registration requirements are clarified; and the formula for computing benefit amounts is provided. Funds will therefore be expended on an expanded group of eligibles, as detailed by this action.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no impact anticipated on competition or employment.

William Ludwig  
Deputy Secretary

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Treasury  
Board of Trustees of the State Employees Group Benefits Program**

**Rate Adjustment**

Notice is hereby given that the Department of the Treasury, Board of Trustees of the State Employees Group Benefits Program intends to adopt the following rate increase, effective July 1, 1993, as follows:

**State Employees Group Benefits Program  
Schedule of Rates  
July 1, 1993**

	<u>Employee Share</u>	<u>State Share</u>	<u>Total Rate</u>
<b>Active Employees</b>			
Single	\$93.10	\$75.10	\$168.20
Two-Party	\$151.06	\$133.06	\$284.12
Family	\$182.54	\$164.54	\$347.08
<b>Retired Employees</b>			
Single Coverage- Without Medicare	\$93.10	\$285.38	\$378.48
Single Coverage- With Medicare	\$54.04	\$36.04	\$90.08

Two Party Coverage- None with Medicare	\$151.06	\$505.62	\$656.68
Two Party Coverage- One with Medicare	\$109.86	\$349.10	\$458.96
Two Party Coverage- Two with Medicare	\$102.58	\$84.58	\$187.16
Family Coverage- None with Medicare	\$182.54	\$625.26	\$807.80
Family Coverage- One with Medicare	\$138.74	\$458.82	\$597.56
Family Coverage- Two with Medicare	\$129.52	\$111.52	\$241.04
<b>Surviving Dependent(s)</b>			
Single Coverage- Without Medicare	\$168.20	\$0.00	\$168.20
Single Coverage- With Medicare	\$90.08	\$0.00	\$90.08
Two Party- None with Medicare	\$284.12	\$0.00	\$284.12
Two Party- One with Medicare	\$201.72	\$0.00	\$201.72
Two Party- Two with Medicare	\$187.16	\$0.00	\$187.16
Family Coverage- None with Medicare	\$347.08	\$0.00	\$347.08
Family Coverage- One with Medicare	\$259.48	\$0.00	\$259.48
Family Coverage- Two with Medicare	\$241.04	\$0.00	\$241.04
<b>COBRA Rates</b>			
Single	\$171.56	\$0.00	\$171.56
Two-Party	\$289.80	\$0.00	\$289.80
Family	\$354.04	\$0.00	\$354.04
<b>Part-Time Employees</b>			
Single	\$96.46	\$75.10	\$171.56
Two-Party	\$156.74	\$133.06	\$289.80
Family	\$189.50	\$164.54	\$354.04
<b>Disability Rate (29 Month COBRA)</b>			
Single	\$252.32	\$0.00	\$252.32
Two-Party	\$426.20	\$0.00	\$426.20
Family	\$520.64	\$0.00	\$520.64

Comments or objections will be accepted, in writing, by the executive director of the State Employees Groups Benefits Program until 4:30 p.m. on October 9, 1993, at the following address: James R. Plaisance, executive director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804.

James R. Plaisance  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Rate Change**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The rate change proposed by the Board of Trustees of the Group Benefits Program would add \$18 in premium to each member of the program and risk rate those retirees, not covered by Medicare, in accordance with Act 705 of the 1991 Regular Session of the Louisiana Legislature. The total cost in state funding is estimated to be \$46,000,000, including \$33.2 million state general fund. It is estimated that a total revenue of \$61,900,000 (\$56.75 mil for indemnity plan plus \$5.15 for HMOs) will be generated to the state employees group benefits program in employee and state contribution.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The rates adopted by the Board of Trustees of the SEGBP will be applied to all agencies participating in the program. It is estimated that \$33.2 mil will come from general fund agencies, and \$12.8 mil coming from non-state agencies. In addition, approximately \$15.9 mil will be paid by the employees. Total revenue to the program will increase by \$61.9 mil.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Each covered member of the State Employees Group Benefits Program will have \$18 added to their monthly health insurance premium (\$216 annually). This cost will be paid entirely by the member. Non-governmental groups are not covered by the program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be effected.

James R. Plaisance  
Executive Director

David W. Hood  
Senior Fiscal Analyst

# LEGISLATION

## LEGISLATION

### 1993 Regular Session Louisiana Legislature

Amendments to Administrative Procedure Act, R.S. 49:950 et seq., Enactment of R.S. 49:981-987

#### ACT NO. 119 HOUSE BILL NO. 1157

BY REPRESENTATIVES ACCARDO, SAM THERIOT, ACKAL, ALARIO, COPELIN, DEWITT, AND ARMSTRONG AND SENATORS BANKSTON, BAGNERIS, BRINKHAUS, KELLY AND NUNEZ

#### AN ACT

To amend and reenact R.S. 49:953(A)(2)(b) and (B)(2), 954.1(C), and 968(D)(1) and (2), (E)(1)(b), and (H)(2) and to enact R.S. 49:968(H)(3), relative to rulemaking and legislative oversight procedures; to provide for reports; to provide for legislative oversight hearings; to provide for publication; to

provide for exceptions; to provide for substantive changes; to provide for public hearings; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1.R.S. 49:953(A)(2)(b) and (B)(2), 954.1(C), and 968(D)(1) and (2), (E)(1)(b), and (H)(2) are hereby amended and reenacted and R.S. 49:968(H)(3) is hereby enacted to read as follows:

#### §953. Procedure for adoption of rules

A. Prior to adoption, amendment or repeal of any rule, the agency shall:

\* \* \*

(2)

\* \* \*

(b) Make available to all interested persons copies of any rule intended for adoption, amendment, or repeal from the time the notice of its intended action is published in the Louisiana Register. Any hearing pursuant to the provisions of this Paragraph shall be held no earlier than thirty-five days and no later than forty days after the publication of the Louisiana Register in which the notice of the intended action appears. The agency shall consider fully all written and oral submissions respecting the proposed rule. The agency shall, upon request, make available to interested persons the report submitted pursuant to R.S. 49:968(D) no later than one working day following the submittal of such report to the legislative oversight subcommittees.

\* \* \*

B.

\* \* \*

(2) Notice of the emergency rule shall be mailed to all persons who have made timely request of the agency for notice of rule changes, which notice shall be mailed within five days of adoption of the emergency rule. The office of the state register may omit from the Louisiana Register any emergency rule the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient, if the emergency rule in printed or processed form is made available on application to the adopting agency, and if the Louisiana Register contains a notice stating the general subject matter of the omitted emergency rule, the reasons for the finding of the emergency submitted by the agency, and stating how a copy thereof may be obtained.

\* \* \*

§954.1 Louisiana Administrative Code and Louisiana Register; publication; distribution; copies; index; interagency rules

\* \* \*

C. The Department of the State Register shall publish such rules, notices, statements, and other such matters as submitted by the rulemaking agency without regard to their validity. However, the State Register may omit from the Louisiana Register or Louisiana Administrative Code any rule the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient, if the rule in printed or processed form is made available on application to the adopting agency, and if the Louisiana Register or Louisiana Administrative Code, as the case may be, contains a notice stating the general subject matter of the omitted rule and stating how a copy thereof may be obtained.

\* \* \*

**§968. Review of agency rules; fees**

\* \* \*

D.(1)(a) The chairman of each standing committee to which reports are submitted shall appoint an oversight subcommittee, which may conduct hearings on all rules that are proposed for adoption, amendment, or repeal and on all proposed fee adoptions, increases, or decreases. Any such hearing shall be conducted after any hearing is conducted by the agency pursuant to R.S. 49:953(A)(2).

(b) The agency shall submit a report to the subcommittee, in the same manner as the submittal of the report provided for in Subsection B of this Section, which shall include:

(i) A summary of all testimony at any hearing conducted pursuant to R.S. 49:953(A)(2).

(ii) A summary of all comments received by the agency, a copy of the agency's response to the summarized comments, and a statement of any tentative or proposed action of the agency resulting from oral or written comments received.

(iii) A revision of the proposed rule if any changes to the rule have been made since the report provided for in R.S. 49:968(B) was submitted, or a statement that no changes have been made.

(iv) A concise statement of the principal reasons for and against adoption of any amendments or changes suggested.

(2)(a) Except as provided in Paragraph H(2) of this Section, any subcommittee hearing on a proposed rule shall be held no earlier than five days and no later than thirty days following the day the report required by R.S. 49:968(D)(1)(b) is received by the subcommittee.

(b) The oversight subcommittee may consist of the entire membership of the standing committee and shall consist of at least a majority of the membership of the standing committee, at the discretion of the chairman of the standing committee, with the concurrence of the speaker of the House of Representatives or the president of the Senate. House and Senate oversight subcommittees may meet jointly or separately to conduct hearings for purposes of rules review.

\* \* \*

E.(1)

\* \* \*

(b) No later than three weeks before the deadline for legislative oversight action, the chairman of the subcommittee may request, by letter, the consent of the subcommittee members to have a mail ballot instead of a meeting to consider a proposed rule or proposed fee action. If no objection is received within ten days of the chairman's request, the chairman shall cause a mail ballot to be sent to the members of the subcommittee. In order for the subcommittee to reject a proposed rule or proposed fee action, a majority of ballots returned to the chairman at least twenty-four hours prior to the deadline for legislative oversight action must disapprove the change. Any determination by the subcommittee shall be made within the period provided for oversight hearings in R.S. 49:968(D)(2).

\* \* \*

H.

\* \* \*

(2) Substantive changes to a rule proposed for adoption,

amendment, or repeal occur if the nature of the proposed rule is altered or if such changes affect additional or different substantive matters or issues not included in the notice required by R.S. 49:953(A)(1). Whenever an agency seeks to substantively change a proposed rule after notice of intent has been published in the Louisiana Register pursuant to R.S. 49:953(A)(1), the agency shall hold a public hearing on the substantive changes preceded by an announcement of the hearing in the Louisiana Register. A notice of the hearing shall be mailed within ten days after the date the announcement is submitted to the Louisiana Register to all persons who have made request of the agency for such notice. Any hearing by the agency pursuant to this Paragraph shall be held no earlier than thirty days after the publication of the announcement in the Louisiana Register. The agency hearing shall conform to R.S. 49:953(A)(2)(b), and a report on the hearing shall be made to the oversight committees in accordance with R.S. 49:968(D)(1)(b). The agency shall make available to interested persons a copy of such report no later than one working day following the submittal of such report to the oversight committees. Any determination as to the rule by the oversight committees, prior to gubernatorial review as provided in R.S. 49:968(G), shall be made no earlier than five days and no later than thirty days following the day the report required by this Paragraph is received from the agency.

(3) If a rule or part of a rule that is severable from a larger rule or body of rules proposed as a unit is found unacceptable, the rules or parts thereof found acceptable may be adopted by the agency in accordance with Paragraph (1) of this Subsection.

\* \* \*

Approved by the Governor, May 26, 1993.

A true copy:

W. Fox McKeithen  
Secretary of State

**ACT NO. 274**

**HOUSE BILL NO. 1214**

BY REPRESENTATIVES DEWITT, HOPKINS, ODINET,  
PIERRE, AND SIRACUSA AND SENATOR BANKSTON

**AN ACT**

To enact R.S. 49:953(F) relative to the procedure for adoption of agency rules; to provide an additional procedure relative to adoption of certain rules by the Department of Environmental Quality; to provide that the Department of Environmental Quality shall adopt and promulgate any rule or rules which are not identical to federal law or which are not required by federal law separately and provide an explanatory summary therefor; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1.R.S.:49:953(F) is hereby enacted to read as follows:

**§953. Procedure for adoption of rules**

\* \* \*

F.(1) Notwithstanding any other provision of this Chapter to the contrary, if the Department of Environmental Quality proposed a rule that is not identical to a federal law or regulation or is not required for compliance with a federal law or regulation, the Department of Environmental Quality shall



adopt and promulgate such proposed rule separately from any proposed rule or set of proposed rules that is identical to a federal law or regulation or required for compliance with a federal law or regulation. However, if the only difference between the proposed rule or set of proposed rules and the corresponding federal law or regulation is a proposed fee, the Department of Environmental Quality shall not be required to adopt and promulgate such proposed rule or set of proposed rules separately. For purposes of this Subsection, the term "identical" shall mean that the proposed rule has the same content and meaning as the corresponding federal law or regulation.

(2) When the Department of Environmental Quality proposes a rule that is not identical to a corresponding federal law or regulation, or is not required for compliance with a federal law or regulation, the Department of Environmental Quality shall provide a brief summary which explains the basis and rationale for the proposed rule, identifies the data and evidence, if any, upon which the rule is based, and identifies any portions of the proposed rule that differ from federal law or regulation if there is a federal law or regulation which is not identical but which corresponds substantially to the proposed rule. Such summary shall be provided along with the notice of intent and shall be published in the Louisiana Register or made available along with the proposed rule as provided in R.S. 49:953:(A)(1)(b)(ii). The Department of Environmental Quality may also provide such a summary when proposing a rule identical to a corresponding federal law or regulation or proposing a rule which is required for compliance with federal law or regulation to explain the basis and rationale for the proposed rule.

Approved by the Governor, June 2, 1993.

Published in the Official Journal of the State:

June 28, 1993.

A true copy:

W. Fox McKeithen

Secretary of State

### ACT NO. 379

### SENATE BILL NO. 324

BY SENATOR KELLY AND REPRESENTATIVE BRUNEAU  
AN ACT

To enact Chapter 13-A of Title 49 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 49:981 through 987, relative to the authority of the office of the state register; to authorize the office to make certain technical and clerical changes to the Louisiana Register and Louisiana Administrative Code; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 13-A of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 49:981 through 987, is hereby enacted to read as follows:

#### Chapter 13-A. Revision of Louisiana's Administrative Code

#### §981. Continuous revision under supervision of Division of Administration, office of the state register

The office of the state register, as the official entity to receive, compute, index, and publish the Louisiana Register

and Louisiana Administrative Code, shall direct and supervise the continuous revision, clarification, and coordination of the Louisiana Register and Louisiana Administrative Code in a manner not inconsistent with the provisions of this Chapter.

#### §982. New regulation; incorporation in Louisiana Register and Louisiana Administrative Code; resolution of conflicting rules

A. Upon receipt of any rules promulgated under the Administrative Procedure Act, the office of the state register shall prepare the "Louisiana Register", containing the rules to be promulgated in the Louisiana Administrative Code as they may have been amended or repromulgated and omitting therefrom those sections that have been repealed. There shall also be incorporated therein, in an appropriate place and classification, the text of all the new rules of a general and public nature, assigning to these rules in an appropriate title, part, chapter, and section number, and indicating the statutory authority of the rules from which they are taken.

B. When a conflict between two or more rules affecting the same subject matter in the same provision or regulation cannot be resolved for the purpose of incorporating the text into the Louisiana Administrative Code, the office of the state register shall so notify the secretary of the department or administrative officer charged with the promulgation of the rule prior to preparing the Louisiana Administrative Code. The secretary or administrative officer shall be notified of the proposed correction. If no written disapproval of the secretary or administrative officer, or his designee, of the proposed correction is received by the office of the state register within seven days after the secretary or administrative officer receives the notice, the office of the state register shall then direct the printer to incorporate into the Louisiana Administrative Code the text of the provision of the rule properly promulgated.

#### §983. Incorporation of current rules and regulations procedure

A. In preparing the Louisiana Register or the Louisiana Administrative Code as provided for in R.S. 49:981, the office of the state register shall not alter the sense, meaning, or effect of any rule properly promulgated under the Administrative Procedure Act, but it may:

- (1) Renumber and rearrange sections or parts of sections.
- (2) Transfer sections or divide sections so as to give to distinct subject matters a separate section number, but without changing the meaning.
- (3) Insert or change the wording of headnotes.
- (4) Change reference numbers to agree with renumbered parts, chapters, or sections.
- (5) Substitute the proper section, chapter, or part number for the terms "this part", "the preceding section" and the like.
- (6) Strike our figures where they are merely a repetition of written words and vice-versa.
- (7) Change capitalization for the purpose of uniformity.
- (8) Correct manifest typographical and grammatical errors.
- (9) Make any other purely formal or clerical changes in keeping with the purpose of the revision.

B. The office of the state register shall notify the secretary or administrative officer charged with promulgation of the rule prior to making any proposed revision authorized by this

Section. If no written disapproval of the secretary or administrative officer, or his designee, of the proposed revision is received by the office of the state register within seven days after the secretary or administrative officer receives the notice, the office of the state register shall proceed with the revision.

**§984. Alphabetical or numerical sequence of laws**

A. Whenever a rule defines terms, enumerates provisions or items, or otherwise sets forth provisions of a rule in a numerical or alphabetical listing or sequence, and such provision, as promulgated, fails to establish or fails to maintain an existing alphabetical or numerical sequence, the office of the state register, in preparing the Louisiana Register and the Louisiana Administrative Code as provided for by R.S. 49:983, shall rearrange and renumber or redesignate the provisions to the extent necessary to place all of them in consistent order.

B. The office of the state register shall notify the secretary or administrative officer charged with promulgation of the rule prior to making any proposed revision authorized by this Section. If no written disapproval of the secretary or administrative officer, or his designee, is received by the office of the state register within seven days after the secretary or administrative officer receives the notice, the office of the state register shall proceed with the revision.

C. This requirement is in addition to any other authority granted to the office of the state register in the preparation of the Louisiana Register or the Louisiana Administrative Code, particularly by R.S. 49:983.

**§985. Submitting copy to the proper party**

A draft of the Louisiana Administrative Code prepared by the office of the state register shall be submitted to the appropriate secretary or administrative officer charged with the promulgation of any rule prior to transmittal to the printer.

**§986. Filing of copy with commissioner of administration; certificate of correctness; printing**

Any edition of the Louisiana Administrative Code, or of any supplement thereto, prepared in the manner provided in R.S. 49:982 and 983, shall be certified by the office of the state register that each section therein has been compared with the original sections in the official copy of the Louisiana Register with the final provisions of the promulgated rules from which the sections were derived, and that with the exception of the changes of form permitted in R.S. 49:983, the sections are correct. The office of the state register shall order the printing of an edition sufficient in number to supply the demand. When the edition has been printed, the office of the state register shall affix to one copy of the printed edition the office of the state register's original certificate and file the same for record in his office. All other copies of the same edition may contain a printed facsimile of the office's certificate.

**§987. Printing and publication of Louisiana Register; proof of certified edition**

The office of the state register may enter into contracts with private publishers for the printing, publication, sale, and distribution of any edition of the Louisiana Register and the Louisiana Administrative Code prepared by the office of the state register and certified by it pursuant to the provisions of

this Chapter. Those editions so authorized by the office of the state register and containing the printed facsimile of the office of the state register's certificate of correctness shall be admissible as prima facie evidence of the rules contained therein.

Approved by the Governor, June 7, 1993.

A true copy:

W. Fox McKeithen  
Secretary of State

**ACT NO. 386  
SENATE BILL NO. 753  
BY SENATOR BRINKHAUS  
AN ACT**

To amend and reenact R.S. 49:952(3) and 953(A)(2)(a) and (b) and to enact R.S. 49:953(A)(1)(a)(vii), relative to preamble and comments of proposed rules; to provide that such preambles and comments be available for public inspection; to provide for agency responses to comments and submission; to provide for deadlines for such responses; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 49:952(3) and 953(A)(2)(a) and (b) are hereby amended and reenacted and R.S. 49:953(A)(1)(a)(vii) is hereby enacted to read as follows:

**§952. Public information; adoption of rules; availability of rules and orders**

Each agency which engages in rulemaking shall:

\* \* \*

(3) Make available for public inspection all rules, preambles, responses to comments, and submissions and all other written statements of policy or interpretations formulated, adopted, or used by the agency in the discharge of its functions and publish an index of such rules, preambles, responses to comments, submissions, statements, and interpretations on a regular basis.

\* \* \*

**§953. Procedure for adoption of rules**

A. Prior to the adoption, amendment, or repeal of any rule, the agency shall:

(1)(a) Give notice of its intended action and a copy of the proposed rules at least ninety days prior to taking action on the rule. The notice shall include:

\* \* \*

(vii) A statement indicating whether the agency has prepared a preamble which explains the basis and rationale for the intended action, summarizes the information and data supporting the intended action, and provides information concerning how the preamble may be obtained.

\* \* \*

(2)(a) Afford all interested persons reasonable opportunity to submit data, views, comments, or arguments, orally or in writing. In case of substantive rules, opportunity for oral presentation or argument must be granted if requested within twenty days after publication of the rule as provided in this Subsection, by twenty-five persons, by a governmental subdivision or agency, by an association having not less than twenty-five members, or by a committee of either house of the legislature to which the proposed rule change has been

referred under the provisions of R.S. 49:968.

(b) Make available to all interested persons copies of any rule intended for adoption, amendment, or repeal from the time the notice of its intended action is published in the Louisiana Register. Any hearing pursuant to the provisions of this Paragraph shall be held no earlier than thirty-five days and no later than forty days after the publication of the Louisiana Register in which the notice of intended action appears. The agency shall consider fully all written and oral comments and submissions respecting the proposed rule. The agency shall issue a response to comments and submissions describing the principal reasons for and against adoption of any amendments or changes suggested in the written or oral comments and submissions. In addition to the response to comments, the agency may prepare a preamble explaining the basis and rationale for the rule, identifying the data and evidence upon which the rule is based, and responding to comments and submissions. Such preamble and response to comments and submissions shall be furnished to the respective legislative oversight subcommittees at least five days prior to the day the legislative oversight subcommittee hearing is to be held on the proposed rule, and shall be made available to interested persons no later than one day following their submission to the appropriate legislative oversight subcommittee. If no legislative oversight hearing is to be held, the agency shall issue a response to comments and submissions and preamble, if any, to any person who presented comments or submissions on the rule and to any requesting person not later than fifteen days prior to the time of publication of the final rule.

Approved by the Governor, June 7, 1993.

A true copy:

W. Fox McKeithen  
Secretary of State

**ACT NO. 733**  
**SENATE BILL NO. 794**  
**BY SENATOR THOMPSON**  
**AN ACT**

To amend and reenact R.S. 49:968(B)(15), relative to the Administrative Procedure Act; to provide for legislative review of proposed rules of certain public retirement systems; and to provide for related matters.

Notice of intention to introduce this Act has been published.

Be it enacted by the Legislature of Louisiana:

Section 1.R.S. 49:968(B)(15) is hereby amended and reenacted to read as follows:

**§968. Review of agency rules; fees**

B. Prior to the adoption, amendment, or repeal of any rule or the adoption, increasing, or decreasing of any fee, the agency shall submit a report relative to such proposed rule change or fee adoption, increase, or decrease to the appropriate standing committees of the legislature and the presiding officers of the respective houses as provided herein. The report shall be so submitted on the same day the notice of the intended action is submitted to the Louisiana Register for publication in accordance with R.S. 49:953(A)(1). The report shall be submitted to each standing committee at the committee's office in the state capitol by certified mail with return receipt requested or by messenger who shall provide a receipt for signature. The return receipt or the messenger's

receipt shall be proof of receipt of the report by the committee.

\* \* \*

(15)(a) The Department of the Treasury and all of the agencies made a part of it, except as otherwise provided in this Paragraph shall submit the report to the House Committee on Appropriations and the Senate Committee on Finance.

(b) Each retirement system made a part of the Department of the Treasury shall submit the report to the House Committee on Retirement and the Senate Committee on Retirement.

\* \* \*

Approved by the Governor, June 21, 1993.

A true copy:

W. Fox McKeithen  
Secretary of State

# POTPOURRI

## POTPOURRI

**Department of Agriculture and Forestry**  
**Office of Agricultural and Environmental Sciences**  
**Horticulture Commission**

### Examination Dates

The next retail floristry examinations will be given October 25-29, 1993 at 9:30 a.m. at the 4-H Mini Farm Building, LSU Campus, Baton Rouge, LA. The deadline for sending application and fee is September 24, 1993 at 4:30 p.m. No applications will be accepted after September 24, 1993.

Further information pertaining to the examination may be obtained from Craig M. Roussel, director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3318, phone (504) 925-7772.

Bob Odom  
Commissioner

## POTPOURRI

**Office of the Governor**  
**Office of the Oil Spill Coordinator**

### Interagency Council Meeting

In accordance with R.S. 30:2458(A), notice is hereby given that the Oil Spill Interagency Council will meet on September 9, 1993, at 2:00 p.m. in the 11th Floor Conference Room,

1885 Wooddale Boulevard, Baton Rouge, L.A. All interested persons are cordially invited to attend.

Further information may be obtained by calling (504) 922-3230.

Roland J. Guidry  
Oil Spill Coordinator

**POTPOURRI**

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

**Long Term Care Eligibility**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is providing notice that the proposed rule entitled Medicaid Countable Resources, published in the April 20, 1993 issue of the *Louisiana Register*, Volume 19, Number 4 will not be adopted as a rule in the Medical Assistance Program.

Rose V. Forrest  
Secretary

**POTPOURRI**

**Department of Labor  
Office of Employment Security  
Research and Statistics**

**Workers' Compensation Weekly Benefit**

Pursuant to Act 583 of the Regular Session of the 1975 Louisiana Legislature, this state's average weekly wage upon which the maximum worker's compensation weekly benefit amount will be based, effective September 1, 1993, has been determined by the Department of Labor to be \$424.91.

Leonard King  
Assistant Director

1993		
Pages		Issue
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113 —	262 .....	February
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567 —	718 .....	May
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983 —	1084 .....	August

**AGRICULTURE AND FORESTRY**

**Agricultural and Environmental Sciences, Office of**

- Azinphos-Methyl, 834ER
- Commercial applicators, 361N, 735R
- Herbicide ban, 790N
- Pesticide waste/pesticide cash sales, 216N, 609R
- Pest management, 833ER, 833ER
- Plant pest quarantines, 557P
- Rice certification, 514N, 724ER, 888R

**Agro-Consumer Services, Office of**

- Mileage fees, 515N, 889R
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