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# Executive Orders

## EXECUTIVE ORDER BJ 10-02

Support to Oklahoma

WHEREAS, the Governor of the State of Oklahoma has issued an Emergency Declaration as a result of severe winter storms that have impacted the State.

WHEREAS, the Governor of the State of Oklahoma has requested assistance from the State of Louisiana by waiving those portions of the Federal Motor Carrier Safety regulations found in 44 CFR Parts 390 through 399 to facilitate motor carrier transportation which is responding to the essential services and supply needs of the State of Oklahoma, such as electrical, sewer, water, telecommunications, fuel, food and water.

WHEREAS, the Federal Motor Carrier Safety Regulations as found in Title 49, Code of Federal Regulations allow for a state to recognize and support the suspension of those requirements in the event of an emergency declaration of another state.

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

SECTION 1: The enforcement of the regulatory provisions of 49 CFR Parts 390 through 399 as applied to

motor carrier transportation which is responding to provide essential services and supplies in support of the severe weather emergency in the State of Oklahoma are hereby suspended.

SECTION 2: The suspension authorized in this order shall remain in effect for a period of 30 days unless terminated sooner.

SECTION 3: Nothing in this order shall be interpreted to suspend any other state or federal laws or regulations other than those federal regulations which are specifically addressed in this order. All other laws and regulations shall remain in full force and effect.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 3rd day of February, 2010.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
1002#106

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

#### Adult Dentures—Denture Replacement and Reline Limits (LAC 50:XXV.503)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXV.503 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repealed the provisions governing adult denture services in LAC 50:XVII under the Durable Medical Equipment Program and repromulgated these provisions as LAC 50:XXV Chapters 1-7 (*Louisiana Register*, Volume 31, Number 7).

As a result of a budgetary shortfall in state fiscal year 2010, the bureau has determined that it is necessary to amend the provisions of the July 20, 2005 Rule governing the Adult Denture Program to extend the time period allowed for denture replacements and relines. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Adult Denture Program by approximately \$83,025 for state fiscal year 2009-2010.

Effective January 22, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Adult Denture Program to extend the time period for denture replacements and relines.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XXV. Adult Dentures

#### Chapter 5. Covered Services

#### §503. Denture Replacement and Denture Reline

A. Effective for dates of service on or after January 22, 2010, only one complete or partial denture per arch is allowed in an eight-year period. The eight-year time period begins from the date that the previous complete or partial denture for the same arch was delivered. A combination of

two complete or partial denture relines per arch or one complete or partial denture and one reline per arch is allowed in an eight-year period, as prior authorized by the bureau or its designee.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:81 (January 2005), repromulgated LR 31:1589 (July 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1002#009

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing and Office of Aging and Adult Services

#### All Inclusive Care for the Elderly Reimbursement Rate Reduction (LAC 50:XXIII.1301)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services proposes to amend LAC 50:XXIII.1301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the Program of All Inclusive Care for the Elderly (PACE) to: 1) remove the requirement that eligibility decisions be approved by the state administering agency; 2) revise PACE disenrollment criteria; 3) allow for service area specific rates instead of one statewide rate; and 4) clarify when the obligation for patient liability begins (*Louisiana Register*, Volume 33, Number 5).

As a result of a budgetary shortfall in state fiscal year 2010, the department has determined that it is necessary to amend the provisions governing the reimbursement methodology for PACE to reduce the reimbursement rates. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$127,292 for state fiscal year 2009-2010.

Effective January 22, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amends the provisions governing the reimbursement methodology for the Program of All Inclusive Care for the Elderly.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XXIII. All Inclusive Care for the Elderly**

**Chapter 13. Reimbursement**

**§1301. Payment**

A. - J.3. ...

K. Effective for dates of service on or after January 22, 2010, the maximum allowable reimbursement rates for PACE services shall be reduced by 5 percent of the rates on file as of January 21, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:250 (February 2004), amended LR 33:850 (May 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 36:

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

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

Alan Levine  
Secretary

1002#031

**DECLARATION OF EMERGENCY**

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

All Inclusive Care for the Elderly  
Repeal of Reimbursement Rate Reduction  
(LAC 50:XXIII.1301)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services repeals LAC 50:XXIII.1301.K in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall and to avoid a budget deficit in the medical assistance programs in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services (OAAS) promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for the Program of All Inclusive Care for the Elderly (PACE) to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 2). The Office of Aging and Adult Services implemented the Service Hour Allocation of Resources (SHARE) initiative for some of the programs administered by OAAS. This new method of allocating home and community-based services is designed to offer an acuity-based system for service allocation as a means of making certain programs more cost effective. As a result of the savings realized from SHARE implementation and previous rate reductions in other OAAS-administered programs, the department has now determined that it is not necessary to reduce the reimbursement rates for PACE. Therefore, the department proposes to repeal the provisions of the January 22, 2010 Emergency Rule which reduced the reimbursement rates for PACE.

Effective February 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services repeals the provisions of the January 22, 2010 Emergency Rule which reduced the reimbursement rates for the Program of All Inclusive Care for the Elderly.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XXIII. All Inclusive Care for the Elderly**

**Chapter 13. Reimbursement**

**§1301. Payment**

A. - J.3. ...

K. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:250 (February 2004), amended LR 33:850 (May 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 36:

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

Alan Levine  
Secretary

1002#070

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

#### Ambulatory Surgical Centers Reimbursement Rate Reduction (LAC 50:XI.7503)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XI.7503 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing repealed the April 20, 1977 Rule governing ambulatory surgical services and amended the provisions governing the reimbursement methodology for ambulatory surgical centers to reduce the reimbursement rates as a result of a budgetary shortfall in state fiscal year 2009. These provisions were promulgated in a codified format for inclusion in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 35, Number 9).

As a result of a budgetary shortfall in state fiscal year 2010, the bureau has determined that it is necessary to amend the provisions governing the reimbursement methodology for ambulatory surgical centers to further reduce the reimbursement rates paid for ambulatory surgical services. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce

expenditures in the Medicaid Program by approximately \$87,529 for state fiscal year 2009-2010.

Effective January 22, 2010 the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for ambulatory surgical centers.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XI. Clinic Services

##### Subpart 11. Ambulatory Surgical Centers

##### Chapter 75. Reimbursement

##### §7503. Reimbursement Methodology

A. - C. ...

D. Effective for dates of service on or after January 22, 2010, the reimbursement for surgical services provided by an ambulatory surgical center shall be reduced by 5.4 percent of the rate in effect on January 21, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1889 (September 2009), amended LR 36:

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

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

Alan Levine  
Secretary

1002#010

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

#### Ambulatory Surgical Centers Reimbursement Rate Reduction (LAC 50:XI.7503)

The Department of Health and Hospitals, Bureau of Health Services Financing hereby repeals and replaces the provisions of the January 22, 2010 Emergency Rule, in its entirety, governing ambulatory surgical centers and amends LAC 50:XI.7503 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in

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

The Department of Health and Hospitals, Bureau of Health Services Financing repealed the April 20, 1977 Rule governing ambulatory surgical services and amended the provisions governing the reimbursement methodology for ambulatory surgical centers to reduce the reimbursement rates as a result of a budgetary shortfall in state fiscal year 2009. These provisions were promulgated in a codified format for inclusion in the *Louisiana Administrative Code (Louisiana Register, Volume 35, Number 9)*.

As a result of a budgetary shortfall in state fiscal year 2010, the bureau determined that it was necessary to amend the provisions governing the reimbursement methodology for ambulatory surgical centers to further reduce the reimbursement rates paid for ambulatory surgical services (*Louisiana Register, Volume 36, Number 2*). The department has now determined that it is necessary to repeal the January 22, 2010 Emergency Rule in its entirety and proposes to amend the provisions governing the reimbursement methodology for ambulatory surgical centers to adjust the rate reduction.

This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$67,759 for state fiscal year 2009-2010.

Effective February 5, 2010 the Department of Health and Hospitals, Bureau of Health Services Financing repeals the January 22, 2010 Emergency Rule and amends the provisions governing the reimbursement methodology for ambulatory surgical centers to adjust the reimbursement rate reduction.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XI. Clinic Services**

#### **Subpart 11. Ambulatory Surgical Centers**

#### **Chapter 75. Reimbursement**

#### **§7503. Reimbursement Methodology**

A. - C. ...

D. Effective for dates of service on or after February 5, 2010, the reimbursement for surgical services provided by an ambulatory surgical center shall be reduced by 5 percent of the rate in effect on February 4, 2010.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1889 (September 2009), amended LR 36:

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box

91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

1002#048

### **DECLARATION OF EMERGENCY**

#### **Department of Health and Hospitals Bureau of Health Services Financing**

#### **CommunityCARE Program Immunization Pay-for-Performance Initiative Payment Levels (LAC 50:I.2915)**

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:I.2915 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law."

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the CommunityCARE Program in order to implement an immunization pay-for-performance initiative fee based on the provider's participation in the Louisiana Immunization Network for Kids Statewide and performance in achieving immunization benchmarks (*Louisiana Register, Volume 33, Number 6*).

As a result of a budgetary shortfall in state fiscal year 2010, the department has determined that it is necessary to amend the provisions governing the CommunityCARE Program to revise the payment levels for the pay-for-performance initiative. This action is being taken to avoid a budget deficit in the medical assistance program. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$67,984 for state fiscal year 2009-2010.

Effective February 1, 2010 the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for the CommunityCARE Program to reduce the payment rates for the immunization pay-for-performance initiative.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part I. Administration**

**Subpart 3. Medicaid Managed Care**

**Chapter 29. CommunityCARE**

**§2915. Immunization Pay-for-Performance**

A. - C.3. ...

D. Effective February 1, 2010, supplemental payments shall be available to physicians when 50-74 percent of the recipients who are age 24 months old are up-to-date with the appropriate vaccine series. The payment shall be \$0.25 per Medicaid recipient under the age of 21 linked to the CommunityCARE PCP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:1139 (June 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1002#032

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals**  
**Bureau of Health Services Financing**

Early and Periodic Screening, Diagnosis and Treatment  
Dental Program—Reimbursement Rate Reduction  
(LAC 50:XV.6905)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.6905 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of the allocation of additional funds during the 2008 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for dental services covered under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program to include coverage of two additional dental procedures, increase the reimbursement fees for designated dental services, discontinue the lifetime service limits for certain endodontic procedures and provide clarification regarding covered services (*Louisiana Register*, Volume 35, Number 9).

As a result of a budgetary shortfall in state fiscal year 2010, the bureau has determined that it is necessary to reduce the reimbursement fees for dental services in the EPSDT Dental Program. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the EPSDT Dental Program by approximately \$3,191,074 for state fiscal year 2009-2010.

Effective January 22, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing EPSDT dental services to reduce the reimbursement fees.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XV. Services for Special Populations**

**Subpart 5. Early and Periodic Screening,  
Diagnosis and Treatment**

**Chapter 69. Dental Services**

**§6905. Reimbursement**

A. - C. ...

D. Effective for dates of service on or after January 22, 2010, the reimbursement fees for EPSDT dental services shall be reduced to the following percentages of the 2008 National Dental Advisory Service Comprehensive Fee Report 70th percentile, unless otherwise stated in this Chapter:

1. 73 percent for diagnostic oral evaluation services;
2. 70 percent for the following periodic diagnostic and preventive services:
  - a. radiographs—periapical, first film;
  - b. radiograph—periapical, each additional film;
  - c. radiograph—panoramic film;
  - d. prophylaxis—adult and child;
  - e. topical application of fluoride, 0-15 years of age (prophylaxis not included); and
  - f. topical fluoride varnish, therapeutic application for moderate to high caries risk patients (under 6 years of age); and
3. 65 percent for the remainder of the dental services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:1138 (June 2007), amended LR 34:1032 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1890 (September 2009), LR 36:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and

Medicaid Services (CMS) if it is determined that submission to CMS for review and approval is required.

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

Alan Levine  
Secretary

1002#015

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Bureau of Health Services Financing**

End Stage Renal Disease Facilities  
Reimbursement Rate Reduction  
(LAC 50:XI.6901 and 6903)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XI.6901 and §6903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for end stage renal disease (ESRD) facilities to reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 9).

As a result of a budgetary shortfall in state fiscal year 2010, the bureau has now determined that it is necessary to further reduce the reimbursement rates for end stage renal disease facilities. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$539,362 for state fiscal year 2009-2010.

Effective January 22, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for end stage renal disease facilities to further reduce the reimbursement rates.

## **Title 50 PUBLIC HEALTH—MEDICAL ASSISTANCE Part XI. Clinic Services**

### **Subpart 9. End Stage Renal Disease Facilities**

#### **Chapter 69. Reimbursement**

##### **§6901. Non-Medicare Claims**

A. - C. ...

D. Effective for dates of service on or after January 22, 2010, the reimbursement to ERSD facilities shall be reduced by 5 percent of the rates in effect on January 21, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1022 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1891 (September 2009), amended LR 36:

##### **§6903. Medicare Part B Claims**

A. - C. ...

D. Effective for dates of service on or after January 22, 2010, the reimbursement to ERSD facilities for Medicare Part B claims shall be reduced by 5 percent of the rates in effect on January 21, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1891 (September 2009), amended LR 36:

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

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

Alan Levine  
Secretary

1002#016

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Bureau of Health Services Financing**

Family Planning Waiver  
Reimbursement Rate Reduction  
(LAC 50:XXII.2701)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXII.2701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this

Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions to implement a family planning research and demonstration project under the authority of a Section 1115 waiver (*Louisiana Register*, Volume 32, Number 8). This waiver provides family planning services to women from age 19 through 44 years old with income at or below 200 percent of the federal poverty level.

As a result of a budgetary shortfall in state fiscal year 2010, the department has determined that it is necessary to reduce the reimbursement rates paid for family planning waiver services. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Family Planning Waiver by approximately \$173,414 for state fiscal year 2009-2010.

Effective January 22, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for the Family Planning Waiver to reduce the reimbursement rates.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XXII. 1115 Demonstration Waivers**

##### **Subpart 3. Family Planning Waiver**

#### **Chapter 27. Reimbursement**

##### **§2701. Reimbursement Methodology**

A. ...

B. Effective for dates of service on or after January 22, 2010, the reimbursement rates for services provided in the Family Planning Waiver shall be reduced by five percent of the rates in effect on January 21, 2010.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1461 (August 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Bureau of Health Services Financing**

Federally Qualified Health Centers  
Service Limits and Reimbursement Rate Reduction  
(LAC 50:XI.10503 and 10701)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XI.10503 and 10701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing established provisions governing provider enrollment and clarified the provisions governing services and the reimbursement methodology for federally qualified health centers (*Louisiana Register*, Volume 32, Number 10).

As a result of a budgetary shortfall in state fiscal year 2010, the department has determined that it is necessary to reduce the reimbursement rates paid for dental encounters and to reduce the service limits for medically necessary services rendered by federally qualified health centers. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$7,534 for state fiscal year 2009-2010.

Effective January 22, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing federally qualified health centers.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XI. Clinic Services**

##### **Subpart 13. Federally Qualified Health Centers**

#### **Chapter 105. Services**

##### **§10503. Service Limits**

A. Federally qualified health center visits (encounters) are limited to 12 visits per year for medically necessary services rendered to Medicaid recipients who are 21 years of age or older. Visits for Medicaid recipients who are under 21 years of age and for prenatal and postpartum care are excluded from the service limitation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health

Services Financing, LR 32:1902 (October 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### **Chapter 107. Reimbursement Methodology**

#### **§10701. Prospective Payment System**

A. - D. ...

E. The PPS per visit rate for each facility will be increased on July 1 of each year by the percentage increase in the published *Medicare Economic Index* (MEI) for primary care services.

1. Effective January 22, 2010, PPS rates for dental encounters shall be excluded from the annual MEI increase.

F. ...

G. Effective for dates of service on or after January 22, 2010, the reimbursement for dental encounters shall be reduced by 3.4 percent of the fee amounts on file as of January 21, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1902 (October 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1002#019

### **DECLARATION OF EMERGENCY**

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

Home and Community-Based Services Waivers  
Adult Day Health Care—Reimbursement Rate Reduction  
(LAC 50:XXI.2915)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amends LAC 50:XXI.2915 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization

review and management, prior authorization, service limitations, drug therapy management, disease management and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of Aging and Adult Services amended the provisions governing the Adult Day Health Care (ADHC) Waiver to redefine and clarify the provisions of the waiver relative to the target population, the request for services registry, the comprehensive plan of care and support coordination services (*Louisiana Register*, Volume 34, Number 10). The October 20, 2008 Rule also amended the provisions governing the reimbursement methodology to reduce the comprehensive ADHC rate paid to providers as a result of adding support coordination as a separate service since these services were traditionally reimbursed as part of the comprehensive ADHC rate.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services have now determined that it is necessary to amend the provisions governing the reimbursement methodology for the ADHC Waiver to reduce the reimbursement rates. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Adult Day Health Care Waiver Program by approximately \$139,007 for state fiscal year 2009-2010.

Effective January 22, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing the reimbursement methodology for the Adult Day Health Care Waiver Program to reduce the reimbursement rates.

### **Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE  
Part XXI. Home and Community Based Services  
Waivers**

#### **Subpart 3. Adult Day Health Care**

### **Chapter 29. Reimbursement**

#### **§2915. Provider Reimbursement**

A. - D.2. ...

E. Effective for dates of service on or after January 22, 2010, the reimbursement rate for ADHC Waiver services shall be reduced by 5 percent of the rates on file as of January 21, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2170 (October 2008), repromulgated LR 34:2575 (December 2008), amended LR 36:

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

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

Alan Levine  
Secretary

1002#008

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Bureau of Health Services Financing and Office of Aging and Adult Services**

#### **Home and Community-Based Services Waivers Adult Day Health Care—Repeal of Reimbursement Rate Reduction (LAC 50:XXI.2915)**

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services repeals LAC 50:XXI.2915.E in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall and to avoid a budget deficit in the medical assistance programs in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for the Adult Day Health Care Waiver (ADHC) to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 2).

The Office of Aging and Adult Services (OAAS) implemented the Service Hour Allocation of Resources (SHARE) initiative for some of the programs administered by OAAS. This new method of allocating home and community-based services is designed to offer an acuity-based system for service allocation as a means of making certain programs more cost effective. As a result of the savings realized from SHARE implementation and previous rate reductions in other OAAS-administered programs, the department has now determined that it is not necessary to reduce the ADHC Waiver reimbursement rates. Therefore, the department proposes to repeal the provisions of the January 22, 2010 Emergency Rule which reduced the reimbursement rates for the ADHC Waiver.

Effective February 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services repeals the provisions of the January 22, 2010 Emergency Rule which reduced the reimbursement rates for the Adult Day Health Care Waiver.

## **Title 50 PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community Based Services Waivers**

### **Subpart 3. Adult Day Health Care**

#### **Chapter 29. Reimbursement**

##### **§2915. Provider Reimbursement**

A. - D.2. ...

E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2170 (October 2008), repromulgated LR 34:2575 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 36:

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

Alan Levine  
Secretary

1002#068

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities**

#### **Home and Community-Based Services Waivers Children's Choice—Reimbursement Rate Reduction (LAC 50:XXI.12101)**

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amends LAC 50:XXI.12101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities amended the provisions governing the reimbursement methodology for

the Children's Choice Waiver to implement an hourly wage enhancement payment to providers for direct care staff and direct support professionals who provide center-based respite services to Children's Choice Waiver recipients (*Louisiana Register*, Volume 34, Number 2). In September 2009, the department promulgated an Emergency Rule which amended the provisions governing the Children's Choice Waiver to clarify the family training service description and the components of this service that qualify for Medicaid payment (*Louisiana Register*, Volume 35, Number 9).

As a result of a budgetary shortfall in state fiscal year 2010, the department has determined that it is necessary to reduce the reimbursement rates paid for services in the Children's Choice Waiver. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the medical assistance program by approximately \$198,302 for state fiscal year 2009-2010.

Effective January 22, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend the provisions governing the reimbursement methodology for the Children's Choice Waiver to reduce the reimbursement rates.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE  
Part XXI. Home and Community-Based Services  
Waivers**

**Subpart 9. Children's Choice**

**Chapter 121. Reimbursement**

**§12101. Reimbursement Methodology**

A. - B.1. ...

2. Family training shall be reimbursed at cost.

3. - 4.j.iv. ...

C. Effective for dates of service on or after January 22, 2010, the reimbursement rates for Children's Choice Waiver services shall be reduced by 4.75 percent of the rates on file as of January 21, 2010.

1. Support coordination services and environmental accessibility adaptations shall be excluded from this rate reduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1987 (September 2002), LR 33:1872 (September 2007), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:250 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

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

Alan Levine  
Secretary

1002#012

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Bureau of Health Services Financing  
and**

**Office for Citizens with Developmental Disabilities**

**Home and Community-Based Services Waivers  
Supports Waiver—Reimbursement Rate Reduction  
(LAC 50:XXI.6101)**

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXI.6101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities amended the provisions governing the reimbursement methodology for the Supports Waiver to implement a wage enhancement payment to providers for direct support professionals and amended the service provisions to include support coordination as a covered service (*Louisiana Register*, Volume 34, Number 4).

As a result of a budgetary shortfall in state fiscal year 2010, the department has determined that it is necessary to amend the provisions governing the reimbursement methodology for Supports Waiver services to reduce the reimbursement rates. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$271,194 for state fiscal year 2009-2010.

Effective January 22, 2010 the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for the Supports Waiver to reduce the reimbursement rates.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE  
Part XXI. Home and Community Based Services  
Waivers**

**Subpart 5. Supports Waiver**

**Chapter 61. Reimbursement Methodology**

**§6101. Reimbursement Methodology**

A. - J. ...

K. Effective for dates of service on or after January 22, 2010, the reimbursement rates for supports waiver services shall be reduced by 5.35 percent of the rates on file as of January 21, 2010.

1. Support coordination services and personal emergency response system (PERS) services shall be excluded from the rate reduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 34:662 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

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

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

Alan Levine  
Secretary

1002#037

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

#### Home Health Program—Durable Medical Equipment Reimbursement Reduction (LAC 50:XIII.10301)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XIII.10301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in the medical assistance programs in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for medical equipment, supplies and appliances to reduce the reimbursement rates and to repromulgate the general provisions governing the reimbursement methodology, in its entirety, in the appropriate place in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 35,

Number 2). The final Rule was published September 20, 2009 (*Louisiana Register*, Volume 35, Number 9). In anticipation of projected expenditures in the Medical Vendor Program exceeding the funding allocated in the General Appropriations Act for state fiscal year 2010, the bureau promulgated an Emergency Rule to further reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 5). As a result of the allocation of additional funds by the legislature to lessen the impact of state fiscal year 2010 budget reductions, the bureau repealed the rate reduction provisions of the May 1, 2009 Emergency Rule (*Louisiana Register*, Volume 35, Number 8) and adjusted the reimbursement rate reductions (*Louisiana Register*, Volume 35, Number 8). The department subsequently amended the provisions of the August 4, 2009 Emergency Rule to exclude services to recipients under the age of 21 from the rate reduction (*Louisiana Register*, Volume 35, Number 9). The department promulgated an Emergency Rule to amend the provisions of the September 1, 2009 Emergency Rule to revise the formatting of LAC 50:XIII.10301 as a result of the promulgation of the September 20, 2009 final Rule governing the reimbursement methodology for medical equipment, supplies and appliances (*Louisiana Register*, Volume 35, Number 12).

As a result of a continuing budgetary shortfall in state fiscal year 2010, the department has determined that it is necessary to further reduce the reimbursement rates for medical equipment, supplies and appliances. This action is being taken to avoid a budget deficit in the medical assistance programs. It is anticipated that implementation of this Emergency Rule will reduce expenditures for medical equipment, supplies and appliances by approximately \$63,555 for state fiscal year 2009-2010.

Effective January 22, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for medical equipment, supplies and appliances under the Home Health Program to further reduce the reimbursement rates.

### Title 50

## PUBLIC HEALTH—MEDICAL ASSISTANCE

### Part XIII. Home Health Program

#### Subpart 3. Medical Equipment, Supplies and Appliances

#### Chapter 103. Reimbursement Methodology

#### §10301. General Provisions

A. - C.4. ...

D. Effective for dates of service on or after August 4, 2009, the reimbursement paid for medical equipment, supplies and appliances shall be reduced by four percent of the rates on file as of August 3, 2009.

1. The following medical equipment, supplies and appliances are excluded from the rate reduction:

- a. enteral therapy pumps and related supplies;
- b. intravenous therapy and administrative supplies;
- c. apnea monitor and accessories;
- d. nebulizers;
- e. hearing aids and related supplies;
- f. respiratory care (other than ventilators and oxygen);
- g. tracheostomy and suction equipment and related supplies;
- h. ventilator equipment;
- i. oxygen equipment and related supplies;

- j. vagus nerve stimulator and related supplies; and
- k. augmentative and alternative communication devices.

2. Effective for dates of service on or after September 1, 2009, medical equipment, supplies and appliances provided to recipients under the age of 21 are exempt from the 4 percent rate reduction implemented on August 4, 2009.

E. Effective for dates of service on or after January 22, 2010, the reimbursement paid for medical equipment, supplies and appliances shall be reduced by five percent of the rates on file as of January 21, 2010.

1. The following medical equipment, supplies and appliances are excluded from this rate reduction:

- a. enteral therapy, pumps and related supplies;
- b. intravenous therapy and administration supplies;
- c. apnea monitor and accessories;
- d. nebulizers;
- e. hearing aids and related supplies;
- f. respiratory care (other than oxygen);
- g. tracheostomy and suction equipment and related supplies;
- h. ventilators and related equipment;
- i. vagus nerve stimulator and related supplies; and
- j. augmentative and alternative communication devices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1894 (September 2009), amended LR 36:

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

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

Alan Levine  
Secretary

1002#013

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

#### Home Health Program—Durable Medical Equipment Reimbursement Reduction (LAC 50:XIII.10301)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XIII.10301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to

ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in the medical assistance programs in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for medical equipment, supplies and appliances to reduce the reimbursement rates and to repromulgate the general provisions governing the reimbursement methodology, in its entirety, in the appropriate place in the *Louisiana Administrative Code (Louisiana Register, Volume 35, Number 2)*. The final Rule was published September 20, 2009 (*Louisiana Register, Volume 35, Number 9*). In anticipation of projected expenditures in the Medical Vendor Program exceeding the funding allocated in the General Appropriations Act for state fiscal year 2010, the bureau promulgated an Emergency Rule to further reduce the reimbursement rates (*Louisiana Register, Volume 35, Number 5*). As a result of the allocation of additional funds by the legislature to lessen the impact of state fiscal year 2010 budget reductions, the bureau repealed the rate reduction provisions of the May 1, 2009 Emergency Rule (*Louisiana Register, Volume 35, Number 8*) and adjusted the reimbursement rate reductions (*Louisiana Register, Volume 35, Number 8*). The department subsequently amended the provisions of the August 4, 2009 Emergency Rule to exclude services to recipients under the age of 21 from the rate reduction (*Louisiana Register, Volume 35, Number 9*). The department promulgated an Emergency Rule to amend the provisions of the September 1, 2009 Emergency Rule to revise the formatting of LAC 50:XIII.10301 as a result of the promulgation of the September 20, 2009 final Rule governing the reimbursement methodology for medical equipment, supplies and appliances (*Louisiana Register, Volume 35, Number 12*).

As a result of a continuing budgetary shortfall in state fiscal year 2010, the department promulgated an Emergency Rule to further reduce the reimbursement rates for medical equipment, supplies and appliances (*Louisiana Register, Volume 36, Number 1*). The department now proposes to amend the January 22, 2010 Emergency Rule in order to revise the listing of medical equipment, supplies and appliances that are excluded from the rate reduction. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective February 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the January 22, 2010 Emergency Rule governing the reimbursement methodology for medical equipment, supplies and appliances covered under the Home Health Program.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part XIII. Home Health Program**  
**Subpart 3. Medical Equipment, Supplies and Appliances**  
**Chapter 103. Reimbursement Methodology**  
**§10301. General Provisions**

A. - C.4. ...

D. Effective for dates of service on or after August 4, 2009, the reimbursement paid for medical equipment, supplies and appliances shall be reduced by 4 percent of the rates on file as of August 3, 2009.

1. The following medical equipment, supplies and appliances are excluded from the rate reduction:

- a. enteral therapy pumps and related supplies;
- b. intravenous therapy and administrative supplies;
- c. apnea monitor and accessories;
- d. nebulizers;
- e. hearing aids and related supplies;
- f. respiratory care (other than ventilators and oxygen);
- g. tracheostomy and suction equipment and related supplies;
- h. ventilator equipment;
- i. oxygen equipment and related supplies;
- j. vagus nerve stimulator and related supplies; and
- k. augmentative and alternative communication devices.

2. Effective for dates of service on or after September 1, 2009, medical equipment, supplies and appliances provided to recipients under the age of 21 are exempt from the 4 percent rate reduction implemented on August 4, 2009.

E. Effective for dates of service on or after January 22, 2010, the reimbursement paid for medical equipment, supplies and appliances shall be reduced by 5 percent of the rates on file as of January 21, 2010.

1. The following medical equipment, supplies and appliances are excluded from this rate reduction:

- a. enteral therapy, pumps and related supplies;
- b. intravenous therapy and administration supplies;
- c. apnea monitor and accessories;
- d. nebulizers;
- e. hearing aids and related supplies;
- f. respiratory care (other than oxygen);
- g. tracheostomy and suction equipment and related supplies;
- h. ventilators and related equipment;
- i. vagus nerve stimulator and related supplies;
- j. augmentative and alternative communication devices.

2. Effective for dates of service on or after February 20, 2010, oxygen, equipment and related supplies shall also be excluded from the rate reduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1894 (September 2009), amended LR 36:

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

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

Alan Levine  
Secretary

1002#071

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals**  
**Bureau of Health Services Financing**

Home Health Program  
Nursing and Home Health Aide Services  
Reimbursement Rate Reduction  
(LAC 50:XIII.701)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XIII.701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repealed all prior Rules governing the reimbursement of home health services and adopted provisions which established a prospective reimbursement methodology for home health services and required prior authorization for medically necessary supplies used in the delivery of a home health service (*Louisiana Register*, Volume 22, Number 3). As a result of a budgetary shortfall, the reimbursement methodology for skilled nursing services was amended to establish a separate reimbursement rate when the nursing service is performed by a licensed practical nurse (*Louisiana Register*, Volume 27, Number 2).

As a result of a budgetary shortfall in state fiscal year 2010, the bureau has determined that it is necessary to amend the provisions governing the reimbursement methodology for home health services to reduce the reimbursement rates paid for intermittent nursing and home health aide services. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$263,923 for state fiscal year 2009-2010.

Effective January 22, 2010 the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement of nursing and home health aide services under the Home Health Program.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XIII. Home Health**

**Subpart 1. Home Health Services**

**Chapter 7. Reimbursement Methodology**

**§701. Nursing and Home Health Aide Services**

A. - A.4. ...

B. Reimbursement for intermittent nursing services and home health aide services is a prospective maximum rate per visit.

1. A separate reimbursement rate is established for nursing services at 80 percent of the rate in effect on January 31, 2000 when the nursing services are performed by a licensed practical nurse (LPN).

2. The rate in effect on January 31, 2000 continues to be paid when the nursing service is performed by a registered nurse (RN).

3. Effective for dates of service on or after January 22, 2010, the reimbursement rates for intermittent nursing services (performed by either a RN or LPN) and home health aide services shall be reduced by 8 percent of the rates in effect on January 21, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:654 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1002#020

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

Home Health Program  
Nursing and Home Health Aide Services  
Reimbursement Rate Reduction  
(LAC 50:XIII.701)

The Department of Health and Hospitals, Bureau of Health Services Financing hereby repeals and replaces the provisions of the January 22, 2010 Emergency Rule, in its entirety, governing nursing and home health aide services

covered under the Home Health Program, and amends LAC 50:XIII.701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repealed all prior Rules governing the reimbursement of home health services and adopted provisions which established a prospective reimbursement methodology for home health services and required prior authorization for medically necessary supplies used in the delivery of a home health service (*Louisiana Register*, Volume 22, Number 3). As a result of a budgetary shortfall, the reimbursement methodology for skilled nursing services was amended to establish a separate reimbursement rate when the nursing service is performed by a licensed practical nurse (*Louisiana Register*, Volume 27, Number 2).

As a result of a budgetary shortfall in state fiscal year 2010, the bureau determined that it was necessary to amend the provisions governing the reimbursement methodology for home health services to reduce the reimbursement rates paid for intermittent nursing and home health aide services (*Louisiana Register*, Volume 36, Number 2). The department has now determined that it is necessary to repeal the January 22, 2010 Emergency Rule in its entirety and proposes to amend the provisions governing the reimbursement methodology for home health services to adjust the rate reduction.

This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$131,961 for state fiscal year 2009-2010.

Effective February 9, 2010 the Department of Health and Hospitals, Bureau of Health Services Financing repeals the January 22, 2010 Emergency Rule and amends the provisions governing the reimbursement of nursing and home health aide services covered under the Home Health Program to adjust the reimbursement rate reduction.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XIII. Home Health**

**Subpart 1. Home Health Services**

**Chapter 7. Reimbursement Methodology**

**§701. Nursing and Home Health Aide Services**

A. - A.4. ...

B. Reimbursement for intermittent nursing services and home health aide services is a prospective maximum rate per visit.

1. A separate reimbursement rate is established for nursing services at 80 percent of the rate in effect on January 31, 2000 when the nursing services are performed by a licensed practical nurse (LPN).

2. The rate in effect on January 31, 2000 continues to be paid when the nursing service is performed by a registered nurse (RN).

3. Effective for dates of service on or after February 9, 2010, the reimbursement rates for intermittent nursing services (performed by either a RN or LPN) and home health aide services shall be reduced by 5 percent of the rates in effect on February 8, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:654 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1002#064

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services  
Non-Rural, Non-State Hospitals  
Low Income and Needy Care Collaboration  
(LAC 50:V.953)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.953 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions which established the prospective reimbursement methodology for inpatient hospital services rendered in private (non-state) acute care general hospitals (*Louisiana Register*, Volume 20, Number 6).

In compliance with Act 228 of the 2009 Regular Session of the Louisiana Legislature, the department promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for inpatient hospital services

to provide a supplemental Medicaid payment to non-rural, non-state hospitals that demonstrated substantial financial and operational challenges in the aftermath of Hurricanes Katrina, Rita, Gustav and Ike (*Louisiana Register*, Volume 35, Number 7). The July 1, 2009 Emergency Rule was amended in order to reorganize the provisions in the appropriate place in LAC 50:V.953 of the *Louisiana Administrative Code* as a result of August 4, 2009 Emergency Rules which amended the reimbursement methodology for inpatient hospital services (*Louisiana Register*, Volume 35, Number 10). In October 2009, the department also amended the provisions governing reimbursements to inpatient hospitals in order to align the prospective per diem rates more closely with reported costs (*Louisiana Register*, Volume 35, Number 10). Provisions governing reimbursements to children's specialty hospitals were erroneously incorporated into the provisions for the rate adjustment to acute care hospitals. The department promulgated an Emergency Rule in order to repeal the children's specialty hospital provisions from the rate adjustment for acute care hospitals (*Louisiana Register*, Volume 35, Number 12).

In January 2010, the department promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for inpatient hospital services in order to establish a Medicaid upper payment limit financing mechanism to provide supplemental payments to acute care general hospitals (*Louisiana Register*, Volume 36, Number 1). This initiative, known as the Low Income and Needy Care Collaboration, will provide supplemental payments to non-rural, non-state hospitals that enter into an agreement with a state or local governmental entity for the purpose of providing healthcare services to low income and needy patients. The department now proposes to amend the January 1, 2010 Emergency Rule in order to incorporate the provisions of the December 20, 2009 Emergency Rule and to reorganize these provisions in the appropriate place in the *Louisiana Administrative Code* (LAC). This action is being taken to secure new federal funding and to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program. This action will also assure that these provisions are promulgated in the appropriate location in the LAC.

Effective February 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the January 1, 2010 Emergency Rule governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals.

### Title 50

## PUBLIC HEALTH—MEDICAL ASSISTANCE

### Part V. Hospital Services

#### Subpart 1. Inpatient Hospitals

#### Chapter 9. Non-Rural, Non-State Hospitals

#### Subchapter B. Reimbursement Methodology

#### §953. Acute Care Hospitals

A. - G.3. ...

H. Neonatal Intensive Care Units (NICU)

1. Effective for dates of service on or after October 1, 2009, qualifying NICU Level III services with current per diem rates that are less than the NICU Level III specialty peer group rate shall have their per diem rates adjusted to equal 100 percent of the specialty group rate.

2. Effective for dates of service on or after October 1, 2009, qualifying NICU Level III regional services with current per diem rates that are less than 85 percent of the NICU Level III regional specialty group rate shall have their per diem rates adjusted to equal 85 percent of the specialty peer group rate.

I. Pediatric Intensive Care Unit (PICU)

1. Effective for dates of service on or after October 1, 2009, qualifying PICU Level I services with current per diem rates that are less than 77 percent of the PICU Level I specialty group rate shall have their per diem rates adjusted to equal 77 percent of the specialty peer group rate.

2. Effective for dates of service on or after October 1, 2009, qualifying PICU Level II services with current per diem rates that are less than the PICU Level II specialty group rate shall have their per diem rates adjusted to equal 100 percent of the specialty peer group rate.

J. Hospitals Impacted by Hurricane Katrina (Region 1). Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state acute care hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with those in §963.A and outpatient supplemental payments) will not exceed \$170,000,000.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state acute care hospital must be located in DHH Administrative Region 1 (New Orleans) and identified in the July 17, 2008 United States Government Accountability Office report as a hospital that has demonstrated substantial financial and operational challenges in the aftermath of Hurricane Katrina.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed a specified individualized hospital limit. Payments will be distributed based on Medicaid paid claims data from state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the hospital specific cap is reached, whichever occurs first.

K. Other Hospitals Impacted by Hurricanes Katrina and Rita. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state acute care hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with those in §959.C and §963.B payments) will not exceed \$10,000,000.

1. Qualifying Criteria. Non-rural, non-state acute care hospitals that do not qualify for payment under §953.E provisions may receive a supplemental payment if the hospital is located in either the New Orleans or Lake Charles metropolitan statistical area (MSA), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 1,000, but less than or equal to 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$130 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

L. Hospitals Impacted by Hurricanes Gustav and Ike. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state acute care hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §959.D and §963.C payments) will not exceed \$7,500,000.

1. Qualifying Criteria. Non-rural, non-state acute care hospitals that do not qualify for payment under §953.E or §953.F may receive a supplemental payment if the hospital is located in either DHH Administrative Region 2 (Baton Rouge) or 3 (Thibodaux), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 2,500, but less than or equal to 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$105 per Medicaid paid day.

iii. Qualifying hospitals with greater than 1,000, but less than or equal to 2,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$225 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

M. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to acute care hospitals shall be reduced by 6.3 percent of the per diem rate on file as of August 3, 2009.

1. Payments to small rural hospitals as defined in R.R. 40:1300 shall be exempt from this reduction.

2. - 2.b. Repealed.

N. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state acute care hospitals for inpatient services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

b. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a hospital

and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the inpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's inpatient Medicaid billed charges and Medicaid payments the hospital receives for covered inpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1896 (September 2009), repromulgated LR 35:2182 (October 2009), amended LR 36:

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

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

Alan Levine  
Secretary

1002#072

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services  
Non-Rural, Non-State Hospitals  
Reimbursement Rate Reduction  
(LAC 50:V.953, 955, 959 and 967)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.953, 955, and 959, and adopts §967 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior

authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year (SFY) 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which reduced the reimbursement rates paid to non-rural, non-state hospitals for inpatient services (*Louisiana Register*, Volume 35, Number 2). The final Rule was published in the *Louisiana Register* on September 20, 2009 (*Louisiana Register*, Volume 35, Number 9). The bureau further reduced the reimbursement rates in anticipation of a budgetary shortfall in SFY 2010 (*Louisiana Register*, Volume 35, Number 5). In July 2009, an Emergency Rule was promulgated to provide a supplemental payment to hospitals that demonstrated substantial financial and operational challenges in the aftermath of Hurricanes Katrina, Rita, Gustav and Ike (*Louisiana Register*, Volume 35, Number 7). As a result of the legislature allocating additional funds to lessen the impact of SFY 2010 budget reductions, the bureau repealed the rate reduction provisions of the May 1, 2009 Emergency Rule (*Louisiana Register*, Volume 35, Number 8) and adjusted the rate reductions (*Louisiana Register*, Volume 35, Number 8). In September 2009, the department promulgated an Emergency Rule which revised the reimbursement methodology for inpatient services rendered by children's specialty hospitals (*Louisiana Register*, Volume 35, Number 9). In October 2009, the bureau amended the July 1, 2009 Emergency Rule for supplemental payments to incorporate the provisions of the August 4, 2009 Emergency Rule which adjusted the rate reductions (*Louisiana Register*, Volume 35, Number 10). In November 2009, the department amended the August 4, 2009 Emergency Rule to incorporate the provisions of the October 20, 2009 Emergency Rule and reorganized these provisions in the appropriate place in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 35, Number 11). In January 2010, the department established a Medicaid upper payment limit financing mechanism to provide supplemental payments to hospitals for providing healthcare services to low income and needy patients (*Louisiana Register*, Volume 36, Number 1).

As a result of a continuing budgetary shortfall in state fiscal year 2010, the department has determined that it is necessary to further reduce the reimbursement rates for inpatient hospital services. This action is necessary to avoid a budget deficit in the medical assistance programs.

Taking the proposed per diem rate reduction into consideration, the department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private (non-state) inpatient hospital services and children's specialty hospital services under the State Plan are available at least to the extent that they are available to the general population in the state. It is anticipated that implementation of this Emergency Rule will reduce expenditures for inpatient hospital services by approximately \$11,660,998 for state fiscal year 2009-2010.

Effective January 22, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services to further reduce the reimbursement rates.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part V. Hospital Services**

##### **Subpart 1. Inpatient Hospitals**

#### **Chapter 9. Non-Rural, Non-State Hospitals**

##### **Subchapter B. Reimbursement Methodology**

#### **§953. Acute Care Hospitals**

A. - G.3. ...

H. Neonatal Intensive Care Units (NICU)

1. Effective for dates of service on or after October 1, 2009, qualifying NICU Level III services with current per diem rates that are less than the NICU Level III specialty peer group rate shall have their per diem rates adjusted to equal 100 percent of the specialty group rate.

2. Effective for dates of service on or after October 1, 2009, qualifying NICU Level III regional services with current per diem rates that are less than 85 percent of the NICU Level III regional specialty group rate shall have their per diem rates adjusted to equal 85 percent of the specialty peer group rate.

I. Pediatric Intensive Care Unit (PICU)

1. Effective for dates of service on or after October 1, 2009, qualifying PICU Level I services with current per diem rates that are less than 77 percent of the PICU Level I specialty group rate shall have their per diem rates adjusted to equal 77 percent of the specialty peer group rate.

2. Effective for dates of service on or after October 1, 2009, qualifying PICU Level II services with current per diem rates that are less than the PICU Level II specialty group rate shall have their per diem rates adjusted to equal 100 percent of the specialty peer group rate.

J. Hospitals Impacted by Hurricane Katrina (Region 1). Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state acute care hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with those in §963.A and outpatient supplemental payments) will not exceed \$170,000,000.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state acute care hospital must be located in DHH Administrative Region 1 (New Orleans) and identified in the July 17, 2008 United States Government Accountability Office report as a hospital that has demonstrated substantial financial and operational challenges in the aftermath of Hurricane Katrina.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed a specified individualized hospital limit. Payments will be distributed based on Medicaid paid claims data from state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the hospital specific cap is reached, whichever occurs first.

K. Other Hospitals Impacted by Hurricanes Katrina and Rita. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state acute care hospitals for services

rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with those in §959.C and §963.B payments) will not exceed \$10,000,000.

1. Qualifying Criteria. Non-rural, non-state acute care hospitals that do not qualify for payment under §953.E provisions may receive a supplemental payment if the hospital is located in either the New Orleans or Lake Charles metropolitan statistical area (MSA), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 1,000, but less than or equal to 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$130 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

L. Hospitals Impacted by Hurricanes Gustav and Ike. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state acute care hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §959.D and §963.C payments) will not exceed \$7,500,000.

1. Qualifying Criteria. Non-rural, non-state acute care hospitals that do not qualify for payment under §953.E or §953.F may receive a supplemental payment if the hospital is located in either DHH Administrative Region 2 (Baton Rouge) or 3 (Thibodaux), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 2,500, but less than or equal to 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$105 per Medicaid paid day.

iii. Qualifying hospitals with greater than 1,000, but less than or equal to 2,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$225 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

M. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to acute care hospitals shall be reduced by 6.3 percent of the per diem rate on file as of August 3, 2009.

1. Payments to small rural hospitals as defined in R.S. 40:1300 shall be exempt from this reduction.

2. - 2.b. Repealed.

N. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state acute care hospitals for inpatient services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

b. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the inpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's inpatient Medicaid billed charges and Medicaid payments the hospital receives for covered inpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

O. Effective for dates of service on or after January 22, 2010, the inpatient per diem rate paid to private hospitals shall be reduced by 6 percent of the per diem rate on file as of January 21, 2010.

1. Payments to small rural hospitals as defined in R.S. 40:1300 shall be exempt from this reduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), LR 36:

#### **§955. Long Term Hospitals**

A. - C. ...

D. Hurricane Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying long term hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §961.A payments) will not exceed \$500,000.

1. Qualifying criteria. In order to qualify for the supplemental payment, the long term hospital must have had at least 100 paid Medicaid days for state fiscal year 2008

service dates and must be located in one of the following DHH administrative regions:

- a. Region 1 (New Orleans);
- b. Region 2 (Baton Rouge);
- c. Region 3 (Thibodaux);
- d. Region 5 (Lake Charles); or
- e. Region 9 (Mandeville).

2. Each eligible hospital shall receive quarterly supplemental payments at the rate of \$40 per Medicaid paid day for state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the \$500,000 maximum payment limit for this group is reached, whichever occurs first.

E. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to long term hospitals for inpatient services shall be reduced by 6.3 percent of the per diem rate on file as of August 3, 2009.

1. - 2. Repealed.

F. Effective for dates of service on or after January 22, 2010, the prospective per diem rate paid to long term hospitals for inpatient services shall be reduced by 6 percent of the per diem rate on file as of January 21, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR: 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), LR 36:

#### **§959. Inpatient Psychiatric Hospital Services**

A. - C. ...

D. Free-Standing Psychiatric Hospitals Impacted by Hurricanes Katrina and Rita. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying free-standing psychiatric hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §953.F and §961.A payments) will not exceed \$10,000,000.

1. Qualifying criteria. Non-rural, non-state free-standing psychiatric hospitals that do not qualify for payment under §953.F provisions may receive a supplemental payment if the hospital is located in either the New Orleans or Lake Charles metropolitan statistical area (MSA), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 1,000 but less than, or equal to, 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$130 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

E. Free-Standing Psychiatric Hospitals Impacted by Hurricanes Gustav and Ike. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will

be issued to qualifying free-standing psychiatric hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §953.G and §961.C payments) will not exceed \$7,500,000.

1. Qualifying Criteria. Non-rural, non-state free-standing psychiatric hospitals that do not qualify for payment under §953.E or §953.F may receive a supplemental payment if the hospital is located in either DHH Administrative Region 2 (Baton Rouge) or 3 (Thibodaux), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 2,500, but less than or equal to 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$105 per Medicaid paid day.

iii. Qualifying hospitals with greater than 1,000, but less than or equal to 2,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$225 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

F. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals shall be reduced by 5.8 percent of the rate on file as of August 3, 2009.

1. - 2.b. Repealed.

G. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to non-rural, non-state distinct part psychiatric units shall be reduced by 6.3 percent of the rate on file as of August 3, 2009.

H. Effective for dates of service on or after January 22, 2010, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals shall be reduced by 6 percent of the per diem rate on file as of January 21, 2010.

I. Effective for dates of service on or after January 22, 2010, the prospective per diem rate paid to non-rural, non-state distinct part psychiatric units shall be reduced by 6 percent of the per diem rate on file as of January 21, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), LR 36:

### **§967. Children's Specialty Hospitals**

A. Routine Pediatric Inpatient Services. These services shall be paid at the lesser of cost or the target rate per discharge ceiling. The base period target rate per discharge ceiling amount shall be calculated using the allowable inpatient cost per discharge per the cost reporting period ended in state fiscal year (SFY) 2009. The target rate shall be inflated using the update factors published by the Centers

for Medicare and Medicaid Services (CMS) beginning with cost reporting periods starting on or after January 1, 2010.

1. For dates of service on or after September 1, 2009, payment shall be the lesser of the allowable inpatient costs as determined by the cost report or the Medicaid discharges for the period multiplied times the target rate per discharge for the period.

B. Inpatient Psychiatric Services. These services shall be paid at the lesser of cost or the target rate per discharge ceiling. The base period target rate per discharge ceiling amount shall be calculated using the allowable inpatient cost per discharge per the cost reporting period ended in SFY 2009. The target rate shall be inflated using the update factors published by CMS beginning with cost reporting periods starting on or after January 1, 2010.

1. For dates of service on or after September 1, 2009, payment shall be the lesser of the allowable inpatient costs as determined by the cost report or the Medicaid discharges for the period multiplied times the target rate per discharge for the period.

C. Carve-Out Specialty Services. These services are rendered by neonatal intensive care units, pediatric intensive care units, burn units and include transplants. Payment shall be the lesser of costs or the per diem limitation for each specialty service or type of transplant. The base period per diem limitation amounts shall be calculated using the allowable inpatient cost per day for each specialty or type of transplant per the cost reporting period ended in SFY 2009. The target rate shall be inflated using the update factors published by the Centers for Medicare and Medicaid Services (CMS) beginning with cost reporting periods starting on or after January 1, 2010.

1. For dates of service on or after September 1, 2009, payment shall be the lesser of the allowable inpatient costs as determined by the cost report or the Medicaid days for the period for each specialty or type of transplant multiplied times the per diem limitation for the period.

D. Children's specialty hospitals shall not be eligible for outlier payments after September 1, 2009.

1. Outlier payments made in SFY 2010 in excess of \$12,798,000 shall be considered as an interim payment in the determination of the cost settlement.

E. These provisions shall not preclude children's specialty hospitals from participation in the Medicaid Program under the high Medicaid or graduate medical education supplemental payment provisions.

1. All Medicaid supplemental payments shall be included as an interim Medicaid inpatient payment in the determination of cost settlement amounts on the filed cost report.

F. Effective for dates of service on or after January 22, 2010, the prospective per diem rate paid to children's specialty hospitals shall be reduced by 6 percent of the per diem rate on file as of January 21, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1002#021

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services  
Non-Rural, Non-State Hospitals  
Reimbursement Rate Reduction  
(LAC 50:V.953, 955, 959 and 967)

The Department of Health and Hospitals, Bureau of Health Services Financing hereby repeals and replaces the provisions of the January 22, 2010 Emergency Rule, in its entirety, governing inpatient hospital services and amends LAC 50:V.953, 955, and 959 and adopts §967 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act, and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year (SFY) 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which reduced the reimbursement rates paid to non-rural, non-state hospitals for inpatient services (*Louisiana Register*, Volume 35, Number 2). The final Rule was published in the *Louisiana Register* on September 20, 2009 (*Louisiana Register*, Volume 35, Number 9). The bureau further reduced the reimbursement rates in anticipation of a budgetary shortfall in SFY 2010 (*Louisiana Register*, Volume 35, Number 5). In July 2009, an Emergency Rule was promulgated to provide a supplemental payment to hospitals that demonstrated substantial financial and operational challenges in the aftermath of Hurricanes Katrina, Rita, Gustav, and Ike (*Louisiana Register*, Volume 35, Number 7). As a result of the legislature allocating additional funds to lessen the impact of SFY 2010 budget reductions, the bureau repealed the rate reduction provisions of the May 1, 2009 Emergency Rule (*Louisiana Register*, Volume 35, Number 8) and adjusted the rate reductions (*Louisiana Register*, Volume 35, Number 8). In September

2009, the department promulgated an Emergency Rule which revised the reimbursement methodology for inpatient services rendered by children's specialty hospitals (*Louisiana Register*, Volume 35, Number 9). In October 2009, the bureau amended the July 1, 2009 Emergency Rule for supplemental payments to incorporate the provisions of the August 4, 2009 Emergency Rule which adjusted the rate reductions (*Louisiana Register*, Volume 35, Number 10). In November 2009, the department amended the August 4, 2009 Emergency Rule to incorporate the provisions of the October 20, 2009 Emergency Rule and reorganized these provisions in the appropriate place in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 35, Number 11). In January 2010, the department established a Medicaid upper payment limit financing mechanism to provide supplemental payments to hospitals for providing healthcare services to low income and needy patients (*Louisiana Register*, Volume 36, Number 1).

As a result of a continuing budgetary shortfall in SFY 2010, the department determined that it was necessary to further reduce the reimbursement rates for inpatient hospital services (*Louisiana Register*, Volume 36, Number 1). The department has now determined that it is necessary to repeal the January 22, 2010 Emergency Rule in its entirety and proposes to amend the provisions governing the reimbursement methodology for inpatient hospitals to adjust the rate reduction for inpatient hospital services rendered by non-rural, non-state hospitals. This action is necessary to avoid a budget deficit in the medical assistance programs.

Taking the proposed per diem rate reduction into consideration, the department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private (non-state) inpatient hospital services and children's specialty hospital services under the state plan are available at least to the extent that they are available to the general population in the state. It is anticipated that implementation of this Emergency Rule will reduce expenditures for inpatient hospital services by approximately \$8,150,042 for SFY 2009-2010.

Effective February 3, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing repeals the January 22, 2010 Emergency Rule and amends the provisions governing the reimbursement methodology for inpatient hospital services to adjust the reimbursement rate reduction.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part V. Hospital Services

##### Subpart 1. Inpatient Hospitals

#### Chapter 9. Non-Rural, Non-State Hospitals

##### Subchapter B. Reimbursement Methodology

#### §953. Acute Care Hospitals

A. - G.3. ...

H. Neonatal Intensive Care Units (NICU)

1. Effective for dates of service on or after October 1, 2009, qualifying NICU Level III services with current per diem rates that are less than the NICU Level III specialty peer group rate shall have their per diem rates adjusted to equal 100 percent of the specialty group rate.

2. Effective for dates of service on or after October 1, 2009, qualifying NICU Level III regional services with

current per diem rates that are less than 85 percent of the NICU Level III regional specialty group rate shall have their per diem rates adjusted to equal 85 percent of the specialty peer group rate.

I. Pediatric Intensive Care Unit (PICU)

1. Effective for dates of service on or after October 1, 2009, qualifying PICU Level I services with current per diem rates that are less than 77 percent of the PICU Level I specialty group rate shall have their per diem rates adjusted to equal 77 percent of the specialty peer group rate.

2. Effective for dates of service on or after October 1, 2009, qualifying PICU Level II services with current per diem rates that are less than the PICU Level II specialty group rate shall have their per diem rates adjusted to equal 100 percent of the specialty peer group rate.

J. Hospitals Impacted by Hurricane Katrina (Region 1). Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state acute care hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with those in §963.A and outpatient supplemental payments) will not exceed \$170,000,000.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state acute care hospital must be located in DHH Administrative Region 1 (New Orleans) and identified in the July 17, 2008 United States Government Accountability Office report as a hospital that has demonstrated substantial financial and operational challenges in the aftermath of Hurricane Katrina.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed a specified individualized hospital limit. Payments will be distributed based on Medicaid paid claims data from state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the hospital specific cap is reached, whichever occurs first.

K. Other Hospitals Impacted by Hurricanes Katrina and Rita. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state acute care hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with those in §959.C and §963.B payments) will not exceed \$10,000,000.

1. Qualifying Criteria. Non-rural, non-state acute care hospitals that do not qualify for payment under §953.E provisions may receive a supplemental payment if the hospital is located in either the New Orleans or Lake Charles metropolitan statistical area (MSA), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 1,000 but less than, or equal to, 7,500 paid Medicaid days for state

fiscal year 2008 service dates, will be paid \$130 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

L. Hospitals Impacted by Hurricanes Gustav and Ike. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state acute care hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §959.D and §963.C payments) will not exceed \$7,500,000.

1. Qualifying Criteria. Non-rural, non-state acute care hospitals that do not qualify for payment under §953.E or §953.F may receive a supplemental payment if the hospital is located in either DHH Administrative Region 2 (Baton Rouge) or 3 (Thibodaux), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18-month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 2,500 but less than, or equal to, 20,000 paid Medicaid days for state fiscal year 2008 service dates, will be paid \$105 per Medicaid paid day.

iii. Qualifying hospitals with greater than 1,000, but less than or equal to 2,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$225 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

M. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to acute care hospitals shall be reduced by 6.3 percent of the per diem rate on file as of August 3, 2009.

1. Payments to small rural hospitals as defined in R.S. 40:1300 shall be exempt from this reduction.

2. - 2.b. Repealed.

N. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state acute care hospitals for inpatient services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

b. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a hospital and a state or local governmental entity to collaborate for

purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the inpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's inpatient Medicaid billed charges and Medicaid payments the hospital receives for covered inpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12-consecutive-month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

O. Effective for dates of service on or after February 3, 2010, the inpatient per diem rate paid to private hospitals shall be reduced by 5 percent of the per diem rate on file as of February 2, 2010.

1. Payments to small rural hospitals as defined in R.S. 40:1300 shall be exempt from this reduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), LR 36:

#### **§955. Long Term Hospitals**

A. - C. ...

D. Hurricane Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying long term hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §961.A payments) will not exceed \$500,000.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the long term hospital must have had at least 100 paid Medicaid days for state fiscal year 2008 service dates and must be located in one of the following DHH administrative regions:

- a. Region 1 (New Orleans);
- b. Region 2 (Baton Rouge);
- c. Region 3 (Thibodaux);
- d. Region 5 (Lake Charles); or
- e. Region 9 (Mandeville).

2. Each eligible hospital shall receive quarterly supplemental payments at the rate of \$40 per Medicaid paid day for state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the \$500,000 maximum payment limit for this group is reached, whichever occurs first.

E. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to long term hospitals for inpatient services shall be reduced by 6.3 percent of the per diem rate on file as of August 3, 2009.

1. - 2. Repealed.

F. Effective for dates of service on or after February 3, 2010, the inpatient per diem rate paid to long term hospitals

shall be reduced by 5 percent of the per diem rate on file as of February 2, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR: 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), LR 36:

#### **§959. Inpatient Psychiatric Hospital Services**

A. - C. ...

D. Free-Standing Psychiatric Hospitals Impacted by Hurricanes Katrina and Rita. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying free-standing psychiatric hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §953.F and §961.A payments) will not exceed \$10,000,000.

1. Qualifying Criteria. Non-rural, non-state free-standing psychiatric hospitals that do not qualify for payment under §953.F provisions may receive a supplemental payment if the hospital is located in either the New Orleans or Lake Charles metropolitan statistical area (MSA), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates, and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18-month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 1,000 but less than, or equal to, 7,500 paid Medicaid days for state fiscal year 2008 service dates, will be paid \$130 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

E. Free-Standing Psychiatric Hospitals Impacted by Hurricanes Gustav and Ike. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying free-standing psychiatric hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §953.G and §961.C payments) will not exceed \$7,500,000.

1. Qualifying Criteria. Non-rural, non-state free-standing psychiatric hospitals that do not qualify for payment under §953.E or §953.F may receive a supplemental payment if the hospital is located in either DHH Administrative Region 2 (Baton Rouge) or 3 (Thibodaux), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates, and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18-month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 2,500 but less than, or equal to, 20,000 paid Medicaid days for state fiscal year 2008 service dates, will be paid \$105 per Medicaid paid day.

iii. Qualifying hospitals with greater than 1,000 but less than, or equal to, 2,500 paid Medicaid days for state fiscal year 2008 service dates, will be paid \$225 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

F. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals shall be reduced by 5.8 percent of the rate on file as of August 3, 2009.

1. - 2.b. Repealed.

G. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to non-rural, non-state distinct part psychiatric units shall be reduced by 6.3 percent of the rate on file as of August 3, 2009.

H. Effective for dates of service on or after February 3, 2010, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals shall be reduced by 5 percent of the per diem rate on file as of February 2, 2010.

I. Effective for dates of service on or after February 3, 2010, the prospective per diem rate paid to non-rural, non-state distinct part psychiatric units shall be reduced by 5 percent of the per diem rate on file as of February 2, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), LR 36:

#### **§967. Children's Specialty Hospitals**

A. Routine Pediatric Inpatient Services. These services shall be paid at the lesser of cost or the target rate per discharge ceiling. The base period target rate per discharge ceiling amount shall be calculated using the allowable inpatient cost per discharge per the cost reporting period ended in state fiscal year (SFY) 2009. The target rate shall be inflated using the update factors published by the Centers for Medicare and Medicaid Services (CMS) beginning with cost reporting periods starting on or after January 1, 2010.

1. For dates of service on or after September 1, 2009, payment shall be the lesser of the allowable inpatient costs as determined by the cost report or the Medicaid discharges for the period multiplied times the target rate per discharge for the period.

B. Inpatient Psychiatric Services. These services shall be paid at the lesser of cost or the target rate per discharge ceiling. The base period target rate per discharge ceiling amount shall be calculated using the allowable inpatient cost per discharge per the cost reporting period ended in SFY 2009. The target rate shall be inflated using the update factors published by CMS beginning with cost reporting periods starting on or after January 1, 2010.

1. For dates of service on or after September 1, 2009, payment shall be the lesser of the allowable inpatient costs as determined by the cost report or the Medicaid discharges

for the period multiplied times the target rate per discharge for the period.

C. Carve-Out Specialty Services. These services are rendered by neonatal intensive care units, pediatric intensive care units, burn units and include transplants. Payment shall be the lesser of costs or the per diem limitation for each specialty service or type of transplant. The base period per diem limitation amounts shall be calculated using the allowable inpatient cost per day for each specialty or type of transplant per the cost reporting period ended in SFY 2009. The target rate shall be inflated using the update factors published by the Centers for Medicare and Medicaid Services (CMS) beginning with cost reporting periods starting on or after January 1, 2010.

1. For dates of service on or after September 1, 2009, payment shall be the lesser of the allowable inpatient costs as determined by the cost report or the Medicaid days for the period for each specialty or type of transplant multiplied times the per diem limitation for the period.

D. Children's specialty hospitals shall not be eligible for outlier payments after September 1, 2009.

1. Outlier payments made in SFY 2010 in excess of \$12,798,000 shall be considered as an interim payment in the determination of the cost settlement.

E. These provisions shall not preclude children's specialty hospitals from participation in the Medicaid Program under the high Medicaid or graduate medical education supplemental payment provisions.

1. All Medicaid supplemental payments shall be included as an interim Medicaid inpatient payment in the determination of cost settlement amounts on the filed cost report.

F. Effective for dates of service on or after February 3, 2010, the per diem rates as calculated per §967.A-C above shall be reduced by 5 percent. Final payment shall be the lesser of 95 percent of allowable inpatient acute care and psychiatric costs as determined by the cost report or the Medicaid discharges or days as specified per §967.A-C for the period, multiplied by 95 percent of the target rate per discharge or per diem limitation as specified per §967.A-C for the period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1002#046

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

#### Inpatient Hospital Services Non-Rural, Non-State Hospitals—Supplemental Payments (LAC 50:V.Chapter 9)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.Chapter 9 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

In compliance with Act 18 of the 2007 Regular Session of the Louisiana Legislature, the department amended the provisions governing the reimbursement methodology for non-rural, non-state (private) hospitals to increase the Medicaid reimbursement rates paid for inpatient hospital services, including non-rural, non-state acute care hospitals, long term hospitals, hospital intensive neurological rehabilitation units, free-standing psychiatric hospitals and distinct part psychiatric units (*Louisiana Register*, Volume 34, Number 5). In May 2008, the department also amended these provisions to provide for a supplemental Medicaid payment to non-rural, non-state acute care hospitals for having a Medicaid inpatient utilization greater than 30 percent and teaching hospitals for furnishing additional graduate medical education services as a result of the suspension of training programs at the Medical Center of Louisiana at New Orleans due to the impact of Hurricane Katrina (*Louisiana Register*, Volume 34, Number 5). As a result of a budgetary shortfall in state fiscal year 2009, the bureau promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 2). The final Rule was published in the *Louisiana Register* on September 20, 2009 (*Louisiana Register*, Volume 35, Number 9). The bureau promulgated an Emergency Rule to further reduce the reimbursement rates paid for inpatient hospital services in anticipation of a budgetary shortfall in SFY 2010 (*Louisiana Register*, Volume 35, Number 5). In compliance with Act 228 of the 2009 Regular Session of the Louisiana Legislature, the department promulgated an Emergency Rule to provide a supplemental Medicaid payment to non-rural, non-state hospitals that demonstrated substantial financial and operational challenges in the aftermath of Hurricanes Katrina, Rita, Gustav and Ike (*Louisiana Register*, Volume 35, Number 7). As a result of the legislature allocating additional funds to lessen the impact of SFY 2010 budget reductions, the department repealed the rate reduction provisions of the May 1, 2009 Emergency Rule (*Louisiana Register*, Volume 35, Number 8) and adjusted the reimbursement rate reductions (*Louisiana Register*, Volume 35, Number 8). In October 2009, the department amended the provisions of the July 1, 2009 Emergency Rule in order to incorporate the provisions of the August 4, 2009 Emergency Rule (*Louisiana Register*, Volume 35, Number

10). The department also amended the provisions governing reimbursements to inpatient hospitals in order to align the prospective per diem rates more closely with reported costs (*Louisiana Register*, Volume 35, Number 10). Provisions governing reimbursements to children's specialty hospitals were erroneously incorporated into the provisions for the rate adjustment to acute care hospitals. The department promulgated an Emergency Rule in order to repeal the children's specialty hospital provisions from the rate adjustment for acute care hospitals (*Louisiana Register*, Volume 35, Number 12). The department now proposes to amend the provisions of the October 20, 2009 Emergency Rule to incorporate the provisions of the December 20, 2009 Emergency Rule and to reorganize these provisions in the appropriate place in the *Louisiana Administrative Code* (LAC).

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program and ensuring recipient access to providers of these medically necessary services. This action will also assure that these provisions are promulgated in the appropriate location in the LAC.

Effective February 18, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the October 20, 2009 Emergency Rule governing inpatient hospital services provided by non-rural, non-state hospitals.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part V. Hospital Services

#### Subpart 1. Inpatient Hospitals

#### Chapter 9. Non-Rural, Non-State Hospitals

#### Subchapter B. Reimbursement Methodology

#### §553. Acute Care Hospitals

A. - G.3. ...

H. Neonatal Intensive Care Units (NICU)

1. Effective for dates of service on or after October 1, 2009, qualifying NICU Level III services with current per diem rates that are less than the NICU Level III specialty peer group rate shall have their per diem rates adjusted to equal 100 percent of the specialty group rate.

2. Effective for dates of service on or after October 1, 2009, qualifying NICU Level III regional services with current per diem rates that are less than 85 percent of the NICU Level III regional specialty group rate shall have their per diem rates adjusted to equal 85 percent of the specialty peer group rate.

I. Pediatric Intensive Care Unit (PICU)

1. Effective for dates of service on or after October 1, 2009, qualifying PICU Level I services with current per diem rates that are less than 77 percent of the PICU Level I specialty group rate shall have their per diem rates adjusted to equal 77 percent of the specialty peer group rate.

2. Effective for dates of service on or after October 1, 2009, qualifying PICU Level II services with current per diem rates that are less than the PICU Level II specialty group rate shall have their per diem rates adjusted to equal 100 percent of the specialty peer group rate.

J. Hospitals Impacted by Hurricane Katrina (Region 1). Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying

non-rural, non-state acute care hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with those in §963.A and outpatient supplemental payments) will not exceed \$170,000,000.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state acute care hospital must be located in DHH Administrative Region 1 (New Orleans) and identified in the July 17, 2008 United States Government Accountability Office report as a hospital that has demonstrated substantial financial and operational challenges in the aftermath of Hurricane Katrina.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed a specified individualized hospital limit. Payments will be distributed based on Medicaid paid claims data from state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the hospital specific cap is reached, whichever occurs first.

K. Other Hospitals Impacted by Hurricanes Katrina and Rita. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state acute care hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with those in §959.C and §963.B payments) will not exceed \$10,000,000.

1. Qualifying Criteria. Non-rural, non-state acute care hospitals that do not qualify for payment under §953.E provisions may receive a supplemental payment if the hospital is located in either the New Orleans or Lake Charles metropolitan statistical area (MSA), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 1,000, but less than or equal to 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$130 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

L. Hospitals Impacted by Hurricanes Gustav and Ike. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state acute care hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §959.D and §963.C payments) will not exceed \$7,500,000.

1. Qualifying Criteria. Non-rural, non-state acute care hospitals that do not qualify for payment under §953.E or §953.F may receive a supplemental payment if the hospital is located in either DHH Administrative Region 2 (Baton Rouge) or 3 (Thibodaux), had at least 1,000 paid Medicaid

days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 2,500, but less than or equal to 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$105 per Medicaid paid day.

iii. Qualifying hospitals with greater than 1,000, but less than or equal to 2,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$225 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### **§955. Long Term Hospitals**

A. - B.2.c. ...

C. Hurricane Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying long term hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §961.A payments) will not exceed \$500,000.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the long term hospital must have had at least 100 paid Medicaid days for state fiscal year 2008 service dates and must be located in one of the following DHH administrative regions:

- a. Region 1 (New Orleans);
- b. Region 2 (Baton Rouge);
- c. Region 3 (Thibodaux);
- d. Region 5 (Lake Charles); or
- e. Region 9 (Mandeville).

2. Each eligible hospital shall receive quarterly supplemental payments at the rate of \$40 per Medicaid paid day for state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the \$500,000 maximum payment limit for this group is reached, whichever occurs first.

D. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to long term hospitals for inpatient services shall be reduced by 6.3 percent of the per diem rate on file as of August 3, 2009.

1. - 2. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

## **§959. Inpatient Psychiatric Hospital Services**

A. - B.1. ...

C. Free-Standing Psychiatric Hospitals Impacted by Hurricanes Katrina and Rita. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying free-standing psychiatric hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §953.F and §961.A payments) will not exceed \$10,000,000.

1. Qualifying Criteria. Non-rural, non-state free-standing psychiatric hospitals that do not qualify for payment under §953.F provisions may receive a supplemental payment if the hospital is located in either the New Orleans or Lake Charles metropolitan statistical area (MSA), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 1,000, but less than or equal to 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$130 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

D. Free-Standing Psychiatric Hospitals Impacted by Hurricanes Gustav and Ike. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying free-standing psychiatric hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §953.G and §961.C payments) will not exceed \$7,500,000.

1. Qualifying Criteria. Non-rural, non-state free-standing psychiatric hospitals that do not qualify for payment under §953.E or §953.F may receive a supplemental payment if the hospital is located in either DHH Administrative Region 2 (Baton Rouge) or 3 (Thibodaux), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 2,500, but less than or equal to 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$105 per Medicaid paid day.

iii. Qualifying hospitals with greater than 1,000, but less than or equal to 2,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$225 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

E. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals shall be reduced by 5.8 percent of the rate on file as of August 3, 2009.

1. - 2.b. Repealed.

F. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to non-rural, non-state distinct part psychiatric units shall be reduced by 6.3 percent of the rate on file as of August 3, 2009.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

## **§961. Inpatient Hospital Rehabilitation Services**

A. Hurricane Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state hospitals for rehabilitation services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §955.D payments) will not exceed \$500,000.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the hospital intensive neurological rehabilitation care unit must have had at least 100 paid Medicaid days for state fiscal year 2008 service dates and must be located in one of the following DHH administrative regions:

- a. Region 1 (New Orleans);
- b. Region 2 (Baton Rouge);
- c. Region 3 (Thibodaux);
- d. Region 5 (Lake Charles); or
- e. Region 9 (Mandeville).

2. Each eligible rehabilitation unit shall receive quarterly supplemental payments at the rate of \$40 per Medicaid paid day for state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the \$500,000 maximum payment limit for this group is reached, whichever occurs first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

## **§963. Public Hospitals**

A. Hospitals Impacted by Hurricane Katrina (Region 1). Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state public hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §953.F and outpatient supplemental payments) will not exceed \$170,000,000.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state public

hospital must be located in DHH Administrative Region 1 (New Orleans) and identified in the July 17, 2008 United States Government Accountability Office report as a hospital that has demonstrated substantial financial and operational challenges in the aftermath of Hurricane Katrina.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed a specified individualized hospital limit. Payments will be distributed based on Medicaid paid claims data from state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the hospital specific cap is reached, whichever occurs first.

B. Other Hospitals Impacted by Hurricanes Katrina and Rita. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state public hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §953.G and §959.D payments) will not exceed \$10,000,000.

1. Qualifying Criteria. Non-rural, non-state public hospitals that do not qualify for payment under §961.A provisions may receive a supplemental payment if the hospital is located in either the New Orleans or Lake Charles MSA, had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 1,000, but less than or equal to 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$130 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

C. Hospitals Impacted by Hurricanes Gustav and Ike. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state public hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §953.H and §959.E payments) will not exceed \$7,500,000.

1. Qualifying Criteria. Non-rural, non-state public hospitals that do not qualify for payment under §961.A or §961.B may receive a supplemental payment if the hospital is located in either DHH Administrative Region 2 (Baton Rouge) or 3 (Thibodaux) and had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 2,500, but less than or equal to 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$105 per Medicaid paid day.

iii. Qualifying hospitals with greater than 1,000, but less than or equal to 2,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$225 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

Alan Levine  
Secretary

1002#073

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services  
Pre-Admission Certification  
(LAC 50:V.301)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing repealed the December 20, 1985 Rule governing the reimbursement methodology and inpatient admission criteria for designated surgical procedures performed in an ambulatory (outpatient) setting, and amended the provisions of the June 20, 1994 Rule governing registration, length of stay assignments and pre-admission certification for inpatient hospital services to require pre-admission certification for all admissions to non-state and state operated acute care general hospitals (*Louisiana Register*, Volume 36, Number 1). The January 20, 2010 Rule also repromulgated the provisions contained in the June 20, 1994 Rule and a June 20, 2001 Rule governing pre-admission certification and length of stay assignments for inpatient psychiatric services for inclusion in the *Louisiana Administrative Code*.

The department has now determined that it is necessary to amend the provisions of the January 20, 2010 Rule to revise the provisions governing extensions of the initial length of stay assignment for inpatient hospital admissions. This

action is being taken to promote the health and welfare of Medicaid recipients who rely on the services provided by acute care hospitals. It is estimated that implementation of this Emergency Rule will have no fiscal impact for state fiscal year 2009-2010.

Effective January 26, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing pre-admission certification for inpatient hospital services.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part V. Hospital Services**

#### **Subpart 1. Inpatient Hospitals**

### **Chapter 3. Pre-Admission Certification**

#### **§301. General Provisions**

A. - F.2. ...

a. Subsequent approved extensions may be submitted for consideration referencing customized data, Southern Regional and national length of stay data.

F.3. - J.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:66 (January 2009), amended LR 36:

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

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

Alan Levine  
Secretary

1002#045

### **DECLARATION OF EMERGENCY**

#### **Department of Health and Hospitals Bureau of Health Services Financing**

Laboratory and Radiology Services  
Reimbursement Rate Reduction  
(LAC 50:XIX.4329 and 4334-4337)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XIX.4329 and §§4334-4337 in the Medical Assistance Program as authorized by R.S. 36:254, pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under

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

As a result of a budgetary shortfall in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated Emergency Rules which reduced the reimbursement rates paid for laboratory and radiology services (*Louisiana Register*, Volume 35, Number 3) and clarified the reimbursement methodology for radiation therapy centers (*Louisiana Register*, Volume 35, Number 6). These provisions were published as a final Rule on September 20, 2009 (*Louisiana Register*, Volume 35, Number 9).

As a result of a budgetary shortfall in state fiscal year 2010, the department determined that it was necessary to promulgate an Emergency Rule to amend the provisions governing the reimbursement methodology for laboratory and radiology services to further reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 8). The department promulgated an Emergency Rule to amend the provisions of the August 4, 2009 Emergency Rule to revise the formatting of LAC 50:XIX.4329 and §§4334-4337 as a result of the promulgation of the September 20, 2009 final Rule governing the reimbursement methodology for laboratory and radiology services (*Louisiana Register*, Volume 35, Number 11).

As a result of a continuing budgetary shortfall in state fiscal year 2010, the bureau has determined that it is necessary to amend the provisions governing the reimbursement methodology for laboratory and radiology services to further reduce the reimbursement rates. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$1,664,939 for state fiscal year 2009-2010.

Effective January 22, 2010 the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for laboratory and radiology services.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XIX. Other Services**

#### **Subpart 3. Laboratory and Radiology**

### **Chapter 43. Billing and Reimbursement**

#### **Subchapter B. Reimbursement**

#### **§4329. Laboratory Services (Physicians and Independent Laboratories)**

A. - F. ...

G. Effective for dates of service on or after August 4, 2009, the reimbursement rates for laboratory services shall be reduced by 4.7 percent of the fee amounts on file as of August 3, 2009.

H. Effective for dates of service on or after January 22, 2010, the reimbursement rates for laboratory services shall be reduced by 4.42 percent of the fee amounts on file as of January 21, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health

Services Financing, LR 28:1025 (May 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1897 (September 2009), LR 36:

**§4334. Radiology Services**

A. - E. ...

F. Effective for dates of service on or after August 4, 2009, the reimbursement rates for radiology services shall be reduced by 4.7 percent of the fee amounts on file as of August 3, 2009.

G. Effective for dates of service on or after January 22, 2010, the reimbursement rates for radiology services shall be reduced by 4.42 percent of the fee amounts on file as of January 21, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1897 (September 2009), LR 36:

**§4335. Portable Radiology Services**

A. - C. ...

D. Effective for dates of service on or after August 4, 2009, the reimbursement rates for portable radiology services shall be reduced by 4.7 percent of the fee amounts on file as of August 3, 2009.

E. Effective for dates of service on or after January 22, 2010, the reimbursement rates for portable radiology services shall be reduced by 4.42 percent of the fee amounts on file as of January 21, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 30:1026 (May 2004), amended LR 35:1898 (September 2009), LR 36:

**§4337. Radiation Therapy Centers**

A. - C. ...

D. Effective for dates of service on or after August 4, 2009, the reimbursement rates for radiology services provided by radiation therapy centers shall be reduced by 4.7 percent of the fee amounts on file as of August 3, 2009.

E. Effective for dates of service on or after January 22, 2010, the reimbursement rates for radiology services provided by radiation therapy centers shall be reduced by 4.42 percent of the fee amounts on file as of January 21, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1898 (September 2009), LR 36:

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

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

Alan Levine  
Secretary

1002#022

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

Medical Transportation Program  
Emergency Ambulance Services  
Reimbursement Rate Reduction  
(LAC 50:XXVII.325 and 353)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XXVII.325 and §353 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for emergency and non-emergency ambulance transportation services to increase the reimbursement for ground mileage and ancillary services and repromulgated the existing provisions in a codified format for inclusion in the *Louisiana Administrative Code (Louisiana Register, Volume 34, Number 5)*. The bureau amended the provisions governing the reimbursement methodology for emergency medical transportation to increase the reimbursement rates for rotor winged aircraft emergency transportation services and repromulgated the existing Rule in its entirety for the purpose of adopting the provisions in a codified format for inclusion in the *Louisiana Administrative Code (Louisiana Register, Volume 35, Number 1)*. In anticipation of projected expenditures in the Medical Vendor Program exceeding the funding allocated in the General Appropriations Act for state fiscal year 2010, the bureau determined that it was necessary to amend the provisions governing reimbursement for emergency medical transportation services to reduce the reimbursement rates (*Louisiana Register, Volume 35, Number 5*). The department determined that it was necessary to repeal the provisions of the May 1, 2009 Emergency Rule and amended the reimbursement methodology for emergency medical transportation services to reduce the reimbursement for disposable and routine supplies (*Louisiana Register, Volume 35, Number 8*). The department promulgated an Emergency Rule to amend the August 4, 2009 Emergency Rule to clarify the reimbursement methodology for aircraft transportation (*Louisiana Register, Volume 35, Number 9*).

As a result of a continuing budgetary shortfall, the department has determined that it is necessary to amend the provisions governing the reimbursement methodology for

emergency medical transportation services to further reduce the reimbursement rates. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$623,951 for state fiscal year 2009-2010.

Effective January 22, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for emergency medical transportation reimbursement rates.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XXVII. Medical Transportation Program**

#### **Chapter 3. Emergency Medical Transportation**

#### **Subchapter B. Ground Transportation**

#### **§325. Reimbursement**

A. - E. ...

F. Effective for dates of service on or after August 4, 2009, the reimbursement rates for the following supplies shall be reduced by 36 percent of the rate on file as of August 3, 2009:

1. advanced life support special service disposable intravenous supplies; and

2. advanced life support routine disposable supplies.

G. Effective for dates of service on or after January 22, 2010, the reimbursement rates for emergency ambulance transportation services shall be reduced by five percent of the rate on file as of January 21, 2010.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### **Subchapter C. Aircraft Transportation**

#### **§353. Reimbursement**

A. - D. ...

E. Effective for dates of service on or after January 22, 2010, the reimbursement rates for fixed winged and rotor winged emergency air ambulance services shall be reduced by five percent of the rate on file as of January 21, 2010.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:70 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for

responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

1002#014

### **DECLARATION OF EMERGENCY**

#### **Department of Health and Hospitals Bureau of Health Services Financing**

Medical Transportation Program  
Non-Emergency Ambulance Services  
Reimbursement Rate Reduction  
(LAC 50:XXVII.571)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XXVII.571 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for emergency and non-emergency ambulance transportation services to increase the ground mileage and the ancillary services and repromulgated the existing provisions in a codified format for inclusion in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 34, Number 5).

As a result of a budgetary shortfall in state fiscal year 2010, the department has determined that it is necessary to amend the provisions governing the reimbursement methodology for non-emergency ambulance transportation services to reduce the reimbursement rates. This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$226,185 for state fiscal year 2009-2010.

Effective January 22, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for non-emergency ambulance services.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part. XXVII. Medical Transportation Program**  
**Chapter 5. Non-Emergency Medical Transportation**  
**Subchapter D. Reimbursement**  
**§571. Non-Emergency Ambulance Transportation**

A. - C. ...

D. Effective for dates of service on or after January 22, 2010, the ground mileage and ancillary services reimbursement rates for non-emergency ambulance transportation services shall be reduced by 5 percent of the rate in effect on January 21, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:462 (March 2007), LR 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1002#029

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals**  
**Bureau of Health Services Financing**

Medical Transportation Program  
Non-Emergency Medical Transportation  
Reimbursement Rate Reduction  
(LAC 50:XXVII.573)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXVII.573 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the reimbursement methodology governing non-emergency medical transportation to increase the reimbursement rates (*Louisiana Register*, Volume 33, Number 3). As a result of a budgetary shortfall in state fiscal year 2010, the department has determined that it is necessary to amend the provisions governing the reimbursement methodology for non-emergency medical transportation services to reduce the reimbursement rates.

This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medical Transportation Program by approximately \$160,404 for state fiscal year 2009-2010.

Effective January 22, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for non-emergency medical transportation to reduce the reimbursement rates.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part XXVII. Medical Transportation Program**  
**Chapter 5. Non-Emergency Medical Transportation**  
**Subchapter D. Reimbursement**  
**§573. Non-Emergency, Non-Ambulance**  
**Transportation**

A. - B. ...

C. Effective for dates of service on or after January 22, 2010, the reimbursement rates for non-emergency, non-ambulance medical transportation services shall be reduced by 5 percent of the rates in effect on January 21, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:879 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1002#027

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

#### Mental Health Rehabilitation Program Reimbursement Rate Reduction (LAC 50:XV.901)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.901 in the Medical Assistance Program as authorized by R.S. 36:254, pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in the medical assistance programs in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for mental health rehabilitation services to reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 2). The final Rule was published in September 2009 (*Louisiana Register*, Volume 35, Number 9).

As a result of a budgetary shortfall in state fiscal year 2010, the department promulgated an Emergency Rule to reduce the reimbursement rates paid for mental health rehabilitation services and to establish service limitations (*Louisiana Register*, Volume 35, Number 8). The August 4, 2009 Emergency Rule was amended to revise the formatting of LAC 50:XV.401-405 and §901 as a result of the promulgation of the September 20, 2009 final Rule governing the reimbursement methodology for mental health rehabilitation services (*Louisiana Register*, Volume 35, Number 11).

As a result of a continuing budgetary shortfall in state fiscal year 2010, the department has determined that it is necessary to further reduce the reimbursement rates paid for mental health rehabilitation services. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Mental Health Rehabilitation Program by approximately \$195,580 for state fiscal year 2009-2010.

Effective January 22, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for mental health rehabilitation services to further reduce the reimbursement rates.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XV. Services for Special Populations

##### Subpart 1. Mental Health Rehabilitation

#### Chapter 9. Reimbursement

##### §901. Reimbursement Methodology

A. - C. ...

D. Effective for dates of service on or after August 4, 2009, the reimbursement rates for the following MHR services shall be reduced by 1.23 percent of the fee amounts on file as of August 3, 2009:

1. counseling;
2. oral medication administration;
3. psychosocial skills training;
4. community supports; and
5. injections.

E. Effective for dates of service on or after August 4, 2009, the reimbursement rates for parent/family intervention (intensive) services shall be reduced by 17.6 percent of the fee amounts on file as of August 3, 2009.

F. Effective for dates of service on or after January 22, 2010, the reimbursement rates for Mental Health Rehabilitation services shall be reduced by 1.62 percent of the rates on file as of January 21, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1091 (May 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1899 (September 2009), amended LR 36:

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

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

Alan Levine  
Secretary

1002#025

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

#### Multi-Systemic Therapy Prior Authorization and Reimbursement Rate Reduction (LAC 50:XV.25305 and 25701)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:XV.25305 and amends §25701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states:

“The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions governing the coverage and reimbursement of multi-systemic therapy (MST) for youth with serious emotional/behavioral disturbances who are at risk of out-of-home placement or returning home from out-of-home placement as a result of the emotional/behavioral disturbance (*Louisiana Register*, Volume 35, Number 2). As a result of a budgetary shortfall in state fiscal year 2010, the department promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for multi-systemic therapy to reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 8).

As a result of a continuing budgetary shortfall, the department has determined that it is necessary to amend the provisions governing MST to further reduce the reimbursement rates and to establish prior authorization requirements. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Multi-Systemic Therapy Program by approximately \$411,166 for state fiscal year 2009-2010.

Effective January 22, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing multi-systemic therapy.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XV. Services for Special Populations**

##### **Subpart 17. Multi-Systemic Therapy**

#### **Chapter 253. Services**

##### **§25305. Prior Authorization**

A. Effective for dates of service on or after January 22, 2010, prior authorization is required for services in excess of 244 units or four months.

1. Proof of medical necessity must be submitted in accordance with department guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### **Chapter 257. Reimbursement**

##### **§25701. Reimbursement Methodology**

A. - A.2. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement rates for multi-systemic therapy services shall be reduced by 5.17 percent of the rates on file as of August 3, 2009.

C. Effective for dates of service on or after January 22, 2010, the reimbursement rates for multi-systemic therapy services shall be reduced by 5 percent of the rates on file as of January 21, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services financing, LR 35:247 (February 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1002#026

### **DECLARATION OF EMERGENCY**

#### **Department of Health and Hospitals Bureau of Health Services Financing**

Nursing Facilities—Reimbursement Methodology  
Rate Determination  
(LAC 50:VII.1305)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:VII.1305 in the Medical Assistance Program as authorized by R.S. 46:2742.B.7, Act 244 of the 2009 Regular Session of the Louisiana Legislature and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1), et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for nursing facilities by increasing the reimbursement paid to providers to implement a wage enhancement for direct care staff employed with the nursing facility (*Louisiana Register*, Volume 33, Number 10).

Act 244 of the 2009 Regular Session of the Louisiana Legislature directed the Department to establish provisions which provide for the periodic rebasing of nursing facility rates utilizing the most current cost reports. In compliance with Act 244, the department promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for nursing facilities to implement periodic rebasing of the nursing facility rates (*Louisiana Register*, Volume 35, Number 7). This Emergency Rule is being promulgated to continue the provisions of the July 3, 2009 Emergency Rule. This action is being taken to promote the health and well-being of nursing facility residents by assuring that nursing facility providers receive reimbursement commensurate with actual cost of providing

care to assure their continued participation in the Medicaid Program.

Effective March 2, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for nursing facilities to implement periodic rebasing of the nursing facility rates.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part VII. Long Term Care Services**

##### **Subpart 1. Nursing Facilities**

#### **Chapter 13. Reimbursement**

##### **§1305. Rate Determination**

A. ...

B. For dates of service on or after January 1, 2003, the Medicaid daily rates shall be based on a case-mix price-based reimbursement system. Rates shall be calculated from cost report and other statistical data.

1. Effective July 3, 2009, and at a minimum, every second year thereafter, the base resident-day-weighted median costs and prices shall be rebased using the most recent four month or greater unqualified audited or desk reviewed cost reports that are available as of the April 1, prior to the July 1, rate setting. The department, at its discretion, may rebase at an earlier time.

a. For rate periods between rebasing, an index factor shall be applied to the base resident-day weighted medians and prices.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1791 (August 2002), amended LR 31:1596 (July 2005), LR 32:2263 (December 2006), LR 33:2203 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

Alan Levine  
Secretary

1002#065

#### **DECLARATION OF EMERGENCY**

##### **Department of Health and Hospitals Bureau of Health Services Financing**

Nursing Facilities—Reimbursement Rate Reduction  
(LAC 50:VII.1305)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:VII.1305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states:

“The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for nursing facilities to increase the reimbursement paid to providers to implement a wage enhancement payment for direct care staff employed with the nursing facility (*Louisiana Register*; Volume 33, Number 10). In anticipation of projected expenditures in the Medical Vendor Program exceeding the funding allocated in the General Appropriations Act for state fiscal year 2010, the department promulgated an Emergency Rule to reduce the per diem rates and wage enhancement payments made to non-state nursing facilities (*Louisiana Register*; Volume 35, Number 7). In compliance with Act 244 of the 2009 Regular Session of the Louisiana Legislature, the department promulgated an Emergency Rule to implement periodic rebasing of the nursing facility rates (*Louisiana Register*; Volume 35, Number 7). The department amended the July 3, 2009 rate reduction Emergency Rule to repeal the per diem rate reduction and continued the wage enhancement reduction (*Louisiana Register*; Volume 35, Number 10).

As a result of a budgetary shortfall in state fiscal year 2010, the department has determined that it is necessary to amend the provisions governing the reimbursement methodology for nursing facilities to reduce the per diem rate paid to non-state nursing facilities. This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$4,725,556 for state fiscal year 2009-2010.

Effective January 22, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for non-state nursing facilities to reduce the per diem rates.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part VII. Long Term Care Services**

##### **Subpart 1. Nursing Facilities**

#### **Chapter 13. Reimbursement**

##### **§1305. Rate Determination**

A. ...

B. For dates of service on or after January 1, 2003, the Medicaid daily rates shall be based on a case-mix price-based reimbursement system. Rates shall be calculated from cost report and other statistical data.

1. Effective July 3, 2009, and at a minimum, every second year thereafter, the base resident-day-weighted median costs and prices shall be rebased using the most

recent four month or greater unqualified audited or desk reviewed cost reports that are available as of the April 1, prior to the July 1 rate setting. The department, at its discretion, may rebase at an earlier time.

a. For rate periods between rebasing, an index factor shall be applied to the base resident-day weighted medians and prices.

C. - D.1.h.Example. ...

i. For dates of service on or after July 3, 2009, the facility-specific direct care rate will be adjusted in order to reduce the wage enhancement from \$4.70 to a \$1.30 wage enhancement prior to the case-mix adjustment for direct care staff. The \$1.30 wage enhancement will be included in the direct care component of the floor calculations. It is the intent that this wage enhancement be paid to the direct care staff.

i. Effective with the next rebase, on or after July 1, 2010, the wage enhancement will be eliminated.

D.2. - 4.b. ...

5. Adjustment to the Rate. Adjustments to the Medicaid daily rate may be made when changes occur that will eventually be recognized in updated cost report data (such as a change in the minimum wage, a change in FICA or a utility rate change). These adjustments would be effective until the next rebasing of cost report data or until such time as the cost reports fully reflect the change.

6. Budget Shortfall. In the event the department is required to implement reductions in the nursing facility program as a result of a budget shortfall, a budget reduction category shall be created. Without changing the parameters established in these provisions, this category shall reduce the statewide average Medicaid rate by reducing the reimbursement rate paid to each nursing facility using an equal amount per patient day.

a. Repealed.

E. ...

F. Effective for dates of service on or after January 22, 2010, the reimbursement paid to non-state nursing facilities shall be reduced by 1.5 percent of the per diem rate on file as of January 21, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1791 (August 2002), amended LR 31:1596 (July 2005), LR 32:2263 (December 2006), LR 33:2203 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1002#028

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

Outpatient Hospital Services—Non-Rural, Non-State  
Hospitals and Children’s Specialty Hospitals  
Reimbursement Rate Reduction  
(LAC:V.5313, 5317, 5513, 5517, 5713,  
5719, 5913, 5917, 6115 and 6119)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:V.5313, §5317, §5513, §5517, §5713, §5719, §5913, §5917, §6115 and §6119 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year (SFY) 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which reduced the reimbursement paid to non-rural, non-state hospitals for outpatient services (*Louisiana Register*, Volume 35, Number 2). The final Rule was published in the *Louisiana Register* on September 20, 2009 (*Louisiana Register*, Volume 35, Number 9). The bureau further reduced the reimbursement rates in anticipation of a budgetary shortfall in SFY 2010 (*Louisiana Register*, Volume 35, Number 5). As a result of the legislature allocating additional funds to lessen the impact of SFY 2010 budget reductions, the bureau repealed the rate reduction provisions of the May 1, 2009 Emergency Rule (*Louisiana Register*, Volume 35, Number 8) and adjusted the rate reductions (*Louisiana Register*, Volume 35, Number 8). In September 2009, the department promulgated an Emergency Rule which revised the reimbursement methodology for outpatient services rendered by children’s specialty hospitals (*Louisiana Register*, Volume 35, Number 9). In November 2009, the department amended the August 4, 2009 Emergency Rule to revise the formatting of LAC 50:V.5313, §5513, §5713, §5913 and §6115 as a result of the promulgation of the September 20, 2009 final Rule governing outpatient hospital services (*Louisiana Register*, Volume 35, Number 11). In January 2010, the department established a Medicaid upper payment limit financing mechanism to provide supplemental payments to hospitals for providing healthcare services to low income and needy patients (*Louisiana Register*, Volume 36, Number 1).

As a result of a continuing budgetary shortfall in state fiscal year 2010, the department has determined that it is necessary to amend the reimbursement methodology for outpatient hospital services to further reduce the reimbursement rates for outpatient hospital services rendered by non-rural, non-state hospitals and children's specialty hospitals. This action is necessary to avoid a budget deficit in the medical assistance programs.

Taking the proposed per diem rate reduction into consideration, the department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private (non-state) outpatient hospital services and children's specialty hospital services under the state plan are available at least to the extent that they are available to the general population in the state. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$4,677,026 for state fiscal year 2009-2010.

Effective January 22, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for outpatient hospital services to reduce the reimbursement rates.

## **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part V. Hospitals**

##### **Subpart 5. Outpatient Hospitals**

##### **Chapter 53. Outpatient Surgery**

##### **Subchapter B. Reimbursement Methodology**

##### **§5313. Non-Rural, Non-State Hospitals**

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient surgery shall be reduced by 5.65 percent of the fee schedule on file as of August 3, 2009.

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state hospitals for outpatient surgery services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

b. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's outpatient Medicaid billed charges and Medicaid payments the hospital receives for covered outpatient services

provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

D. Effective for dates of service on or after January 22, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient surgery shall be reduced by 5.35 percent of the fee schedule on file as of January 21, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:

##### **§5317. Children's Specialty Hospitals**

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for outpatient hospital surgery services shall be as follows.

1. Qualifying hospitals shall receive an interim payment equal to the Medicaid fee schedule amount on file for each service.

2. Final reimbursement shall be 97 percent of allowable cost as calculated through the cost report settlement process.

B. Effective for dates of service on or after January 22, 2010, the reimbursement paid to children's specialty hospitals for outpatient surgery shall be reduced by 5.35 percent of the fee schedule on file as of January 21, 2010.

1. Final reimbursement shall be 91.81 percent of allowable cost as calculated through the cost report settlement process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

##### **Chapter 55. Clinic Services**

##### **Subchapter B. Reimbursement Methodology**

##### **§5513. Non-Rural, Non-State Hospitals**

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient clinic services shall be reduced by 5.65 percent of the fee schedule on file as of August 3, 2009.

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state hospitals for clinic services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

b. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a hospital and a state or local governmental entity to collaborate for

purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's outpatient Medicaid billed charges and Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

D. Effective for dates of service on or after January 22, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient clinic services shall be reduced by 5.35 percent of the fee schedule on file as of January 21, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:

#### **§5517. Children's Specialty Hospitals**

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for outpatient hospital clinic services shall be the Medicaid fee schedule amount on file for each service.

B. Effective for dates of service on or after January 22, 2010, the reimbursement paid to children's specialty hospitals for outpatient hospital clinic services shall be reduced by 5.35 percent of the fee schedule on file as of January 21, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### **Chapter 57. Laboratory Services**

#### **Subchapter B. Reimbursement Methodology**

##### **§5713. Non-Rural, Non-State Hospitals**

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient laboratory services shall be reduced by 5.65 percent of the fee schedule on file as of August 3, 2009.

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state hospitals for laboratory services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

b. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's outpatient Medicaid billed charges and Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

D. Effective for dates of service on or after January 22, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient laboratory services shall be reduced by 5.35 percent of the fee schedule on file as of January 21, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:

#### **§5719. Children's Specialty Hospitals**

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for outpatient clinical diagnostic laboratory services shall be the Medicaid fee schedule amount on file for each service.

B. Effective for dates of service on or after January 22, 2010, the reimbursement paid to children's specialty hospitals for outpatient clinical diagnostic laboratory services shall be reduced by 5.35 percent of the fee schedule on file as of January 21, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### **Chapter 59. Rehabilitation Services**

#### **Subchapter B. Reimbursement Methodology**

##### **§5913. Non-Rural, Non-State Hospitals**

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient rehabilitation services provided to recipients over the age of three years shall be reduced by 5.65 percent of the fee schedule on file as of August 3, 2009.

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state hospitals for rehabilitation services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity

through a Low Income and Needy Care Collaboration Agreement.

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

b. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's outpatient Medicaid billed charges and Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

D. Effective for dates of service on or after January 22, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient rehabilitation services provided to recipients over the age of three years shall be reduced by 5.35 percent of the fee schedule on file as of January 21, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:

#### **§5917. Children's Specialty Hospitals**

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for rehabilitation services shall be as follows.

1. Qualifying hospitals shall receive an interim payment equal to the Medicaid fee schedule amount on file for each service.

2. Final reimbursement shall be 97 percent of allowable cost as calculated through the cost report settlement process.

B. Effective for dates of service on or after January 22, 2010, the reimbursement paid to children's specialty hospitals for outpatient rehabilitation services provided to recipients over the age of three years shall be reduced by 5.35 percent of the fee schedule on file as of January 21, 2010.

1. Final reimbursement shall be 91.81 percent of allowable cost as calculated through the cost report settlement process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### **Chapter 61. Other Outpatient Hospital Services**

#### **Subchapter B. Reimbursement Methodology**

#### **§6115. Non-Rural, Non-State Hospitals**

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state

hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be reduced by 5.65 percent of the rates effective as of August 3, 2009. Final reimbursement shall be at 78.48 percent of allowable cost through the cost settlement process.

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries and rehabilitation services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

b. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's outpatient Medicaid billed charges and Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

D. Effective for dates of service on or after January 22, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be reduced by 5.35 percent of the rates effective as of January 21, 2010. Final reimbursement shall be at 74.28 percent of allowable cost through the cost settlement process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:

#### **§6119. Children's Specialty Hospitals**

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services, and outpatient hospital facility fees shall be as follows.

1. Qualifying hospitals shall receive an interim payment that is equal to 97 percent of the hospital's cost to charge ratio as calculated from the latest filed cost report.

2. Final reimbursement shall be 97 percent of allowable cost as calculated through the cost report settlement process.

B. Effective for dates of service on or after January 22, 2010, the reimbursement paid to children's specialty hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services, and outpatient hospital facility fees shall be reduced by 5.35 percent of the rates effective as of January 21, 2010.

1. Final reimbursement shall be 91.81 percent of allowable cost as calculated through the cost report settlement process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1002#030

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

Outpatient Hospital Services—Non-Rural, Non-State  
Hospitals and Children's Specialty Hospitals  
Reimbursement Rate Reduction  
(LAC:V.5313, 5317, 5513, 5517, 5713,  
5719, 5913, 5917, 6115, and 6119)

The Department of Health and Hospitals, Bureau of Health Services Financing hereby repeals the provisions of the January 22, 2010 Emergency Rule, in its entirety, governing outpatient hospital services and amends LAC 50:V.5313, 5317, 5513, 5517, 5713, 5719, 5913, 5917, 6115, and 6119 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under

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

As a result of a budgetary shortfall in state fiscal year (SFY) 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which reduced the reimbursement paid to non-rural, non-state hospitals for outpatient services (*Louisiana Register*, Volume 35, Number 2). The final Rule was published in the *Louisiana Register* on September 20, 2009 (*Louisiana Register*, Volume 35, Number 9). The bureau further reduced the reimbursement rates in anticipation of a budgetary shortfall in SFY 2010 (*Louisiana Register*, Volume 35, Number 5). As a result of the legislature allocating additional funds to lessen the impact of SFY 2010 budget reductions, the bureau repealed the rate reduction provisions of the May 1, 2009 Emergency Rule (*Louisiana Register*, Volume 35, Number 8) and adjusted the rate reductions (*Louisiana Register*, Volume 35, Number 8). In September 2009, the department promulgated an Emergency Rule which revised the reimbursement methodology for outpatient services rendered by children's specialty hospitals (*Louisiana Register*, Volume 35, Number 9). In November 2009, the department amended the August 4, 2009 Emergency Rule to revise the formatting of LAC 50:V.5313, 5513, 5713, 5913, and 6115 as a result of the promulgation of the September 20, 2009 final Rule governing outpatient hospital services (*Louisiana Register*, Volume 35, Number 11). In January 2010, the department established a Medicaid upper payment limit financing mechanism to provide supplemental payments to hospitals for providing healthcare services to low income and needy patients (*Louisiana Register*, Volume 36, Number 1).

As a result of a continuing budgetary shortfall in SFY 2010, the department determined that it was necessary to promulgate an Emergency Rule to amend the reimbursement methodology for outpatient hospital services to further reduce the reimbursement rates for outpatient hospital services rendered by non-rural, non-state hospitals and children's specialty hospitals (*Louisiana Register*, Volume 36, Number 2). The department has now determined that it is necessary to repeal the January 22, 2010 Emergency Rule in its entirety and proposes to amend the provisions governing the reimbursement methodology for outpatient hospital services to adjust the rate reduction. This action is necessary to avoid a budget deficit in the medical assistance programs.

Taking the proposed per diem rate reduction into consideration, the department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private (non-state) outpatient hospital services and children's specialty hospital services under the state plan are available at least to the extent that they are available to the general population in the state. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$3,737,083 for SFY 2009-2010.

Effective February 3, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing repeals the January 22, 2010 Emergency Rule and amends the

provisions governing the reimbursement methodology for outpatient hospital services to adjust the reimbursement rate reduction.

## **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part V. Hospitals**

##### **Subpart 5. Outpatient Hospitals**

##### **Chapter 53. Outpatient Surgery**

##### **Subchapter B. Reimbursement Methodology**

##### **§5313. Non-Rural, Non-State Hospitals**

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient surgery shall be reduced by 5.65 percent of the fee schedule on file as of August 3, 2009.

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state hospitals for outpatient surgery services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

b. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's outpatient Medicaid billed charges and Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12-consecutive-month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

D. Effective for dates of service on or after February 3, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient surgery shall be reduced by 5 percent of the fee schedule on file as of February 2, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:

##### **§5317. Children's Specialty Hospitals**

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for outpatient hospital surgery services shall be as follows.

1. Qualifying hospitals shall receive an interim payment equal to the Medicaid fee schedule amount on file for each service.

2. Final reimbursement shall be 97 percent of allowable cost as calculated through the cost report settlement process.

B. Effective for dates of service on or after February 3, 2010, the reimbursement paid to children's specialty hospitals for outpatient surgery shall be reduced by 5 percent of the fee schedule on file as of February 2, 2010.

1. Final reimbursement shall be 92.15 percent of allowable cost as calculated through the cost report settlement process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

##### **Chapter 55. Clinic Services**

##### **Subchapter B. Reimbursement Methodology**

##### **§5513. Non-Rural, Non-State Hospitals**

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient clinic services shall be reduced by 5.65 percent of the fee schedule on file as of August 3, 2009.

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state hospitals for clinic services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

b. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's outpatient Medicaid billed charges and Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12-consecutive-month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

D. Effective for dates of service on or after February 3, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient clinic services shall be reduced by 5 percent of the fee schedule on file as of February 2, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:

#### **§5517. Children's Specialty Hospitals**

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for outpatient hospital clinic services shall be the Medicaid fee schedule amount on file for each service.

B. Effective for dates of service on or after February 3, 2010, the reimbursement paid to children's specialty hospitals for outpatient hospital clinic services shall be reduced by 5 percent of the fee schedule on file as of February 2, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### **Chapter 57. Laboratory Services**

#### **Subchapter B. Reimbursement Methodology**

##### **§5713. Non-Rural, Non-State Hospitals**

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient laboratory services shall be reduced by 5.65 percent of the fee schedule on file as of August 3, 2009.

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state hospitals for laboratory services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

b. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's outpatient Medicaid billed charges and Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12-consecutive-month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

D. Effective for dates of service on or after February 3, 2010, the reimbursement paid to non-rural, non-state

hospitals for outpatient laboratory services shall be reduced by 5 percent of the fee schedule on file as of February 2, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:

#### **§5719. Children's Specialty Hospitals**

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for outpatient clinical diagnostic laboratory services shall be the Medicaid fee schedule amount on file for each service.

B. Effective for dates of service on or after February 3, 2010, the reimbursement paid to children's specialty hospitals for outpatient clinical diagnostic laboratory services shall be reduced by 5 percent of the fee schedule on file as of February 2, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### **Chapter 59. Rehabilitation Services**

#### **Subchapter B. Reimbursement Methodology**

##### **§5913. Non-Rural, Non-State Hospitals**

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient rehabilitation services provided to recipients over the age of three years shall be reduced by 5.65 percent of the fee schedule on file as of August 3, 2009.

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state hospitals for rehabilitation services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

b. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's outpatient Medicaid billed charges and Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12-consecutive-month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the

difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

D. Effective for dates of service on or after February 3, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient rehabilitation services provided to recipients over the age of three years shall be reduced by 5 percent of the fee schedule on file as of February 2, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:

#### **§5917. Children's Specialty Hospitals**

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for rehabilitation services shall be as follows.

1. Qualifying hospitals shall receive an interim payment equal to the Medicaid fee schedule amount on file for each service.

2. Final reimbursement shall be 97 percent of allowable cost as calculated through the cost report settlement process.

B. Effective for dates of service on or after February 3, 2010, the reimbursement paid to children's specialty hospitals for outpatient rehabilitation services provided to recipients over the age of three years shall be reduced by 5 percent of the fee schedule on file as of February 2, 2010.

1. Final reimbursement shall be 92.15 percent of allowable cost as calculated through the cost report settlement process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### **Chapter 61. Other Outpatient Hospital Services**

#### **Subchapter B. Reimbursement Methodology**

##### **§6115. Non-Rural, Non-State Hospitals**

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be reduced by 5.65 percent of the rates effective as of August 3, 2009. Final reimbursement shall be at 78.48 percent of allowable cost through the cost settlement process.

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries and rehabilitation services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

b. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's outpatient Medicaid billed charges and Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12-consecutive-month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

D. Effective for dates of service on or after February 3, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be reduced by 5 percent of the rates effective as of February 2, 2010. Final reimbursement shall be at 74.56 percent of allowable cost through the cost settlement process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:

##### **§6119. Children's Specialty Hospitals**

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services, and outpatient hospital facility fees shall be as follows.

1. Qualifying hospitals shall receive an interim payment that is equal to 97 percent of the hospital's cost to charge ratio as calculated from the latest filed cost report.

2. Final reimbursement shall be 97 percent of allowable cost as calculated through the cost report settlement process.

B. Effective for dates of service on or after February 3, 2010, the reimbursement paid to children's specialty hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services, and outpatient hospital facility fees shall be reduced by 5 percent of the rates effective as of February 2, 2010.

1. Final reimbursement shall be 92.15 percent of allowable cost as calculated through the cost report settlement process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and

Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

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

Alan Levine  
Secretary

1002#047

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

Outpatient Hospital Services  
Non-Rural, Non-State Hospitals  
Supplemental Payments  
(LAC 50:V.5315, 5515, 5717, 5915 and 6117)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.5315, §5515, §5717, §5915 and §6117 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule which established the reimbursement methodology for outpatient hospital services (*Louisiana Register*, Volume 22, Number 1). In compliance with the directives of Act 17 of the 2006 Regular Session of the Louisiana Legislature, the bureau amended the provisions governing the reimbursement methodology for outpatient hospital services to increase the reimbursement rates paid to private (non-state) acute care hospitals for cost-based outpatient services (*Louisiana Register*, Volume 33, Number 2). As a result of a budgetary shortfall and to avoid a budget deficit in the medical assistance programs, the bureau promulgated an Emergency Rule to reduce the reimbursement paid to non-rural, non-state hospitals for outpatient services (*Louisiana Register*, Volume 35, Number 2). In anticipation of projected expenditures in the Medical Vendor Program exceeding the funding allocated in the General Appropriations Act, the bureau promulgated an Emergency Rule to further reduce the reimbursement rates paid to non-rural, non-state hospitals for outpatient services (*Louisiana Register*, Volume 35, Number 5).

Act 228 of the 2009 Regular Session of the Louisiana Legislature directed the department to issue a supplemental payment to hospitals that demonstrated substantial financial and operational challenges in the aftermath of Hurricanes Katrina, Rita, Gustav and Ike. In compliance with Act 228,

the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for outpatient hospital services to provide a supplemental Medicaid payment to non-rural, non-state public hospitals (*Louisiana Register*, Volume 35, Number 7). This Emergency Rule is being promulgated to continue the provisions of the July 1, 2009 Emergency Rule.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program and ensuring recipient access to providers of these medically necessary services.

Effective February 28, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing outpatient hospital services provided by non-rural, non-state public hospitals.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part V. Hospital Services

#### Subpart 5. Outpatient Hospitals

#### Chapter 53. Outpatient Surgery

#### Subchapter B. Reimbursement Methodology

#### §5315. Non-Rural, Non-state Public Hospitals

A. Hurricane Katrina Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state public hospitals for outpatient surgical services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group, including inpatient supplemental payments, will not exceed \$170,000,000.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state public hospital must be located in DHH Administrative Region 1 (New Orleans) and identified in the July 17, 2008 United States Government Accountability Office report as a hospital that has demonstrated substantial financial and operational challenges in the aftermath of Hurricane Katrina.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed a specified individualized hospital limit. Payments will be distributed based on Medicaid paid claims data from state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the hospital specific cap is reached, whichever occurs first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### Chapter 55. Clinic Services

#### Subchapter B. Reimbursement Methodology

#### §5515. Non-Rural, Non-State Public Hospitals

A. Hurricane Katrina Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state public hospitals for clinic services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group, including inpatient supplemental payments, will not exceed \$170,000,000.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state public hospital must be located in DHH Administrative Region 1 (New Orleans) and identified in the July 17, 2008 United States Government Accountability Office report as a hospital that has demonstrated substantial financial and operational challenges in the aftermath of Hurricane Katrina.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed a specified individualized hospital limit. Payments will be distributed based on Medicaid paid claims data from state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the hospital specific cap is reached, whichever occurs first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36: **Chapter 57. Laboratory Services**

**Subchapter B. Reimbursement Methodology**  
**§5717 Non-Rural, Non-State Public Hospitals**

A. Hurricane Katrina Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state public hospitals for laboratory services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group, including inpatient supplemental payments, will not exceed \$170,000,000.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state public hospital must be located in DHH Administrative Region 1 (New Orleans) and identified in the July 17, 2008 United States Government Accountability Office report as a hospital that has demonstrated substantial financial and operational challenges in the aftermath of Hurricane Katrina.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed a specified individualized hospital limit. Payments will be distributed based on Medicaid paid claims data from state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the hospital specific cap is reached, whichever occurs first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36: **Chapter 59. Rehabilitation Services**

**Subchapter B. Reimbursement Methodology**  
**§5915. Non-Rural, Non-State Public Hospitals**

A. Hurricane Katrina Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state public hospitals for rehabilitation services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group, including inpatient supplemental payments, will not exceed \$170,000,000.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state public hospital must be located in DHH Administrative Region 1 (New Orleans) and identified in the July 17, 2008 United States Government Accountability Office report as a hospital that has demonstrated substantial financial and operational challenges in the aftermath of Hurricane Katrina.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed a specified individualized hospital limit. Payments will be distributed based on Medicaid paid claims data from state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the hospital specific cap is reached, whichever occurs first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36: **Chapter 61. Other Outpatient Hospital Services**

**Subchapter B. Reimbursement Methodology**  
**§6117. Non-Rural, Non-State Public Hospitals**

A. Hurricane Katrina Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state public hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries and rehabilitation services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group, including inpatient supplemental payments, will not exceed \$170,000,000.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state public hospital must be located in DHH Administrative Region 1 (New Orleans) and identified in the July 17, 2008 United States Government Accountability Office report as a hospital that has demonstrated substantial financial and operational challenges in the aftermath of Hurricane Katrina.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed a specified individualized hospital limit. Payments will be distributed based on Medicaid paid claims data from state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the hospital specific cap is reached, whichever occurs first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

Alan Levine  
Secretary

1002#067

## DECLARATION OF EMERGENCY

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

Personal Care Services—Long-Term  
Reimbursement Rate Reduction  
(LAC 50:XV.12917)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XV.12917 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for long-term personal care services (LT-PCS) to reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 2). The final Rule was published in the *Louisiana Register* on September 20, 2009 (*Louisiana Register*, Volume 35, Number 9). As a result of a budgetary shortfall in state fiscal year 2010, the department determined that it was necessary to further reduce the reimbursement rates paid for LT-PCS (*Louisiana Register*, Volume 35, Number 8). The department subsequently promulgated an Emergency Rule to amend the provisions of the August 4, 2009 Emergency Rule to revise the formatting of LAC 50:XV.12917 as a result of the promulgation of the September 20, 2009 final Rule governing the reimbursement methodology for long-term personal care services (*Louisiana Register*, Volume 35, Number 11).

As a result of a continuing budgetary shortfall, the department has determined that it is necessary to further reduce the reimbursement rates paid for LT-PCS. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$4,697,844 for state fiscal year 2009-2010.

Effective January 22, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the

Office of Aging and Adult Services amend the provisions governing the reimbursement methodology for long-term personal care services to further reduce the reimbursement rates.

### Title 50

## PUBLIC HEALTH—MEDICAL ASSISTANCE

### Part XV. Services for Special Populations

#### Subpart 9. Personal Care Services

### Chapter 129. Long-Term Care

#### §12917. Reimbursement Methodology

A. - D. ...

E. Effective for dates of service on or after August 4, 2009, the reimbursement rate for long-term personal care services shall be reduced by 4.8 percent of the rate on file as of August 3, 2009.

F. Effective for dates of service on or after January 22, 2010, the reimbursement rate for long-term personal care services shall be reduced by 5 percent of the rate on file as of January 21, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:253 (February 2008), LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1901 (September 2009), amended LR 36:

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

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

Alan Levine  
Secretary

1002#024

## DECLARATION OF EMERGENCY

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

Personal Care Services—Long-Term  
Repeal of Reimbursement Rate Reduction  
(LAC 50:XV.12917)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services repeals LAC 50:XV.12917.F in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This

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

As a result of a budgetary shortfall and to avoid a budget deficit in the medical assistance programs in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services promulgated an Emergency Rule to further reduce the reimbursement rates paid for long-term personal care services (*Louisiana Register*, Volume 36, Number 1).

The Office of Aging and Adult Services implemented the Service Hour Allocation of Resources (SHARe) initiative for some of the programs administered by OAAS, including long term personal care services (LT-PCS). This new method of allocating home and community-based services is designed to offer an acuity-based system for service allocation as a means of making certain programs more cost effective. As a result of the savings realized from SHARe implementation and previous rate reductions in OAAS-administered programs, the department has now determined that it is not necessary to further reduce the reimbursement rates for LT-PCS. Therefore, the department proposes to repeal the provisions of the January 22, 2010 Emergency Rule which reduced the reimbursement rates for LT-PCS.

Effective February 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services repeals the provisions of the January 22, 2010 Emergency Rule which further reduced the reimbursement rates for long-term personal care services.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part XV. Services for Special Populations**  
**Subpart 9. Personal Care Services**  
**Chapter 129. Long-Term Care**  
**§12917. Reimbursement Methodology**

A. - D. ...

E. Effective for dates of service on or after August 4, 2009, the reimbursement rate for long-term personal care services shall be reduced by 4.8 percent of the rate on file as of August 3, 2009.

F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:253 (February 2008), LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1901 (September 2009), amended LR 36:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for

responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

1002#069

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals**  
**Bureau of Health Services Financing**

Pregnant Women Extended Services  
Dental Services—Reimbursement Rate Reduction  
(LAC 50:XV.16107)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XV.16107 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the Pregnant Women Extended Services Dental Program to include coverage of two additional dental procedures, increase the reimbursement fees for designated dental services and clarify the provisions governing the reimbursement methodology for dental services rendered to Medicaid eligible pregnant women (*Louisiana Register*, Volume 35, Number 9).

As a result of a budgetary shortfall in state fiscal year 2010, the department has determined that it is necessary to amend the provisions governing the reimbursement methodology for dental services to reduce the reimbursement rates for services provided to Medicaid eligible pregnant women. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$70,374 for state fiscal year 2009-2010.

Effective January 22, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for

dental services provided to Medicaid eligible pregnant women.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XV. Services for Special Populations**

#### **Subpart 13. Pregnant Women Extended Services**

#### **Chapter 161. Dental Services**

#### **§16107. Reimbursement**

A. - C. ...

D. Effective for dates of service on or after January 22, 2010, the reimbursement fees for dental services provided to Medicaid eligible pregnant women shall be reduced to the following percentages of the 2008 National Dental Advisory Service Comprehensive Fee Report 70th percentile, unless otherwise stated in this Chapter:

1. 73 percent for the comprehensive periodontal evaluation exam;

2. 70 percent for the following diagnostic services:

- a. intraoral-periapical first film;
- b. intraoral-periapical, each additional film; and
- c. panoramic film and prophylaxis, adult; and

3. 65 percent for the remaining diagnostic services and all periodontic procedures, restorative and oral and maxillofacial surgery procedures which includes the following dental services:

- a. intraoral, occlusal film;
- b. bitewings, two films;
- c. amalgam (one, two or three surfaces) primary or permanent;
- d. amalgam (four or more surfaces);
- e. resin-based composite (one, two or three surfaces), anterior;
- f. resin-based composite (four or more surfaces) or involving incisal angle, anterior;
- g. resin-based composite crown, anterior;
- h. resin-based composite (one, two, three, four or more surfaces), posterior;
- i. prefabricated stainless steel crown, primary or permanent tooth;
- j. prefabricated resin crown;
- k. periodontal scaling and root planning (four or more teeth per quadrant);
- l. full mouth debridement to enable comprehensive evaluation and diagnosis;
- m. extraction, coronal remnants-deciduous tooth;
- n. extraction, erupted tooth or exposed root (elevation and/or forceps removal);
- o. surgical removal of erupted tooth requiring elevation of mucoperiosteal flap and removal of bone and/or section of tooth;
- p. removal of impacted tooth, soft tissue; and
- q. removal of impacted tooth, partially bony.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:434 (March 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1902 (September 2009), LR:36

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

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

Alan Levine  
Secretary

1002#035

### **DECLARATION OF EMERGENCY**

#### **Department of Health and Hospitals Bureau of Health Services Financing**

Professional Services Program  
Anesthesia Services—Reimbursement Methodology  
(LAC 50:IX.15111 and 15131-15135)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals LAC 50:IX.15111 and adopts LAC 50:IX.15131-15135 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in the medical assistance programs in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for anesthesia services to reduce the reimbursement rates paid to certified registered nurse anesthetists (CRNAs) for services rendered to Medicaid recipients (*Louisiana Register*, Volume 35, Number 3). The final Rule was published September 20, 2009 (*Louisiana Register*, Volume 35, Number 9). In anticipation of projected expenditures in the Medical Vendor Program exceeding the funding allocated in the General Appropriations Act for state fiscal year 2010, the bureau determined that it was necessary to amend the provisions governing anesthesia services to further reduce the reimbursement rates paid to CRNAs (*Louisiana Register*, Volume 35, Number 5). As a result of the legislature allocating additional funds to lessen the impact of state fiscal year 2010 budget reductions, the department repealed the provisions of the May 1, 2009 Emergency Rule (*Louisiana Register*, Volume 35, Number 8) and amended the reimbursement methodology for anesthesia services to reduce the reimbursement rates paid to physicians (*Louisiana Register*, Volume 35, Number 8). The department

promulgated an Emergency Rule to amend the provisions of the August 4, 2009 Emergency Rule to incorporate exclusions to the rate reduction for maternity-related anesthesia services and anesthesia services rendered to recipients under the age of 16. This Emergency Rule also revised the formatting of LAC 50:IX.15111 as a result of the promulgation of the September 20, 2009 final Rule governing the reimbursement methodology for anesthesia services (*Louisiana Register*, Volume 35, Number 11).

The department now proposes to amend the provisions governing anesthesia services in order to revise the formula-based reimbursement methodology for services rendered by physicians and CRNAs. In addition, the provisions governing anesthesia services are being repromulgated, in their entirety, in Subchapter D of LAC 50:IX.Chapter 151 in order to reorganize these provisions in a clear and concise manner in the *Louisiana Administrative Code*.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Medicaid Program and recipient access to providers of these medically necessary services. It is estimated that implementation of this Emergency Rule will increase expenditures in the Professional Services Program by approximately \$1,304,790 for state fiscal year 2009-2010.

Effective January 22, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for anesthesia services.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part IX. Professional Services Program**

#### **Subpart 15. Reimbursement**

#### **Chapter 151. Reimbursement Methodology**

#### **Subchapter D. Anesthesia Services**

#### **§15111. Anesthesia Services**

A. - D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1902 (September 2009), repealed LR 36:

#### **§15131. General Provisions**

A. The most appropriate procedure codes and modifiers shall be used when billing for surgical anesthesia procedures and/or other services performed under the professional licensure of the physician (anesthesiologist or other specialty) or certified registered nurse anesthetist (CRNA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### **§15133. Formula-Based Reimbursement**

A. Reimbursement is based on formulas related to a percentage of the Louisiana Medicare Region 99 allowable for a specified year.

B. Effective for dates of service on or after January 22, 2010, the reimbursement for formula-based anesthesia services rendered by a physician shall be:

1. 75 percent of the 2009 Louisiana Medicare Region 99 allowable for services rendered to Medicaid recipients ages 16 and older; and

2. 90 percent of the 2009 Louisiana Medicare Region 99 allowable for services rendered to Medicaid recipients under the age of 16.

C. Effective for dates of service on or after January 22, 2010, the reimbursement for formula-based anesthesia services rendered by a CRNA shall be:

1. 75 percent of the 2009 Louisiana Medicare Region 99 allowable for services rendered to Medicaid recipients ages 16 and older; and

2. 90 percent of the 2009 Louisiana Medicare Region 99 allowable for services rendered to Medicaid recipients under the age of 16.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### **§15135. Flat Fee Reimbursement**

A. Reimbursement for maternity-related anesthesia services is a flat fee, except for general anesthesia related to a vaginal delivery which is reimbursed according to a formula.

B. Other anesthesia services that are performed under the professional licensure of the physician (anesthesiologist or other specialty) or CRNA are reimbursed a flat fee based on the appropriate procedure code.

C. Effective for dates of service on or after February 26, 2009, the reimbursement rates paid to CRNAs will be reduced by 3.5 percent of the reimbursement as of February 25, 2009.

D. Effective for dates of service on or after August 4, 2009, the reimbursement rates paid for anesthesia services that are performed under the professional licensure of a physician (anesthesiologist or other specialty) shall be reduced by 3.5 percent of the rates in effect on August 3, 2009.

1. Effective for dates of service on or after November 20, 2009, maternity-related anesthesia services and anesthesia services rendered to recipients under the age of 16 shall be exempt from the August 4, 2009 rate reduction on anesthesia services performed by a physician (anesthesiologist or other specialty).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1002#011

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

Professional Services Program  
Family Planning Services  
Reimbursement Rate Reduction  
(LAC 50:IX.15141-15143)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:IX.15141-15143 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides Medicaid reimbursement for family planning services rendered by physicians in the Professional Services Program.

As a result of a budgetary shortfall in state fiscal year 2010, the department has determined that it is necessary to amend the provisions governing the Professional Services Program in order to reduce the reimbursement rates for family planning services, and to promulgate these provisions in a codified format for inclusion in the *Louisiana Administrative Code*. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$103,429 for state fiscal year 2009-2010.

Effective January 22, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for family planning services.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part IX. Professional Services Program

##### Subpart 15. Reimbursement

#### Chapter 151. Reimbursement Methodology

##### Subchapter E. Family Planning Services

#### §15141. General Provisions (Reserved)

#### §15143. Reimbursement

A. The reimbursement for family planning services shall be a flat fee for each covered service as specified on the established Medicaid fee schedule. Fee schedule rates are based on a percentage of the Louisiana Medicare Region 99 allowable for a specified year.

B. Family planning services are currently reimbursed at a rate that is between 90 percent and 120 percent of the 2008

Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

C. Effective for dates of service on or after January 22, 2010, the reimbursement rates for family planning services rendered by a physician shall be 75 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1002#017

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

Professional Services Program—Physician Services  
Reimbursement Rate Reduction  
(LAC 50:IX.15103 and 15111-15113)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals LAC 50:IX.15103 and adopts §§15111-15113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law."

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

In compliance with Act 18 of the 2007 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for physician services to adjust the reimbursement rates. In addition, the bureau repealed the provisions contained in the following rules governing the reimbursement methodology for physician services:

December 20, 2000; May 20, 2001; August 20, 2002; and February 20, 2007 (*Louisiana Register*, Volume 34, Number 8). As a result of a budgetary shortfall in state fiscal year 2010, the department promulgated an Emergency Rule to adjust the reimbursement rates paid for physician services (*Louisiana Register*, Volume 35, Number 8). The August 4, 2009 Emergency Rule was amended to incorporate exclusions to the rate reduction for prenatal evaluation and management, and delivery services rendered by physicians (*Louisiana Register*, Volume 35, Number 11).

As a result of a continuing budgetary shortfall, the bureau has determined that it is necessary to amend the provisions governing the Professional Services Program in order to further reduce the reimbursement rates paid for physician services. This Emergency Rule will also repromulgate the provisions, in their entirety, in Subchapter B of LAC 50:IX.Chapter 151 in order to reorganize these provisions in a clear and concise manner in the *Louisiana Administrative Code*.

This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$7,331,329 for state fiscal year 2009-2010.

Effective January 22, 2010 the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Professional Services Program to reduce reimbursement rates for physician services.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part IX. Professional Services Program**

##### **Subpart 15. Reimbursement**

#### **Chapter 151. Reimbursement Methodology**

##### **Subchapter B. Physician Services**

#### **§15103. Physician Services**

A. - B.2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1629 (August 2008), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### **§15111. General Provisions (Reserved)**

#### **§15113. Reimbursement**

A. The reimbursement rates for physician services shall be based on a percentage of the Louisiana Medicare Region 99 allowable for a specified year.

B. Effective for dates of service on or after October 15, 2007, the reimbursement for selected physician services shall be 90 percent of the 2007 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2007 Louisiana Medicare Region 99 allowable, effective for dates of service on or after October 15, 2007, the reimbursement for these services shall be reduced to 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

C. Effective for dates of service on or after January 1, 2008, the reimbursement for selected physician services shall be 90 percent of the 2008 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2008 Louisiana Medicare Region 99 allowable, effective for dates of service on or after January 1, 2008, the reimbursement for these services shall be reduced to 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

D. Effective for dates of service on or after August 4, 2009, the reimbursement for all physician services rendered to recipients 16 years of age or older shall be reduced to 80 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

1. For those services that are currently reimbursed at a rate below 80 percent of the Louisiana Medicare Region 99 allowable, effective for dates of service on or after August 4, 2009, the reimbursement for these services shall be increased to 80 percent of the Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

2. The following physician services are excluded from the rate adjustment:

- a. preventive medicine evaluation and management;
- b. immunizations;
- c. family planning services; and
- d. select orthopedic reparative services.

3. Effective for dates of service on or after November 20, 2009, the following physician services are excluded from the rate adjustment:

- a. prenatal evaluation and management; and
- b. delivery services.

E. Effective for dates of service on or after January 22, 2010, physician services rendered to recipients 16 years of age or older shall be reduced to 75 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

1. The following physician services shall be excluded from the rate reduction and shall be reimbursed at 80 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount:

- a. prenatal evaluation and management services;
- b. preventive medicine evaluation and management services; and
- c. obstetrical delivery services rendered to recipients 16 years of age or older.

F. Effective for dates of service on or after January 22, 2010, all physician services rendered to recipients under the age of 16 shall be reimbursed at 90 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

G. Effective for dates of service on or after January 22, 2010, all physician-administered drugs shall be reimbursed at 90 percent of the 2009 Louisiana Medicare Average Sales Price (ASP) allowable or billed charges, whichever is the lesser amount.

H. Effective for dates of service on or after January 22, 2010, all physician services that are currently reimbursed below the reimbursement rates in §15113.E-G shall be increased to the rates in §15113.E-G.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1002#033

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

Prosthetics and Orthotics  
Reimbursement Rate Reduction  
(LAC 50:XVII.501)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XVII.501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for prosthetic and orthotic devices to reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 3). These provisions were published in a final Rule on September 20, 2009 (*Louisiana Register*, Volume 35, Number 9). In anticipation of projected expenditures in the Medical Vendor Program exceeding the funding allocated in the General Appropriations Act for state fiscal year 2010, the bureau promulgated an Emergency Rule which amended the

March 7, 2009 Emergency Rule to further reduce the reimbursement rates paid for prosthetic and orthotic devices (*Louisiana Register*, Volume 35, Number 5). As a result of the allocation of additional funds by the legislature to lessen the impact of the state fiscal year 2010 budget reductions, the department repealed the rate reduction provisions of the May 1, 2009 Emergency Rule (*Louisiana Register*, Volume 35, Number 8) and adjusted the reimbursement rate reductions (*Louisiana Register*, Volume 35, Number 8). The department subsequently amended the provisions of the August 4, 2009 Emergency Rule to revise the formatting of LAC 50:XVII.501 as a result of the promulgation of the September 20, 2009 final Rule governing the reimbursement methodology for prosthetics and orthotics (*Louisiana Register*, Volume 35, Number 11).

As a result of a continuing budgetary shortfall in state fiscal year 2010, the bureau has determined that it is necessary to amend the provisions governing the reimbursement methodology for prosthetics and orthotics to further reduce the reimbursement rates. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$98,263 for state fiscal year 2009-2010.

Effective January 22, 2010 the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for prosthetics and orthotics to reduce the reimbursement rates.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XVII. Prosthetics and Orthotics

##### Subpart 1. General Provisions

#### Chapter 5. Reimbursement

##### §501. Reimbursement Methodology

A. - C.1. ...

D. Effective for dates of service on or after August 4, 2009, the reimbursement for prosthetic and orthotic devices for recipients 21 years of age and older shall be reduced by four percent of the fee amounts on file as of August 3, 2009.

1. The rate reduction shall not apply to items that do not appear on the fee schedule and are individually priced.

E. Effective for dates of service on or after January 22, 2010, the reimbursement for prosthetic and orthotic devices shall be reduced by five percent of the fee amounts on file as of January 21, 2010.

1. The rate reduction shall not apply to items that do not appear on the fee schedule and are individually priced.

AUTHORITY NOTE: Promulgated in accordance with R. S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1597 (July 2005), amended LR 34:881 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1903 (September 2009), LR 36:

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box

91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

1002#034

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

Pharmacy Benefits Management Program  
Maximum Allowable Costs  
(LAC 50:XXIX.949)

The Department of Health and Hospitals, Bureau of Health Services Financing hereby repeals the provisions of the January 1, 2010 Emergency Rule, in its entirety, governing the Pharmacy Benefits Management Program and amends LAC 50:XXIX.949 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated all of the rules governing the Pharmacy Benefits Management Program in a codified format in Title 50 of the Louisiana Administrative Code (*Louisiana Register*, Volume 32, Number 6). The department later promulgated a Rule (*Louisiana Register*, Volume 34, Number 1) amending the provisions of the June 20, 2006 Rule governing methods of payments in order to comply with the directives of Act 801 of the 2006 Regular Session of the Louisiana Legislature, which directed the department to submit a Medicaid State Plan amendment to the Centers for Medicare and Medicaid Services (CMS) to increase the Medicaid dispensing fee on prescription drugs, contingent upon CMS' approval of the proposed amendment. CMS subsequently disapproved the proposed amendment to the Medicaid State Plan that had been submitted in compliance with Act 801. An Emergency Rule was later promulgated to repeal the January 20, 2008 Rule and restore the repealed provisions of the June 20, 2006 Rule in the *Administrative Code* (*Louisiana Register*, Volume 36, Number 1).

Act 10 of the 2009 Regular Session of the Louisiana Legislature provided that the department may redefine the reimbursement methodology for multiple source drugs in establishing the state maximum allowable cost (MAC) in order to control expenditures to the level of appropriations for the Medicaid Program. In accordance with the provisions of Act 10, the department promulgated an Emergency Rule to redefine the Louisiana maximum allowable cost (LMAC) (*Louisiana Register*, Volume 36, Number 1). In addition, the dispensing fee was increased for drugs with an LMAC.

The department has determined that it is necessary to repeal the January 1, 2010 Emergency Rule in its entirety

and now proposes to amend the provisions governing the methods of payment for prescription drugs to redefine the LMAC.

This action is being taken to control expenditures in the Medical Assistance Program and to avoid a budget deficit. It is estimated that implementation of this Emergency Rule will decrease expenditures in the Pharmacy Benefits Management Program by \$16,593,994 for fiscal year 2009-2010.

Effective February 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing repeals the January 1, 2010 Emergency Rule and amends the provisions governing the methods of payment for prescriptions covered under the Pharmacy Benefits Management Program.

### Title 50

## PUBLIC HEALTH—MEDICAL ASSISTANCE

### Part XXIX. Pharmacy

#### Chapter 9. Methods of Payment

##### Subchapter D. Maximum Allowable Costs

##### §949. Cost Limits

A. - B. ...

1. Louisiana Maximum Allowable Cost (LMAC) is the average actual acquisition cost of a drug, defined as the pharmacist's payment made to purchase a drug product, adjusted by a multiplier of 2.35.

2. LMAC reimbursement will apply to certain multiple source drug products that meet therapeutic equivalency, market availability, and other criteria deemed appropriate by the Louisiana Medicaid Agency. Drugs are subject to LMAC if there are at least two non-innovator multiple source alternative products available that are classified by the FDA as Category "A" in the Approved Drug Products with Therapeutic Equivalence Evaluations.

3. LMAC rates are based on the average actual acquisition cost per drug, adjusted by a multiplier of 2.35, which assures that each rate is sufficient to allow reasonable access by providers to the drug at or below the established LMAC rate. The LMAC rate will apply to all versions of a drug that share the same active ingredient combination, strength, dosage form, and route of administration.

4. Average actual acquisition cost will be determined through a semi-annual collection and review of pharmacy invoices and other information deemed necessary by the Louisiana Medicaid Agency and in accordance with applicable state and federal law.

5. In addition to the semi-annual review, the Louisiana Medicaid Agency will evaluate on an ongoing basis throughout the year and adjust the rates as necessary to reflect prevailing market conditions and to assure that pharmacies have reasonable access to drugs at or below the applicable LMAC rate. Providers shall be given advance notice of any additions, deletions, or adjustments in price. A complete LMAC rate listing will be available to providers and updated periodically.

6. In no case shall a recipient be required to provide payment for any difference in a prescription price that may occur with implementation of the LMAC limit, nor may BHSF use a cost which exceeds the established maximums except for physician certification for brand name drugs.

C. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1065 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1002#044

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

#### Rural Health Clinics—Reimbursement Rate Reduction (LAC 50:XI.16701)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XI.16701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing services, provider participation and reimbursement methodology for rural health clinics (*Louisiana Register*, Volume 32, Number 10). As a result of a budgetary shortfall in state fiscal year 2010, the bureau has determined that it is necessary to amend the provisions governing the reimbursement methodology for rural health clinics to reduce the reimbursement rates paid for dental encounters. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$59 for state fiscal year 2009-2010.

Effective January 22, 2010 the Department of Health and Hospitals, Bureau of Health Services Financing amends the

provisions governing the reimbursement methodology for rural health clinics to reduce the reimbursement rates for dental encounters.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XI. Clinic Services

#### Subpart 15. Rural Health Clinics

#### Chapter 167. Reimbursement Methodology

#### §16701. Prospective Payment System

A. - C. ...

D. The PPS per visit rate for each facility will be increased on July 1 of each year by the percentage increase in the published *Medicare Economic Index (MEI)* for primary services.

1. Effective January 22, 2010, PPS rates for dental encounters shall be excluded from the annual MEI increase.

E. Effective for dates of service on or after January 22, 2010, the reimbursement for dental encounters shall be reduced by 3.4 percent of the fee amounts on file as of January 21, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2267 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1002#036

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

#### Targeted Case Management Nurse Family Partnership Program Reimbursement Rate Reduction (LAC 50:XV.10701, 11101 and 11103)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.10701 and §11101 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for targeted case management (TCM) services to: 1) require case management agencies to bill in 15 minute increments; 2) establish cost reporting requirements; and 3) increase the reimbursement rate paid for targeted case management services provided to infants and toddlers (*Louisiana Register*, Volume 35, Number 1). As a result of a budgetary shortfall and to avoid a budget deficit in the medical assistance programs, the bureau promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for TCM to reduce the reimbursement rates. This rate reduction was not applicable to Infants and Toddlers and Early and Periodic Screening, Diagnosis and Treatment case management (*Louisiana Register*, Volume 35, Number 2). In anticipation of projected expenditures in the Medical Vendor Program exceeding the funding allocated in the General Appropriations Act for state fiscal year 2010, the bureau promulgated an Emergency Rule to amend the February 1, 2009 Emergency Rule to further reduce the reimbursement rates paid for targeted case management services, including the TCM services provided in the Nurse Family Partnership Program (*Louisiana Register*, Volume 35, Number 5).

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to amend the provisions of the May 1, 2009 Emergency Rule to further reduce the reimbursement rates paid for TCM services provided in the Nurse Family Partnership Program and restrict reimbursement of TCM services in the Nurse Family Partnership Program to prenatal and postnatal services only (*Louisiana Register*, Volume 35, Number 7). This Emergency Rule is being promulgated to continue the provisions of the July 1, 2009 Emergency Rule.

This action is being taken to avoid a budget deficit in the medical assistance programs and to assure that reimbursements for targeted case management services remain within budget allocations.

Effective February 28, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing targeted case management services provided in the Nurse Family Partnership Program.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XV. Services for Special Populations**

##### **Subpart 7. Targeted Case Management**

#### **Chapter 107. Reimbursement**

##### **§10701. Reimbursement**

A. - D. ...

E. Effective for dates of service on or after February 1, 2009, the reimbursement for case management services provided to the following targeted populations shall be reduced by 3.5 percent of the rates on file as of January 31, 2009:

1. participants in the Nurse Family Partnership Program;

2. individuals with developmental disabilities who are participants in the New Opportunities Waiver; and

3. individuals with disabilities resulting from HIV.

F. Effective for dates of service on or after May 1, 2009, the reimbursement to non-state providers of case management services provided to the following targeted populations shall be reduced by 6.25 percent of the rates on file as of April 30, 2009:

1. participants in the Nurse Family Partnership Program;

2. individuals with developmental disabilities who are participants in the New Opportunities Waiver; and

3. individuals with disabilities resulting from HIV.

G. Effective for dates of service on or after July 1, 2009, the reimbursement for case management services provided to participants in the Nurse Family Partnership Program shall be reduced to \$115.93 per visit.

1. Medicaid reimbursement shall be limited to prenatal and postnatal services only. Case management services provided to infants and toddlers shall be excluded from reimbursement under the Nurse Family Partnership Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1040 (May 2004), amended LR 31:2032 (August 2005), LR 35:73 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### **Chapter 111. Nurse Family Partnership Program**

##### **§11101. Introduction**

A. - B. ...

C. Case management services rendered in the Nurse Family Partnership Program shall be limited to prenatal and postnatal services only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1041 (May 2004), amended LR 31:2028 (August 2005), LR 34:1036 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

##### **§11103. Recipient Qualifications**

A. - B. ...

C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1041 (May 2004), amended LR 31:2028 (August 2005), LR 34:1037 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1002#066

## DECLARATION OF EMERGENCY

### Department of Social Services Office of Family Support

CCAP Military Child Care Providers  
(LAC 67:III.5107, 5109, and 5113)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt LAC 67:III.5107, 5109, 5113, Child Care Assistance Program. This declaration is necessary to extend the original Emergency Rule which was published November 20, 2009, and was effective October 30, 2009, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (the final Rule will be published in the March 20, 2010 issue.)

The department has adopted the following Emergency Rule, finding that an imminent threat to the public health, safety, and welfare exists. Men and women serving in the armed forces of the United States and facing deployment to war zones or combat-support duties are frequently denied access to child care assistance benefits for their minor children when their children are cared for by centers licensed by the Department of Defense.

It is essential to our national security that the effectiveness of our military troops not be impaired by an inability to afford quality child care for their minor children on the military base while on active duty. This Emergency Rule extends participation to child care facilities on United States military bases licensed by and through the U.S. Department of Defense. Adoption of this Emergency Rule will remove the disparity in quality of child care by assisting low-income members of the armed forces in paying for care for their children at high-quality child care facilities located on military bases.

## Title 67

### SOCIAL SERVICES

#### Part III. Office of Family Support

##### Subpart 12. Child Care Assistance Program

##### Chapter 51. Child Care Assistance Program

##### Subchapter B. Child Care Providers

##### §5107. Child Care Provider

A. The head of household, or parent/caretaker relative in the case of a STEP participant, shall be free to select a child care provider of his/her choice including center-based child care (licensed Class A centers, and licensed Class A Head Start centers which provide before-and-after school care and/or summer programs, and child care centers licensed by the Department of Defense), a registered family child day care home (FCDCH) provider, in-home child care, and public and non-public BESE-regulated schools which operate kindergarten, pre-kindergarten, and/or before and after school care programs.

B. A licensed Class A center, licensed Class A Head Start center, or center licensed by the Department of Defense must be active in the Child Care Assistance Program (CCAP) Provider Directory, complete and sign a Class A or Department of Defense provider agreement, as appropriate, and provide complete and accurate documentation and information required for direct deposit before payments can be made to that facility.

C. - G1.c. ...

d. a Class A or Department of Defense center's license is revoked or not renewed.

e. - g. ...

h. a Class A, Department of Defense, or school child care provider fails to submit complete and accurate documentation and information required for Direct Deposit.

G.2. - I.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 152, 2002 First Extraordinary Session, Act 13, 2002 Reg. Session, Act 58, 2003 Reg. Session, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:496 (March 2004), LR 30:1484 (July 2004), LR 31:102 (January 2005), LR 31:2263 (September 2005), LR 32:1465 (August 2006), LR 32:2097 (November 2006), LR 33:507 (March 2007), LR 34:692 (April 2008), LR 36:

**§5109. Payment**

A. - B.1.a. ...

b. the state maximum rate for authorized services effective January 1, 2007, as indicated below.

Provider Type	Regular Care	Regular Care for Infants/Toddlers (under age 3)	Special Needs Care Incentive	Special Needs Care Incentive for Infants/Toddlers (under age 3)
Class A	\$17.50	\$18.50	\$21.65	\$22.65
Class E	\$15.00	\$16.00	\$18.50	\$19.50
Class R	\$15.00	\$16.00	\$18.50	\$19.50
Class U	\$14.50	\$15.50	\$17.90	\$18.90
Class M	\$17.50	\$18.50	\$21.65	\$22.65

2. Payments to providers on behalf of FITAP recipients will be the lesser of:

a. the provider’s actual charge multiplied by authorized service days or authorized service hours; or

b. the state maximum rate for authorized services effective January 1, 2007, as indicated below.

Provider Type	Regular Care	Regular Care for Infants/Toddlers (under age 3)	Special Needs Care Incentive	Special Needs Care Incentive for Infants/Toddlers (under age 3)
Class A	\$17.50	\$18.50	\$21.65	\$22.65
Class E	\$15.00	\$16.00	\$18.50	\$19.50
Class R	\$15.00	\$16.00	\$18.50	\$19.50
Class U	\$14.50	\$15.50	\$17.90	\$18.90
Class M	\$17.50	\$18.50	\$21.65	\$22.65

B.3. - E. ...

F. Electronic disbursement of child care payments shall be mandatory for all types of CCAP providers. Electronic disbursement of child care payments includes direct deposit to the CCAP provider’s bank account (checking or savings) or payments to a stored value card account for the CCAP provider. It is mandatory for Class A, Class M, and school child care providers to utilize direct deposit to receive their CCAP payments. The fees associated with the use of a stored value card are subject to the conditions of that financial institution.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445(December 1999), LR 26:2828 (December 2000), LR 27:1933 (November 2001), LR 28:1491 (June 2002), LR 29:1834 (September 2003), LR 30:1485 (July 2004), repromulgated LR 30:2078 (September 2004), amended LR 31:2265 (September 2005), LR 32:1465 (August 2006), LR 32:2097 (November 2006), LR 33:507 (March 2007), LR 34:692 (April 2008), LR 36:

**§5113. Disqualification Periods for CCAP Providers**

A. A child care provider shall be disqualified from receiving CCAP payments if the agency determines that certain acts or violations have been committed by that provider. CCAP disqualifications shall apply as follows.

1. A criminal background check (CBC) shows that a provider has been convicted of or pled no contest to any

defense in another jurisdiction whose elements would constitute an enumerated offense under in R.S.15:587.1(C) if committed within Louisiana, shall result in permanent disqualification. If a CBC shows that a person living in or working in an FCDCH or a person working in a Class A, Class M, or Class E center shows the person has been convicted of or pled no contest to any offense enumerated in R.S.15:587.1(C), or has been convicted of or pled no contest to any offense in another jurisdiction whose elements would constitute an enumerated offense under R.S.15:587.1(C) if committed within Louisiana, the provider shall be disqualified until that person is no longer living in or working in the FCDCH or working in the Class A, Class M, or Class E center. For purposes of this section a conviction under La C.Cr.P. Artts. 893 or 894, or equivalent provisions of another jurisdiction, shall constitute a conviction.

2. A Category 1 validated complaint of child abuse or neglect on the provider shall result in permanent disqualification. If the Category 1 validated complaint is for a person living in or working in an FCDCH or for a person working in a Class A, or Class M, or Class E center, the provider shall be disqualified until that person is no longer living in or working in the FCDCH or working in the Class A, Class M, or Class E center. The following types of validated complaints of child abuse or neglect are considered to be Category 1 complaints: bone fracture, factitious disorder by proxy/Munchausen by proxy syndrome, poisoning or noxious substance ingestion, suffocation,

whiplash/shaken infant syndrome, HIV/AIDS and hepatitis, prostitution, sexual intercourse (vaginal or anal), failure to thrive (non-organic), central nervous system damage/brain damage/skull fracture, internal injury, subdural hematoma, torture, wounds, oral sex, sexual exploitation/pornography, sexually transmitted disease, malnutrition/starvation, death/abuse, death/neglect, perpetrators who have an adjudication of a child in need of care, perpetrators with a voluntary or involuntary termination of parental rights (TPR) judgment, sexual enticement, simulated intercourse, abandonment, burns, eye injury, minor head/facial injuries, tying or confinement, passive abuse, exploitation, sexual manipulation or fondling, emotional maltreatment, bruises/cuts/welts/scratches, dislocations or sprains, human bites, mouth/dental trauma, medical neglect, drug/alcohol abuse, dependency, and lack of supervision as described in §5113.A.4. These types of validated complaints of child abuse or neglect are defined by the Office of Community Services.

3. A Category 2 validated complaint of child abuse or neglect on the provider shall result in the corrective action or disqualification periods described below. If the Category 2 validated complaint is for a person living in or working in an FCDCH or working in a Class A, Class M, or Class E center, the provider shall be disqualified until that person is no longer living in or working in the FCDCH or working in the Class A, Class M, or Class E center, or until the corrective action described below is met or the disqualification period described below ends, whichever is sooner. The following types of validated complaints of child abuse or neglect are considered to be Category 2 complaints: inadequate clothing, inadequate food, inadequate shelter, and lack of supervision as described in §5113A.4. These types of validated complaints of child abuse or neglect are defined by the Office of Community Services. The corrective action or disqualification periods for Category 2 validated complaints are as follows:

3.a. - 6c. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L.104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 34:2208 (October 2008), amended LR 36:

Kristy Nichols  
Secretary

1002#096

## DECLARATION OF EMERGENCY

### Department of Social Services Office of Community Services

Residential Licensing  
(LAC 67:V.6115, 6709, 2903, 6905,  
6909, 6953, 6955, and 6959)

On October 7, 2009, the Department of Social Services (DSS), Office of Community Services, exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), to amend and adopt LAC 67:V., Subpart 8, Residential Licensing, Chapters 61, 67 and 69, in order to

carry into effect the provisions of Acts 194 and 343 of the 2009 Regular Session of the Louisiana Legislature.

This second Declaration of Emergency is necessary to extend the original Emergency Rule which became effective October 7, 2009, but will expire on February 3, 2010, before the final Rule takes effect. This is the second Emergency Rule, effective February 4, 2010, will remain in effect for a period of 120 days or until the final Rule is published, whichever comes first. The Department plans to publish the final Rule in the February 20, 2010, edition of the *Louisiana Register*.

### Title 67

### SOCIAL SERVICES

### Part V. Community Services

### Subpart 8. Residential Licensing

### Chapter 61. Emergency Shelter

### §6115. Required Records

NOTE: This Section has been moved from LAC 67:I.1115.

A. - D.4.a. ...

5. Influenza Notice to Parents. In accordance with Act 343 of the 2009 Regular Legislative Session, providers shall make available to each child's parent or legal guardian information relative to the risks associated with influenza and the availability, effectiveness, known contraindications and possible side effects of the influenza immunization. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information and where a child may be immunized against influenza. The information shall be updated annually if new information on the disease is available. The information shall be provided annually to each licensed facility by the Department of Social Services and shall be made available to parents or legal guardians prior to November 1<sup>st</sup> of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2677 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1552 (August 2009), amended by the Department of Social Services, Office of Community Services, LR 36:

### Chapter 67. Maternity Homes

### §6709. Organization and Administration

NOTE: This Section has been moved from LAC 67:I.1709.

A. - G.2. ...

H. Influenza Notice to Parents. In accordance with Act 343 of the 2009 regular legislative session, providers shall make available to each child's parent or legal guardian information relative to the risks associated with influenza and the availability, effectiveness, known contraindications and possible side effects of the influenza immunization. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information and where a child may be immunized against influenza. The information shall be updated annually if new information on the disease is available. The information shall be provided annually to each licensed facility by the Department of

Social Services and shall be made available to parents or legal guardians prior to November 1 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1571 (August 2009), amended by the Department of Social Services, Office of Community Services, LR 35:

## **Chapter 69. Child Residential Care**

### **§6903. Authority**

NOTE: This Section has been moved from LAC 67:I.1903.

A. - C.3. ...

D. Waivers. The Secretary of the Department of Social Services, in specific instances, may waive compliance with a minimum standard upon determination that the economic impact is sufficiently great to make compliance impractical, only if the health, safety, and well-being of the staff/children are not imperiled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2129 (November 1998), LR 25:2458 (December 1999), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2698 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1574 (August 2009), amended by the Department of Social Services, Office of Community Services, LR 36:

### **§6905. Procedures**

NOTE: This Section has been moved from LAC 67:I.1905.

A. - E.1. ...

2. The administrator or owner may appeal this decision by submitting a written request with the reasons to the secretary of the Department of Social Services. Write to Department of Social Services, Bureau of Appeals, P.O. Box 2994, Baton Rouge, LA 70821-9118. This written request shall be postmarked within 15 days of the receipt of the notification in §1905.E.1 above, in the case of a revocation or non-renewal, or within 30 days of denial of a new application.

3. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2130 (November 1998), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2699 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1575 (August 2009), amended by the Department of Social Services, Office of Community Services, LR 36:

## **§6909. Administration and Organization**

NOTE: This Section has been moved from LAC 67:I.1909.

A. - P.3. ...

Q. Influenza Notice to Parents. In accordance with Act 343 of the 2009 Regular Legislative Session, providers shall make available to each child's parent or legal guardian information relative to the risks associated with influenza and the availability, effectiveness, known contraindications and possible side effects of the influenza immunization. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information and where a child may be immunized against influenza. The information shall be updated annually if new information on the disease is available. The information shall be provided annually to each licensed facility by the Department of Social Services and shall be made available to parents or legal guardians prior to November 1 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2132 (November 1998), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2701 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1578 (August 2009), amended by the Department of Social Services, Office of Community Services, LR 35:

### **§6953. Authority**

NOTE: This Section has been moved from LAC 67:I.1953.

A. Legislative Provisions. The licensing authority of the Department of Social Services is established by R.S. 46:1401 et seq., and R.S. 46:51 which mandate the licensing of all child care facilities and child placing agencies, including child residential facilities. A Class "B" child residential facility is defined as any place, facility or home operated by any institution, society, agency, corporation, person or persons or any other group to provide full-time care (24-hour residential care) for four or more children under the age of 18 years who are not related to the operators, and whose parents or guardians are not residents of the same facility, with or without transfer of custody, and no state or federal funds received for the care of the children.

B. - C.3. ...

D. - D.2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1565 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1617 (August 2009), amended by the Department of Social Services, Office of Community Services, LR 35:

## §6955. Procedures

NOTE: This Section has been moved from LAC 67:I.1955.

- A. - D.2.g. ...
- E. Appeal Procedure

1. If a license is denied or revoked because a facility does not meet the minimum requirements for licensure, the Department of Social Services shall notify the licensee or applicant in writing of the denial or revocation, of the reasons for the denial or revocation, and of the right to appeal the agency action.

2. The administrator or owner may appeal this decision by submitting a written request for a fair hearing, together with the reasons he/she believes the decision to be incorrect, to the Department of Social Services Appeals Bureau, P.O. Box 2994, Baton Rouge, LA 70821. The written request must be submitted within 15 days of receipt of notice of the department's notice, in the case of a revocation or non-renewal, or within 30 days of receipt of the notice of denial of a new application for an initial license.

3. A fair hearing shall be conducted by an administrative law judge within 30 days of filing the request for hearing.

4. Following the hearing, the administrative law judge shall render a decision within 90 days and shall notify the appellant in writing of the decision, either affirming or reversing the department's original action. If the department's action is upheld, the revocation or denial shall be effective immediately.

5. If a facility continues to operate without a license following a decision upholding revocation the Department may file suit in the district court in the parish in which the facility is located seeking injunctive relief and statutory fines of not less than \$75 per day nor more than \$250 per day for each day the facility has operated without a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1565 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1617 (August 2009), amended by the Department of Social Services, Office of Community Services, LR 35:

## §6959. Administration and Organization

NOTE: This Section has been moved from LAC 67:I.1959.

A. Class "B" facilities must comply with all regulations set by the Office of the State Fire Marshal, the Office of Public Health, local zoning laws and all laws regarding child abuse or neglect. Client-staff ratios and minimum space requirements will be enforced by the Department of Social Services. Class "B" facilities must comply with regulations restricting hiring felons, prohibiting racial discrimination and prohibiting the use of corporal punishment without parental permission, and with all other regulations promulgated by the Department of Social Services. Core regulations must promote safe physical facilities, adequate supervision and qualified staff, healthful food service, procedures for nighttime care, and procedures for the disposition of complaints.

- B. - B.2. ...
- 3. Repealed.
- C. - Q. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1567 (September 2001), re-promulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2743 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1620 (August 2009), amended by the Department of Social Services, Office of Community Services, LR 36:

Kristy H. Nichols  
Secretary

1002#050

## DECLARATION OF EMERGENCY

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

#### Large Coastal Shark Commercial Season Opening

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3, which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in its Rule LAC 76:VII.357.M.2 which allows the secretary to establish seasons, the Secretary of the Department of Wildlife and Fisheries hereby declares:

Effective 12:01 a.m., February 4, 2010, the commercial fishery for Non-Sandbar Large Coastal Sharks (great hammerhead, scalloped hammerhead, smooth hammerhead, nurse shark, blacktip shark, bull shark, lemon shark, silky shark, spinner shark, and tiger shark) in Louisiana waters as described in LAC 76:VII.357.B.2 will open until 12:01 a.m. April 1, 2010, unless the federal season for a species or species group in the Gulf of Mexico is closed, and the secretary is requested by NOAA Fisheries to take action to enact consistent seasonal regulations.

Effective with these openings, properly licensed and permitted persons may commercially harvest, possess, and sell Non-Sandbar Large Coastal Sharks whether taken from within or without Louisiana waters in compliance with the rules as set forth by the National Marine Fisheries Service for Federal waters, and by the Louisiana Wildlife and Fisheries Commission. Only properly licensed and permitted dealers may purchase Non-Sandbar Large Coastal Sharks during the open season. The fishery for Small Coastal Shark in Louisiana state waters will remain closed until further notice.

The secretary has been notified by the National Marine Fisheries Service that the season for commercial harvest of Non-Sandbar Large Coastal Sharks in the federal waters of the Gulf of Mexico will open on February 4, 2010. The season for the commercial harvest of small coastal sharks will remain closed in Federal waters until further notice.

Robert J. Barham  
Secretary

1002#003

## **DECLARATION OF EMERGENCY**

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

#### **Shrimp Closure—Remainder of Zone 1**

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act, 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 or part of inside waters and a resolution adopted by the Wildlife and Fisheries Commission on August 6, 2009 which authorized the Secretary of the Department of Wildlife and Fisheries to change the closing dates of the 2009 Fall Shrimp Season if biological and technical data indicate the need to do so or if enforcement problems develop and to close all or parts of state inside and outside waters if significant numbers of small white shrimp are found in these waters, and to re-open these waters if significant numbers of marketable size shrimp are available for harvest, the secretary hereby declares:

The 2009 fall inshore shrimp season within Shrimp Management Zone 1 will close on Thursday, January 14, 2010 at official sunset except for the open waters of Breton and Chandeleur Sounds as described by the double-rig line (R.S. 56:495.1.(A)2) which shall remain open to shrimping until 6 a.m., March 31, 2010.

State outside waters south of the inside/outside shrimp line westward from the western shore of Freshwater Bayou Canal at 92 degrees 18 minutes and 33 seconds west longitude and eastward from the northwest shore of Caillou Boca at 29 degrees 03 minutes and 10 seconds north latitude and 90 degrees 50 minutes and 27 seconds west longitude shall continue to remain open to shrimping.

The number of small white shrimp taken in biological samples within the area to be closed has increased with sudden drops in water temperatures since the beginning of the year and these waters are being closed to protect these developing shrimp.

Robert J. Barham  
Secretary

1002#004

# Rules

## RULE

### Department of Agriculture and Forestry Office of the Commissioner

#### Family Farm Credit (LAC 7:III.301-337)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., and with R.S. 3:3, the Commissioner of Agriculture and Forestry is changing the name of Part III and repealing the Family Farm Credit Program regulations. The change of the name of Part III allows all regulations regarding agricultural finance programs to be in the same Part, thereby making it easier for the public to find these regulations. The Family Farm Credit Program regulations are to be repealed because the enabling statutes have been repealed and the Family Farm Credit Program abolished.

The Louisiana Family Farm Credit Program was enacted by the Legislature by Act 427 of 1980 as Chapter 3-A of Title 3 of the Revised Statutes of 1950 (R.S. 3:251-259). The Family Farm Credit Program regulations were promulgated in May of 1981. The Louisiana Family Farm Credit Program was repealed by §8 of Act 662 of 1989. The regulations for the Family Farm Credit Program are, therefore, being repealed.

#### Title 7

#### Agriculture and Animals

#### Part III. Agricultural Finance

#### Chapter 3. Reserved

#### §301. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:252 and R.S. 3:253, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:254 (May 1981), amended LR 7:623 (December 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:231 (February 2010).

#### §303. Applicant Eligibility Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:252 and R.S. 3:253, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:255 (May 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:231 (February 2010).

#### §305. Conditions for Approval of Loan Guarantee

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:257 and R.S. 3:253, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:255 (May 1981), amended LR 7:623 (December 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:231 (February 2010).

#### §307. Conditions for Approval of Interest Payment Adjustments

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:257 and R.S. 3:253, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:255 (May 1981), amended LR 7:623 (December 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:231 (February 2010).

#### §309. Time and Manner of Filing Application

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:256, R.S. 3:255 and R.S. 3:253, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:255 (May 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:231 (February 2010).

#### §311. Contents of the Application

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:253 and R.S. 3:256, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:255 (May 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:231 (February 2010).

#### §313. Appraisal Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:253, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:256 (May 1981), amended LR 7:623 (December 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:231 (February 2010).

#### §315. Title Opinion Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:253, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:257 (May 1981), amended LR 7:623 (December 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:231 (February 2010).

#### §317. Council Procedures for Initial Approval/Denial of Application for Loan Guarantee/Interest Payment Adjustment; Notification

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:253 and R.S. 3:256, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:257 (May 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:231 (February 2010).

#### §319. Re-Application; Review of Determination

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:253 and R.S. 3:256, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:258 (May 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:231 (February 2010).

**§321. Conditions for Execution of Family Farm Loan Guarantee Agreement**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:253, R.S. 3:256 and R.S. 3:257, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:258 (May 1981), amended LR 7:623 (December 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:232 (February 2010).

**§323. Conditions for Execution of Interest Payment Adjustment Agreement**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:257 and R.S. 3:253, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:258 (May 1981), amended LR 7:623 (December 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:232 (February 2010).

**§325. Annual Determination of Eligibility for Interest Payment Adjustment**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:257 and R.S. 3:253, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:258 (May 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:232 (February 2010).

**§327. Repayment of Interest Payment Adjustment; Renewal of Interest Payment Adjustment Agreement**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:257 and R.S. 3:253, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:258 (May 1981), amended LR 7:624 (December 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:232 (February 2010).

**§329. Default for Failure to Farm Lands Purchased with Family Farm Security Loan**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:256 and R.S. 3:253, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:259 (May 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:232 (February 2010).

**§331. Procedure upon Default for Non-Payment**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:256 and R.S. 3:253, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:259 (May 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:232 (February 2010).

**§333. Transfer of Property Secured under a Family Farm Loan Guarantee Agreement**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:259 and R.S. 3:253, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:259 (May 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:232 (February 2010).

**§335. Prohibitions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:253, R.S. 3:255, R.S. 3:256 and R.S. 3:257, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:259 (May 1981), amended LR 7:624 (December 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:232 (February 2010).

**§337. Effective Date**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:253, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:260 (May 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:232 (February 2010).

Mike Strain, DVM  
Commissioner

1002#098

**RULE**

**Department of Civil Service  
Board of Ethics**

Financial Disclosure Forms (LAC 52:I.Chapter 13)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Civil Service, Louisiana Board of Ethics, has amended the rules for the Board of Ethics to bring the rules into compliance with current statutory provisions and Act 1 of the 2008 1st Special Legislative Session and Act 472 of the 2008 Regular Legislative Session.

Title 52  
ETHICS  
Part I. Board of Ethics

Chapter 13. Records and Reports

§1318. Statements Filed Pursuant to Section 1124 of the Code of Governmental Ethics

**PERSONAL FINANCIAL DISCLOSURE**  
**"TIER 1"**  
**LSA-R.S. 42:1124**

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**USE THIS FORM ONLY IF YOU ARE A CANDIDATE:**

This form applies only to:

- (1) Candidates for Statewide elected officials
- 

- (1) **Candidates must file the statement within 10 days of filing a notice of candidacy for one of the above offices.**

- (2) **If you hold more than one office that requires the filing of a financial disclosure statement, please note that only one financial disclosure report shall be filed by the filer. Such report shall be filed under the highest Tier (with Tier 1 being the highest, then Tier 2, then Tier 2.1 and Tier 3 being the lowest).**
- 

**INSTRUCTIONS**

Use as many pages of each section of the form as are required. Machine copies of the form's pages may be used. Additional copies of the forms or individual schedules may be obtained on the Louisiana Board of Ethics website at [www.ethics.state.la.us](http://www.ethics.state.la.us). In addition, information sheets and Frequently Asked Questions (FAQs) are available on the Louisiana Board of Ethics website.

Please file the completed form with the Louisiana Board of Ethics by mail or facsimile at:

**P.O. Box 4368                      or                      (225) 381-7271**  
**Baton Rouge, LA 70821**

The report shall reflect income, amounts, and values for the activities with respect to employment, transactions, liabilities, etc. for the prior calendar year. For example, if the report is due on May 15, 2009, the information provided should be for the 2008 calendar year.

**NOTE: Where amounts are required herein, indicate such amounts by using one of the following categories, categories, unless otherwise indicated on the schedule:**

<b>I</b>	<b>Less than \$5,000</b>	<b>IV</b>	<b>\$50,000 to \$99,999</b>
<b>II</b>	<b>\$5,000 to \$24,999</b>	<b>V</b>	<b>\$100,000 to \$199,999</b>
<b>III</b>	<b>\$25,000 to \$49,999</b>	<b>VI</b>	<b>\$200,000 or more</b>

**Instructions** (continued):

For the purposes of this form, the following definitions apply:

- **“Business”** means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, business, organization, self-employed individual, holding company, trust, or any other legal entity or person.
- **“Income”** for a business means gross income less (i) costs of goods sold, and (ii) operating expenses.
- **“Income”** for an individual means taxable income and shall not include any income received pursuant to a life insurance policy.
- **“Public office”** means any state, parish, municipal, ward, district, or other office or position that is filled by election of the voters, except the president or vice president of the United States, presidential elector, delegate to the political party convention, US Senator, US congressman, or political party office.
- **“Political Subdivision”** means a parish, municipality, and any other unit of local government, including a school board and a special district, authorized by law to perform governmental functions. Examples are: Hospital Service Districts, School Boards and the schools under its authority, Police Jurys, Parish Councils, Board of Aldermen, Cities, Towns, Villages, etc.
- **LSA-R.S. 18:1505.2(L)(3)(a)** refers to (i) any person who holds a license or permit as a distributor of gaming devices, who holds a license or permit as a manufacturer of gaming devices, who holds a license or permit as a device service entity, and any person who owns a truck stop or a licensed pari-mutuel or off-track wagering facility which is a licensed device establishment, all pursuant to the Video Draw Poker Devices Control Law; (ii) any person who holds a license to conduct gaming activities on a riverboat, who holds a license or permit as a distributor or supplier of gaming devices or gaming equipment including slot machines, or who holds a license or permit as a manufacturer of gaming devices or gaming equipment including slot machines issued pursuant to the Louisiana Riverboat Economic Development and Gaming Control Act, and any person who owns a riverboat upon which gaming activities are licensed to be conducted, and (iii) any person who holds a license or entered into a contract for the conduct of casino gaming operations, who holds a license or permit as a distributor of gaming devices or gaming equipment including slot machines, or who holds a license or permit as a manufacturer of gaming devices or gaming equipment including slot machines issued pursuant to the Louisiana Economic Development and Gaming Corporation Act, and any person who owns a casino where such gaming operations are licensed.
- **“Consumer credit transaction”** means a consumer loan or a consumer credit sale but does not include a motor vehicle credit transaction made pursuant to R.S. 6:969.1 et seq. R.S. 9:3516(13).

**PERSONAL FINANCIAL DISCLOSURE**  
**"TIER 1"**  
**LSA-R.S. 42:1124**

ORIGINAL REPORT  AMENDED REPORT This Report Covers Calendar Year 20\_\_\_\_

I hold an office that would require a filing under Tier 2, Tier 2.1 or Tier 3. If this box is checked, filer must complete Schedule K.

Full Name of Filer: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
Street Apt. #  
\_\_\_\_\_  
City State Zip Code

Office Held or Position Sought \_\_\_\_\_

Date of Election \_\_\_\_\_ Date of Qualifying \_\_\_\_\_

Full Name of Spouse: \_\_\_\_\_

Spouse's Occupation: \_\_\_\_\_

Spouse's Principal Business Address, if any:

\_\_\_\_\_  
Street Suite #  
\_\_\_\_\_  
City State Zip Code

- (A) I certify that I have filed my federal income tax return for the previous year.
- (B) I certify that I have filed my state income tax return for the previous year.
- or
- (A) I certify that I have filed for an extension of my federal income tax return for the previous year.
- (B) I certify that I have filed for an extension of my state income tax return for the previous year.
- or
- I certify that I have not filed my federal or state income tax return for the previous year as the returns are not due as of the date of qualifying.

**CERTIFICATION OF ACCURACY**

**I do hereby certify, after having been first  
duly sworn, that the information contained**

**in this personal financial disclosure form is  
true and correct to the best of my knowledge,  
information and belief.**

\_\_\_\_\_  
Signature of Filer

**Sworn to and subscribed** before me  
this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_.

\_\_\_\_\_  
Notary Public  
Printed Name: \_\_\_\_\_  
ID# \_\_\_\_\_ Commission Expires \_\_\_\_\_

**SCHEDULE A**  
**EMPLOYMENT INFORMATION**

Please disclose the name of the employer, job title, a brief description of the job description for each full-time or part-time employment position held by the individual or spouse.

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Filer  Spouse  Full-time  Part-time

Employer Name \_\_\_\_\_ Job Title \_\_\_\_\_

Job Description \_\_\_\_\_  
\_\_\_\_\_

---

Filer  Spouse  Full-time  Part-time

Employer Name \_\_\_\_\_ Job Title \_\_\_\_\_

Job Description \_\_\_\_\_  
\_\_\_\_\_

---

Filer  Spouse  Full-time  Part-time

Employer Name \_\_\_\_\_ Job Title \_\_\_\_\_

Job Description \_\_\_\_\_  
\_\_\_\_\_

---

Filer  Spouse  Full-time  Part-time

Employer Name \_\_\_\_\_ Job Title \_\_\_\_\_

Job Description \_\_\_\_\_  
\_\_\_\_\_

---

Filer  Spouse  Full-time  Part-time

Employer Name \_\_\_\_\_ Job Title \_\_\_\_\_

Job Description \_\_\_\_\_  
\_\_\_\_\_

---

Filer  Spouse  Full-time  Part-time

Employer Name \_\_\_\_\_ Job Title \_\_\_\_\_

Job Description \_\_\_\_\_  
\_\_\_\_\_

**SCHEDULE B**  
**POSITIONS - BUSINESS**

The name, address, brief description, nature of association, and the amount of interest in each business in which you or your spouse is a director, officer, owner, partner, member, or trustee, OR in which you or your spouse, either individually or collectively, owns an interest which exceeds ten percent of that business.

**Note: For this page ONLY, the "amount of interest" must be reported as a percentage figure.**

Filer  Spouse  Both Amount of Interest \_\_\_\_\_%

Name of Business \_\_\_\_\_

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Business Description \_\_\_\_\_

Nature of Association \_\_\_\_\_

Filer  Spouse  Both Amount of Interest \_\_\_\_\_%

Name of Business \_\_\_\_\_

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Business Description \_\_\_\_\_

Nature of Association \_\_\_\_\_

Filer  Spouse  Both Amount of Interest \_\_\_\_\_%

Name of Business \_\_\_\_\_

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Business Description \_\_\_\_\_

Nature of Association \_\_\_\_\_

**SCHEDULE C**  
**POSITIONS - NONPROFIT**

---

The name, address, brief description of, and nature of association with a nonprofit organization in which you or your spouse is a director or officer.

---

Filer  Spouse

Name of Organization \_\_\_\_\_ Nature of Association \_\_\_\_\_

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Organization  
Description \_\_\_\_\_

---

Filer  Spouse

Name of Organization \_\_\_\_\_ Nature of Association \_\_\_\_\_

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Organization  
Description \_\_\_\_\_

---

Filer  Spouse

Name of Organization \_\_\_\_\_ Nature of Association \_\_\_\_\_

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Organization  
Description \_\_\_\_\_

---

**SCHEDULE D**  
**INCOME FROM THE STATE, POLITICAL SUBDIVISIONS,**  
**AND/OR GAMING INTERESTS**

The name, address, type, and amount of each source of income received by you or your spouse, **or** by any business in which you or your spouse, either individually or collectively, owns an interest which exceeds ten percent of that business, which is received from any of the following:

- the state or any political subdivision (see instructions for examples) as defined in Article VI of the Constitution of Louisiana;
- services performed for or in connection with a gaming interest as defined in R.S. 18:1505.2L(3)(a).

**Note: For this page ONLY, the "amount of income" must be reported as an exact dollar figure.**

Filer  Spouse  Business

Amount of Income \$ \_\_\_\_\_

Name of Business, if applicable \_\_\_\_\_

Name of Source of Income \_\_\_\_\_

Type of Income:      State    Political Subdivision    Gaming Interest

Address

Street	Suite #
City	State
	Zip Code

Filer  Spouse  Business

Amount of Income \$ \_\_\_\_\_

Name of Business, if applicable \_\_\_\_\_

Name of Source of Income \_\_\_\_\_

Type of Income:      State    Political Subdivision    Gaming Interest

Address

Street	Suite #
City	State
	Zip Code

Filer  Spouse  Business

Amount of Income \$ \_\_\_\_\_

Name of Business, if applicable \_\_\_\_\_

Name of Source of Income \_\_\_\_\_

Type of Income:      State    Political Subdivision    Gaming Interest

Address

Street	Suite #
City	State
	Zip Code

**SCHEDULE E**  
**INCOME**

The name, address, type, nature of services rendered, and amount of each source of income in excess of \$1,000 received by you or your spouse.

**NOTE:** If the income is derived from professional or consulting services and the disclosure of the name or address of the source of income is prohibited by law or by professional code, such income should be disclosed on Schedule F.

**DO NOT** include income derived from child support and alimony payments contained in a court order OR from disability payments from any source. **INCOME SHALL BE REPORTED BY CATEGORY.**

**DO NOT INCLUDE INFORMATION WITH RESPECT TO INCOME DISCLOSED ON SCHEDULE D.**

Filer  Spouse Amount of Income: I II III IV V VI

Name of Source of Income \_\_\_\_\_ Type: \_\_\_\_\_

Address \_\_\_\_\_

Street Suite #

City State Zip Code

Nature of Services Rendered \_\_\_\_\_

---

Filer  Spouse Amount of Income: I II III IV V VI

Name of Source of Income \_\_\_\_\_ Type: \_\_\_\_\_

Address \_\_\_\_\_

Street Suite #

City State Zip Code

Nature of Services Rendered \_\_\_\_\_

---

Filer  Spouse Amount of Income: I II III IV V VI

Name of Source of Income \_\_\_\_\_ Type: \_\_\_\_\_

Address \_\_\_\_\_

Street Suite #

City State Zip Code

Nature of Services Rendered \_\_\_\_\_

---

Filer  Spouse Amount of Income: I II III IV V VI

Name of Source of Income \_\_\_\_\_ Type: \_\_\_\_\_

Address \_\_\_\_\_

Street Suite #

City State Zip Code

Nature of Services Rendered \_\_\_\_\_

**SCHEDULE F**  
**INCOME FROM CERTAIN PROFESSIONAL OR CONSULTING SERVICES**

Check if no income was received from professional or consulting services for which the disclosure of the name or address of the source of income is prohibited by law or by professional code.

For income derived from professional or consulting services, including mental health, medical health, or legal services, when the disclosure of the name or address of the source of income is prohibited by law or by professional code, report the number of clients and amount of income for the applicable industry types below.

**INCOME SHALL BE REPORTED BY CATEGORY.**

<b>Industry Type</b>	<b># of Clients</b>	<b>Amount</b>	<b>Individual, Spouse or Both</b>
<b>D-1 UTILITIES</b>			
Electric		I II III IV V VI	
Gas		I II III IV V VI	
Telephone		I II III IV V VI	
Water		I II III IV V VI	
Cable television companies		I II III IV V VI	
<b>D-2 TRANSPORTATION</b>			
Intrastate companies		I II III IV V VI	
Pipeline companies		I II III IV V VI	
Oil and gas exploration		I II III IV V VI	
Oil and gas production		I II III IV V VI	
Oil and gas retailers		I II III IV V VI	
<b>D-3 FINANCE AND INSURANCE</b>			
Banks		I II III IV V VI	
Savings and loan associations		I II III IV V VI	
Loan and/or finance companies		I II III IV V VI	
Manufacturing firms		I II III IV V VI	
Mining companies		I II III IV V VI	
Life insurance companies		I II III IV V VI	
Casualty insurance companies		I II III IV V VI	
Other insurance companies		I II III IV V VI	
<b>D-4 RETAIL COMPANIES</b>			
Beer companies		I II III IV V VI	
Wine companies		I II III IV V VI	
Liquor companies		I II III IV V VI	
Beverage distributors		I II III IV V VI	
<b>Industry Type</b>	<b># of Clients</b>	<b>Amount</b>	<b>Individual, Spouse or Both</b>
<b>D-5 ASSOCIATIONS</b>			
Trade		I II III IV V VI	
Professional		I II III IV V VI	
<b>D-6 OTHER (SPECIFY)</b>			



**SCHEDULE H**  
**INVESTMENT HOLDINGS**

The name, a brief description, and amount (**in value ranges by category**) of each investment security having a value exceeding \$1,000 held by you or your spouse, excluding variable annuities, variable life insurance, variable universal life insurance, whole life insurance, any other life insurance product, mutual funds, education investment accounts, retirement investment accounts, government bonds, and cash or cash equivalent investments. (NOTE: Exclude any information concerning any property held and administered for any person other than you or your spouse under a trust, tutorship, curatorship, or other custodial instrument.)

<b>Individual, Spouse, or Both</b>	<b>Name of Security</b>	<b>Description</b>	<b>Amount(categories)</b>
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI

**SCHEDULE I  
TRANSACTIONS**

A brief description, amount (in value ranges by category), and date of any purchase or sale, in excess of \$1,000, of any immovable property AND of any personally owned tax credit certificates, stocks, bonds, or commodities futures, including any option to acquire or dispose of any immovable property or of any personally owned tax credit certificates, stocks, bonds, or commodities futures. (NOTE: Exclude variable annuities, variable life insurance, variable universal life insurance.)

Individual, Spouse, or Both	Transaction Date	Description of Transaction	Amount(categories)
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI

**SCHEDULE J**  
**LIABILITIES**

The name and address of each creditor, amount, and name of each guarantor, if any, to whom you or your spouse owes any liability which exceeds \$10,000. **AMOUNT SHALL BE REPORTED BY CATEGORY.**

NOTE: Exclude the following:

- any loan secured by movable property, if such loan does not exceed the purchase price of the movable property which secures it;
- any liability, secured or unsecured, which is guaranteed by you or your spouse for a business in which you or your spouse owns any interest, provided that the liability is in the name of the business and, if the liability is a loan, that you or your spouse does not use proceeds from the loan for personal use unrelated to business;
- any loan from an immediate family member, unless such family member is a registered lobbyist, or his principal or employer is a registered lobbyist, or he employs or is a principal of a registered lobbyist, or unless such family member has a contract with the state.

Filer  Spouse Nature of Liability \_\_\_\_\_

Name of Creditor \_\_\_\_\_ Amount: I II III IV V VI

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Name of Guarantor (if any) \_\_\_\_\_

Filer  Spouse Nature of Liability \_\_\_\_\_

Name of Creditor \_\_\_\_\_ Amount: I II III IV V VI

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Name of Guarantor (if any) \_\_\_\_\_

Filer  Spouse Nature of Liability \_\_\_\_\_

Name of Creditor \_\_\_\_\_ Amount: I II III IV V VI

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Name of Guarantor (if any) \_\_\_\_\_



**PERSONAL FINANCIAL DISCLOSURE**  
**“TIER 1”**  
**LSA-R.S. 42:1124**

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This form applies only to:

- (1) Statewide elected officials
- (2) Secretaries in executive branch agencies
  - Department of Economic Development
  - Department of Culture, Recreation, and Tourism
  - Department of Environmental Quality
  - Department of Health and Hospitals
  - Department of Labor
  - Department of Natural Resources
  - Department of Public Safety and Corrections
  - Department of Revenue
  - Department of Social Services
  - Department of Transportation and Development
  - Department of Wildlife and Fisheries
  - Department of Veterans Affairs
- (3) Executive secretary of the Public Service Commission
- (4) Director of state civil service
- (5) The Superintendent of Education
- (6) The Commissioner of Higher Education
- (7) The president of each public post-secondary education system
- (8) The Commissioner of the Division of Administration
- (9) Senior staff in the governor’s office: the chief of staff, the policy director, the deputy chief of staff, the executive counsel, and the legislative director

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**1. Due annually by May 15<sup>th</sup>. The statute provides NO exceptions to this filing date.**

**2. If you hold more than one office that requires the filing of a financial disclosure statement, please note that only one financial disclosure report shall be filed by the filer. Such report shall be filed under the highest Tier (with Tier 1 being the highest, then Tier 2, then Tier 2.1 and Tier 3 being the lowest).**

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**INSTRUCTIONS**

Use as many pages of each section of the form as are required. Machine copies of the form’s pages may be used. Additional copies of the forms or individual schedules may be obtained on the Louisiana Board of Ethics website at [www.ethics.state.la.us](http://www.ethics.state.la.us). In addition, information sheets and Frequently Asked Questions (FAQs) are available on the Louisiana Board of Ethics website.

**Instructions** (continued):

Please file the completed form with the Louisiana Board of Ethics by mail or facsimile at:

**P.O. Box 4368                      or                      (225) 381-7271**  
**Baton Rouge, LA 70821**

The report shall reflect income, amounts, and values for the activities with respect to employment, transactions, liabilities, etc. for the prior calendar year. For example, if the report is due on May 15, 2009, the information provided should be for the 2008 calendar year.

**NOTE: Where amounts are required herein, indicate such amounts by using one of the following categories, categories, unless otherwise indicated on the schedule:**

<b>I</b>	<b>Less than \$5,000</b>	<b>IV</b>	<b>\$50,000 to \$99,999</b>
<b>II</b>	<b>\$5,000 to \$24,999</b>	<b>V</b>	<b>\$100,000 to \$199,999</b>
<b>III</b>	<b>\$25,000 to \$49,999</b>	<b>VI</b>	<b>\$200,000 or more</b>

For the purposes of this form, the following definitions apply:

- **“Business”** means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, business, organization, self-employed individual, holding company, trust, or any other legal entity or person.
- **“Income”** for a business means gross income less (i) costs of goods sold, and (ii) operating expenses.
- **“Income”** for an individual means taxable income and shall not include any income received pursuant to a life insurance policy.
- **“Public office”** means any state, parish, municipal, ward, district, or other office or position that is filled by election of the voters, except the president or vice president of the United States, presidential elector, delegate to the political party convention, US Senator, US congressman, or political party office.
- **“Political Subdivision”** means a parish, municipality, and any other unit of local government, including a school board and a special district, authorized by law to perform governmental functions. Examples are: Hospital Service Districts, School Boards and the schools under its authority, Police Jurys, Parish Councils, Board of Aldermen, Cities, Towns, Villages, etc.
- **LSA-R.S. 18:1505.2(L)(3)(a)** refers to (i) any person who holds a license or permit as a distributor of gaming devices, who holds a license or permit as a manufacturer of gaming devices, who holds a license or permit as a device service entity, and any person who owns a truck stop or a licensed pari-mutuel or off-track wagering facility which is a licensed device establishment, all pursuant to the Video Draw Poker Devices Control Law; (ii) any person who holds a license to conduct gaming activities on a riverboat, who holds a license or permit as a distributor or supplier of gaming devices or gaming equipment including slot machines, or who holds a license or permit as a manufacturer of gaming devices or gaming equipment including slot machines issued pursuant to the Louisiana Riverboat Economic Development and Gaming Control Act, and any person who owns a riverboat upon which gaming activities are licensed to be conducted, and (iii) any person who holds a license

**Instructions** (continued):

or entered into a contract for the conduct of casino gaming operations, who holds a license or permit as a distributor of gaming devices or gaming equipment including slot machines, or who holds a license or permit as a manufacturer of gaming devices or gaming equipment including slot machines issued pursuant to the Louisiana Economic Development and Gaming Corporation Act, and any person who owns a casino where such gaming operations are licensed.

**“Consumer credit transaction”** means a consumer loan or a consumer credit sale but does not include a motor vehicle credit transaction made pursuant to R.S. 6:969.1 et seq. R.S. 9:3516(13).



**SCHEDULE A**  
**EMPLOYMENT INFORMATION**

Please disclose the name of the employer, job title, a brief description of the job description for each full-time or part-time employment position held by the individual or spouse.

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Filer  Spouse  Full-time  Part-time

Employer Name \_\_\_\_\_ Job Title \_\_\_\_\_

Job Description \_\_\_\_\_  
\_\_\_\_\_

---

Filer  Spouse  Full-time  Part-time

Employer Name \_\_\_\_\_ Job Title \_\_\_\_\_

Job Description \_\_\_\_\_  
\_\_\_\_\_

---

Filer  Spouse  Full-time  Part-time

Employer Name \_\_\_\_\_ Job Title \_\_\_\_\_

Job Description \_\_\_\_\_  
\_\_\_\_\_

---

Filer  Spouse  Full-time  Part-time

Employer Name \_\_\_\_\_ Job Title \_\_\_\_\_

Job Description \_\_\_\_\_  
\_\_\_\_\_

---

Filer  Spouse  Full-time  Part-time

Employer Name \_\_\_\_\_ Job Title \_\_\_\_\_

Job Description \_\_\_\_\_  
\_\_\_\_\_

---

Filer  Spouse  Full-time  Part-time

Employer Name \_\_\_\_\_ Job Title \_\_\_\_\_

Job Description \_\_\_\_\_  
\_\_\_\_\_

**SCHEDULE B**  
**POSITIONS - BUSINESS**

---

The name, address, brief description, nature of association, and the amount of interest in each business in which you or your spouse is a director, officer, owner, partner, member, or trustee, OR in which you or your spouse, either individually or collectively, owns an interest which exceeds ten percent of that business.

**Note: For this page ONLY, the "amount of interest" must be reported as a percentage figure.**

---

Filer  Spouse  Both Amount of Interest \_\_\_\_\_%

Name of Business \_\_\_\_\_

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Business Description \_\_\_\_\_

Nature of Association \_\_\_\_\_

---

Filer  Spouse  Both Amount of Interest \_\_\_\_\_%

Name of Business \_\_\_\_\_

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Business Description \_\_\_\_\_

Nature of Association \_\_\_\_\_

---

Filer  Spouse  Both Amount of Interest \_\_\_\_\_%

Name of Business \_\_\_\_\_

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Business Description \_\_\_\_\_

Nature of Association \_\_\_\_\_

**SCHEDULE C**  
**POSITIONS - NONPROFIT**

---

The name, address, brief description of, and nature of association with a nonprofit organization in which you or your spouse is a director or officer.

---

Filer  Spouse

Name of Organization \_\_\_\_\_ Nature of Association \_\_\_\_\_

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Organization  
Description \_\_\_\_\_

---

Filer  Spouse

Name of Organization \_\_\_\_\_ Nature of Association \_\_\_\_\_

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Organization  
Description \_\_\_\_\_

---

Filer  Spouse

Name of Organization \_\_\_\_\_ Nature of Association \_\_\_\_\_

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Organization  
Description \_\_\_\_\_



**SCHEDULE E**  
**INCOME**

The name, address, type, nature of services rendered, and amount of each source of income in excess of \$1,000 received by you or your spouse.

**NOTE:** If the income is derived from professional or consulting services and the disclosure of the name or address of the source of income is prohibited by law or by professional code, such income should be disclosed on Schedule F.

**DO NOT** include income derived from child support and alimony payments contained in a court order OR from disability payments from any source. **INCOME SHALL BE REPORTED BY CATEGORY.**

**DO NOT INCLUDE INFORMATION WITH RESPECT TO INCOME DISCLOSED ON SCHEDULE D.**

Filer  Spouse Amount of Income: I II III IV V VI

Name of Source of Income \_\_\_\_\_ Type: \_\_\_\_\_

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Nature of Services Rendered \_\_\_\_\_

Filer  Spouse Amount of Income: I II III IV V VI

Name of Source of Income \_\_\_\_\_ Type: \_\_\_\_\_

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Nature of Services Rendered \_\_\_\_\_

Filer  Spouse Amount of Income: I II III IV V VI

Name of Source of Income \_\_\_\_\_ Type: \_\_\_\_\_

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Nature of Services Rendered \_\_\_\_\_

Filer  Spouse Amount of Income: I II III IV V VI

Name of Source of Income \_\_\_\_\_ Type: \_\_\_\_\_

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Nature of Services Rendered \_\_\_\_\_

**SCHEDULE F**  
**INCOME FROM CERTAIN PROFESSIONAL OR CONSULTING SERVICES**

Check if no income was received from professional or consulting services for which the disclosure of the name or address of the source of income is prohibited by law or by professional code.

For income derived from professional or consulting services, including mental health, medical health, or legal services, when the disclosure of the name or address of the source of income is prohibited by law or by professional code, report the number of clients and amount of income for the applicable industry types below.

**INCOME SHALL BE REPORTED BY CATEGORY.**

<b>Industry Type</b>	<b># of Clients</b>	<b>Amount</b>	<b>Individual, Spouse or Both</b>
<b>D-1 UTILITIES</b>			
Electric		I II III IV V VI	
Gas		I II III IV V VI	
Telephone		I II III IV V VI	
Water		I II III IV V VI	
Cable television companies		I II III IV V VI	
<b>D-2 TRANSPORTATION</b>			
Intrastate companies		I II III IV V VI	
Pipeline companies		I II III IV V VI	
Oil and gas exploration		I II III IV V VI	
Oil and gas production		I II III IV V VI	
Oil and gas retailers		I II III IV V VI	
<b>D-3 FINANCE AND INSURANCE</b>			
Banks		I II III IV V VI	
Savings and loan associations		I II III IV V VI	
Loan and/or finance companies		I II III IV V VI	
Manufacturing firms		I II III IV V VI	
Mining companies		I II III IV V VI	
Life insurance companies		I II III IV V VI	
Casualty insurance companies		I II III IV V VI	
Other insurance companies		I II III IV V VI	
<b>D-4 RETAIL COMPANIES</b>			
Beer companies		I II III IV V VI	
Wine companies		I II III IV V VI	
Liquor companies		I II III IV V VI	
Beverage distributors		I II III IV V VI	
<b>Industry Type</b>	<b># of Clients</b>	<b>Amount</b>	<b>Individual, Spouse or Both</b>
<b>D-5 ASSOCIATIONS</b>			
Trade		I II III IV V VI	
Professional		I II III IV V VI	
<b>D-6 OTHER (SPECIFY)</b>			



**SCHEDULE H  
INVESTMENT HOLDINGS**

The name, a brief description, and amount (**in value ranges by category**) of each investment security having a value exceeding \$1,000 held by you or your spouse, excluding variable annuities, variable life insurance, variable universal life insurance, whole life insurance, any other life insurance product, mutual funds, education investment accounts, retirement investment accounts, government bonds, and cash or cash equivalent investments. (NOTE: Exclude any information concerning any property held and administered for any person other than you or your spouse under a trust, tutorship, curatorship, or other custodial instrument.)

<b>Individual, Spouse, or Both</b>	<b>Name of Security</b>	<b>Description</b>	<b>Amount(categories)</b>
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI

**SCHEDULE I  
TRANSACTIONS**

A brief description, amount (**in value ranges by category**), and date of any purchase or sale, in excess of \$1,000, of any immovable property AND of any personally owned tax credit certificates, stocks, bonds, or commodities futures, including any option to acquire or dispose of any immovable property or of any personally owned tax credit certificates, stocks, bonds, or commodities futures. (NOTE: Exclude variable annuities, variable life insurance, variable universal life insurance.)

<b>Individual, Spouse, or Both</b>	<b>Transaction Date</b>	<b>Description of Transaction</b>	<b>Amount(categories)</b>
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV V VI

**SCHEDULE J  
LIABILITIES**

The name and address of each creditor, amount, and name of each guarantor, if any, to whom you or your spouse owes any liability which exceeds \$10,000. **AMOUNT SHALL BE REPORTED BY CATEGORY.**

NOTE: Exclude the following:

- any loan secured by movable property, if such loan does not exceed the purchase price of the movable property which secures it;
- any liability, secured or unsecured, which is guaranteed by you or your spouse for a business in which you or your spouse owns any interest, provided that the liability is in the name of the business and, if the liability is a loan, that you or your spouse does not use proceeds from the loan for personal use unrelated to business;
- any loan from an immediate family member, unless such family member is a registered lobbyist, or his principal or employer is a registered lobbyist, or he employs or is a principal of a registered lobbyist, or unless such family member has a contract with the state.

---

Filer  Spouse Nature of Liability \_\_\_\_\_

Name of Creditor \_\_\_\_\_ Amount: I II III IV V VI

Address \_\_\_\_\_  
Street Suite #  
City State Zip Code

Name of Guarantor (if any) \_\_\_\_\_

---

Filer  Spouse Nature of Liability \_\_\_\_\_

Name of Creditor \_\_\_\_\_ Amount: I II III IV V VI

Address \_\_\_\_\_  
Street Suite #  
City State Zip Code

Name of Guarantor (if any) \_\_\_\_\_

---

Filer  Spouse Nature of Liability \_\_\_\_\_

Name of Creditor \_\_\_\_\_ Amount: I II III IV V VI

Address \_\_\_\_\_  
Street Suite #  
City State Zip Code

Name of Guarantor (if any) \_\_\_\_\_





**Instructions** (continued):

For the purposes of this form, the following definitions apply:

- “**Business**” means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, business, organization, self-employed individual, holding company, trust, or any other legal entity or person.
- “**Income**” for a business means gross income less (i) costs of goods sold, and (ii) operating expenses.
- “**Income**” for an individual means taxable income and shall not include any income received pursuant to a life insurance policy.
- “**Public office**” means any state, parish, municipal, ward, district, or other office or position that is filled by election of the voters, except the president or vice president of the United States, presidential elector, delegate to the political party convention, US Senator, US congressman, or political party office.
- “**Political Subdivision**” means a parish, municipality, and any other unit of local government, including a school board and a special district, authorized by law to perform governmental functions. Examples are: Hospital Service Districts, School Boards and the schools under its authority, Police Jurys, Parish Councils, Board of Aldermen, Cities, Towns, Villages, etc.
- **LSA-R.S. 18:1505.2(L)(3)(a)** refers to (i) any person who holds a license or permit as a distributor of gaming devices, who holds a license or permit as a manufacturer of gaming devices, who holds a license or permit as a device service entity, and any person who owns a truck stop or a licensed pari-mutuel or off-track wagering facility which is a licensed device establishment, all pursuant to the Video Draw Poker Devices Control Law; (ii) any person who holds a license to conduct gaming activities on a riverboat, who holds a license or permit as a distributor or supplier of gaming devices or gaming equipment including slot machines, or who holds a license or permit as a manufacturer of gaming devices or gaming equipment including slot machines issued pursuant to the Louisiana Riverboat Economic Development and Gaming Control Act, and any person who owns a riverboat upon which gaming activities are licensed to be conducted, and (iii) any person who holds a license or entered into a contract for the conduct of casino gaming operations, who holds a license or permit as a distributor of gaming devices or gaming equipment including slot machines, or who holds a license or permit as a manufacturer of gaming devices or gaming equipment including slot machines issued pursuant to the Louisiana Economic Development and Gaming Corporation Act, and any person who owns a casino where such gaming operations are licensed.
- “**Consumer credit transaction**” means a consumer loan or a consumer credit sale but does not include a motor vehicle credit transaction made pursuant to R.S. 6:969.1 et seq. R.S. 9:3516(13).

**PERSONAL FINANCIAL DISCLOSURE**

**"TIER 2"**

**LSA-R.S. 42:1124.2**

ORIGINAL REPORT

AMENDED REPORT

This Report Covers Calendar Year 20\_\_\_\_

I hold an office that would require a filing under Tier 2.1 or Tier 3. If this box is checked, filer must complete Schedule L.

Full Name of Filer: \_\_\_\_\_

Mailing Address:

_____	_____	_____	_____
Street		Apt. #	
_____	_____	_____	_____
City	State		Zip Code

Office Held or Position Sought \_\_\_\_\_

Date of Election \_\_\_\_\_ Date of Qualifying \_\_\_\_\_

Full Name of Spouse: \_\_\_\_\_

Spouse's Occupation: \_\_\_\_\_

Spouse's Principal Business Address, if any:

_____	_____	_____	_____
Street		Apt. #	
_____	_____	_____	_____
City	State		Zip Code

(A) I certify that I have filed my federal income tax return for the previous year.

(B) I certify that I have filed my state income tax return for the previous year.

or

(A) I certify that I have filed for an extension of my federal income tax return for the previous year.

(B) I certify that I have filed for an extension of my state income tax return for the previous year.

or

I certify that I have not filed my federal or state income tax return for the previous year as the returns are not due as of the date of qualifying.

**CERTIFICATION OF ACCURACY**

**I do hereby certify, after having been first  
duly sworn, that the information contained**

**in this personal financial disclosure form is  
true and correct to the best of my knowledge,  
information and belief.**

\_\_\_\_\_  
Signature of Filer

**Sworn to and subscribed** before me  
this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_.

\_\_\_\_\_  
Notary Public

Printed Name: \_\_\_\_\_  
ID# \_\_\_\_\_ Commission Expires \_\_\_\_\_

**SCHEDULE A**  
**EMPLOYMENT INFORMATION**

Please disclose the name of the employer, job title, a brief description of the job description for each full-time or part-time employment position held by the individual or spouse.

---

Filer  Spouse  Full-time  Part-time

Employer Name \_\_\_\_\_ Job Title \_\_\_\_\_

Employer Address \_\_\_\_\_  
Street Suite #

City State Zip Code

Job Description \_\_\_\_\_  
\_\_\_\_\_

---

Filer  Spouse  Full-time  Part-time

Employer Name \_\_\_\_\_ Job Title \_\_\_\_\_

Employer Address \_\_\_\_\_  
Street Suite #

City State Zip Code

Job Description \_\_\_\_\_  
\_\_\_\_\_

---

Filer  Spouse  Full-time  Part-time

Employer Name \_\_\_\_\_ Job Title \_\_\_\_\_

Employer Address \_\_\_\_\_  
Street Suite #

City State Zip Code

Job Description \_\_\_\_\_  
\_\_\_\_\_

---

Filer  Spouse  Full-time  Part-time

Employer Name \_\_\_\_\_ Job Title \_\_\_\_\_

Employer Address \_\_\_\_\_  
Street Suite #

City State Zip Code

Job Description \_\_\_\_\_  
\_\_\_\_\_

**SCHEDULE B**  
**POSITIONS - BUSINESS**

The name, address, brief description, nature of association, and the amount of interest in each business in which you or your spouse is a director, officer, owner, partner, member, or trustee, AND in which you or your spouse, either individually or collectively, owns an interest which exceeds ten percent of that business.

**Note: For this page ONLY, the "amount of interest" must be reported as a percentage figure.**

---

Filer  Spouse  Both Amount of Interest \_\_\_\_\_%

Name of Business \_\_\_\_\_

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Business Description \_\_\_\_\_

Nature of Association \_\_\_\_\_

---

Filer  Spouse  Both Amount of Interest \_\_\_\_\_%

Name of Business \_\_\_\_\_

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Business Description \_\_\_\_\_

Nature of Association \_\_\_\_\_

---

Filer  Spouse  Both Amount of Interest \_\_\_\_\_%

Name of Business \_\_\_\_\_

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Business Description \_\_\_\_\_

Nature of Association \_\_\_\_\_





**SCHEDULE E**  
**INCOME RECEIVED FROM EMPLOYMENT**

---

Please disclose the name and address of the employer that provides income, job title, a brief description of the nature of services rendered and the amount of income for each full-time or part-time employment position held by the individual or spouse. **INCOME SHALL BE REPORTED BY CATEGORY.**  
**DO NOT INCLUDE INFORMATION WITH RESPECT TO INCOME DISCLOSED ON SCHEDULE D.**  
**INCOME RECEIVED THROUGH SELF-EMPLOYMENT SHALL BE DISCLOSED ON SCHEDULE F.**

---

Filer  Spouse Amount of Income: I II III IV

Full-time  Part-time

Employer Name \_\_\_\_\_

Employer Address \_\_\_\_\_

Street \_\_\_\_\_ Suite # \_\_\_\_\_

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

Nature of services rendered pursuant to the employment \_\_\_\_\_

---

Filer  Spouse Amount of Income: I II III IV

Full-time  Part-time

Employer Name \_\_\_\_\_

Employer Address \_\_\_\_\_

Street \_\_\_\_\_ Suite # \_\_\_\_\_

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

Nature of services rendered pursuant to the employment \_\_\_\_\_

---

Filer  Spouse Amount of Income: I II III IV

Full-time  Part-time

Employer Name \_\_\_\_\_

Employer Address \_\_\_\_\_

Street \_\_\_\_\_ Suite # \_\_\_\_\_

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

Nature of services rendered pursuant to the employment \_\_\_\_\_

---

**SCHEDULE F**  
**INCOME FROM BUSINESS INTERESTS**

The name and address of all businesses which provide income to you or your spouse, including a brief description of the nature of services rendered for each business or the reason such income was received, and the aggregate amount (in value ranges by category) of such income, excluding income reported in another section of this report. **DO NOT INCLUDE INFORMATION WITH RESPECT TO INCOME DISCLOSED ON SCHEDULES D AND/OR E.**

Aggregate Amount of Income received from the business interests listed on Schedule F: I II III IV

- Filer  
 Spouse

Name of Business \_\_\_\_\_

Address \_\_\_\_\_  
Street \_\_\_\_\_ Suite # \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Description of services rendered for the business or a reason the income was received:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- Filer  
 Spouse

Name of Business \_\_\_\_\_

Address \_\_\_\_\_  
Street \_\_\_\_\_ Suite # \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Description of services rendered for the business or a reason the income was received:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- Filer  
 Spouse

Name of Business \_\_\_\_\_

Address \_\_\_\_\_  
Street \_\_\_\_\_ Suite # \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Description of services rendered for the business or a reason the income was received:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SCHEDULE G  
OTHER INCOME**

A description of any other type of income, exceeding \$1,000 received by the individual or spouse, including a brief description of the nature of the services rendered or the reason such income was received, and the amount of income (**in value ranges by category**), excluding income reported in another section of this report.

**Note:** Do NOT include income derived from child support and alimony payments contained in a court order OR from disability payments from any source. **DO NOT INCLUDE INFORMATION WITH RESPECT TO INCOME DISCLOSED ON SCHEDULES D, E and/or F.**

Filer Amount of Income: I II III IV  
 Spouse

Description of Income \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Description of service rendered or the reason the income was received:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Filer Amount of Income: I II III IV  
 Spouse

Description of Income \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Description of service rendered or the reason the income was received:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Filer Amount of Income: I II III IV  
 Spouse

Description of Income \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Description of service rendered or the reason the income was received:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SCHEDULE H**  
**IMMOVABLE PROPERTY**

A brief description, fair market value or use value (**in value ranges by category**) as determined by the assessor for purposes of ad valorem taxes, and the location of the property by state and parish or county of each parcel of immovable property in which you or your spouse, either individually or collectively, has an interest provided that the fair market value or use value as determined by the assessor exceeds \$2,000.

---

Filer  Spouse  Both

Value of Property: I II III IV

Location of property:

Country \_\_\_\_\_

State \_\_\_\_\_

Parish/County \_\_\_\_\_

Property Description \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

---

Filer  Spouse  Both

Value of Property: I II III IV

Location of property:

Country \_\_\_\_\_

State \_\_\_\_\_

Parish/County \_\_\_\_\_

Property Description \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

---

Filer  Spouse  Both

Value of Property: I II III IV

Location of property:

Country \_\_\_\_\_

State \_\_\_\_\_

Parish/County \_\_\_\_\_

Property Description \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

---

Filer  Spouse  Both

Value of Property: I II III IV

Location of property:

Country \_\_\_\_\_

State \_\_\_\_\_

Parish/County \_\_\_\_\_

Property Description \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SCHEDULE I  
INVESTMENT HOLDINGS**

The name and a brief description of each investment security having a value exceeding \$5,000 held by you or your spouse, excluding variable annuities, variable life insurance, variable universal life insurance, whole life insurance, any other life insurance product, mutual funds, education investment accounts, retirement investment accounts, government bonds, and cash or cash equivalent investments. (NOTE: Exclude any information concerning any property held and administered for any person other than you or your spouse under a trust, tutorship, curatorship, or other custodial instrument.)

<b>Individual, Spouse, or Both</b>	<b>Name of Security</b>	<b>Description</b>
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both		

**SCHEDULE J  
TRANSACTIONS**

A brief description, amount (**in value ranges by category**), and date of any purchase or sale, in excess of \$5,000, of any immovable property AND of any personally owned tax credit certificates, stocks, bonds, or commodities futures, including any option to acquire or dispose of any immovable property or of any personally owned tax credit certificates, stocks, bonds, or commodities futures. (NOTE: Exclude variable annuities, variable life insurance, variable universal life insurance, whole life insurance, any other life insurance product, mutual funds, education investment accounts, retirement investment accounts, government bonds, cash or cash equivalent investments.)

Individual, Spouse, or Both	Transaction Date	Description of Transaction	Amount
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV

**SCHEDULE K**  
**LIABILITIES**

The name and address of each creditor, and name of each guarantor, if any, to whom you or your spouse owes any liability which exceeds \$10,000 on the last day of the reporting period.

NOTE: Exclude the following:

- any loan secured by movable property, if such loan does not exceed the purchase price of the movable property which secures it;
- any liability, secured or unsecured, which is guaranteed by you or your spouse for a business in which you or your spouse owns any interest, provided that the liability is in the name of the business and, if the liability is a loan, that you or your spouse does not use proceeds from the loan for personal use unrelated to business;
- any loan by a licensed financial institution which loans money in the ordinary course of business;
- any liability resulting from a consumer credit transaction as defined in R.S. 9:3516(13); and,
- any loan from an immediate family member, unless such family member is a registered lobbyist, or his principal or employer is a registered lobbyist, or he employs or is a principal of a registered lobbyist, or unless such family member has a contract with the state.

Filer  Spouse

Name of Creditor \_\_\_\_\_

Address \_\_\_\_\_  
Street \_\_\_\_\_ Suite # \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Name of Guarantor (if any) \_\_\_\_\_

Filer  Spouse

Name of Creditor \_\_\_\_\_

Address \_\_\_\_\_  
Street \_\_\_\_\_ Suite # \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Name of Guarantor (if any) \_\_\_\_\_

Filer  Spouse

Name of Creditor \_\_\_\_\_

Address \_\_\_\_\_  
Street \_\_\_\_\_ Suite # \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Name of Guarantor (if any) \_\_\_\_\_



**PERSONAL FINANCIAL DISCLOSURE**  
**“TIER 2”**  
**LSA-R.S. 42:1124.2**

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This form applies only to:

- (1) Legislators
  - (2) Elected officials representing a voting district with a population over 5,000
  - (3) BESE members
  - (4) Board of Ethics members
  - (5) Ethics Adjudicatory Board members
  - (6) Ethics Board Administrator
- 

**1. Due annually by May 15<sup>th</sup>.**

**2. Extension: If the filer files for an extension of his federal income tax and notice has been filed with the Board of Ethics by May 15<sup>th</sup> that such an extension has been made, then the financial statement must be filed within 30 days after the filer files his federal income taxes.**

**3. If you hold more than one office that requires the filing of a financial disclosure statement, please note that only one financial disclosure report shall be filed by the filer. Such report shall be filed under the highest Tier (with Tier 1 being the highest, then Tier 2, then Tier 2.1 and Tier 3 being the lowest).**

---

**INSTRUCTIONS:**

Use as many pages of each section of the form as are required. Machine copies of the form's pages may be used. Additional copies of the forms or individual schedules may be obtained on the Louisiana Board of Ethics website at [www.ethics.state.la.us](http://www.ethics.state.la.us). In addition, information sheets and Frequently Asked Questions (FAQs) are available on the Louisiana Board of Ethics website.

Please file the completed form with the Louisiana Board of Ethics by mail or facsimile at:

**P.O. Box 4368                      or                      (225) 381-7271**  
**Baton Rouge, LA 70821**

The report shall reflect income, amounts, and values for the activities with respect to employment, transactions, liabilities, etc. for the prior calendar year. For example, if the report is due on May 15, 2009, the information provided should be for the 2008 calendar year.

**NOTE: Where amounts are required herein, indicate such amounts by using one of the following categories, unless otherwise indicated on the schedule:**

- I            Less than \$5,000**
- II           \$5,000 to \$24,999**
- III          \$25,000 to \$100,000**
- IV          more than \$100,000**

**Instructions** (continued):

For the purposes of this form, the following definitions apply:

- “**Business**” means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, business, organization, self-employed individual, holding company, trust, or any other legal entity or person.
- “**Income**” for a business means gross income less (i) costs of goods sold, and (ii) operating expenses.
- “**Income**” for an individual means taxable income and shall not include any income received pursuant to a life insurance policy.
- “**Public office**” means any state, parish, municipal, ward, district, or other office or position that is filled by election of the voters, except the president or vice president of the United States, presidential elector, delegate to the political party convention, US Senator, US congressman, or political party office.
- “**Political Subdivision**” means a parish, municipality, and any other unit of local government, including a school board and a special district, authorized by law to perform governmental functions. Examples are: Hospital Service Districts, School Boards and the schools under its authority, Police Jurys, Parish Councils, Board of Aldermen, Cities, Towns, Villages, etc.
- **LSA-R.S. 18:1505.2(L)(3)(a)** refers to (i) any person who holds a license or permit as a distributor of gaming devices, who holds a license or permit as a manufacturer of gaming devices, who holds a license or permit as a device service entity, and any person who owns a truck stop or a licensed pari-mutuel or off-track wagering facility which is a licensed device establishment, all pursuant to the Video Draw Poker Devices Control Law; (ii) any person who holds a license to conduct gaming activities on a riverboat, who holds a license or permit as a distributor or supplier of gaming devices or gaming equipment including slot machines, or who holds a license or permit as a manufacturer of gaming devices or gaming equipment including slot machines issued pursuant to the Louisiana Riverboat Economic Development and Gaming Control Act, and any person who owns a riverboat upon which gaming activities are licensed to be conducted, and (iii) any person who holds a license or entered into a contract for the conduct of casino gaming operations, who holds a license or permit as a distributor of gaming devices or gaming equipment including slot machines, or who holds a license or permit as a manufacturer of gaming devices or gaming equipment including slot machines issued pursuant to the Louisiana Economic Development and Gaming Corporation Act, and any person who owns a casino where such gaming operations are licensed.
- “**Consumer credit transaction**” means a consumer loan or a consumer credit sale but does not include a motor vehicle credit transaction made pursuant to R.S. 6:969.1 et seq. R.S. 9:3516(13).

**PERSONAL FINANCIAL DISCLOSURE**  
**"TIER 2"**  
**LSA-R.S. 42:1124.2**

ORIGINAL REPORT

AMENDED REPORT

I hold an office that would require a filing under Tier 2.1 or Tier 3. If this box is checked, filer must complete Schedule L.

This Report Covers Calendar Year 20\_\_\_\_

Full Name of Filer: \_\_\_\_\_

Office or Position Held \_\_\_\_\_

Mailing Address:

Street \_\_\_\_\_ Apt. # \_\_\_\_\_

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

Full Name of Spouse: \_\_\_\_\_

Spouse's Occupation: \_\_\_\_\_

Spouse's Principal Business Address, if any:

Street \_\_\_\_\_ Apt. # \_\_\_\_\_

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

- (A) I certify that I have filed my federal income tax return for the previous year.
- (B) I certify that I have filed my state income tax return for the previous year.
- or
- (A) I certify that I have filed for an extension of my federal income tax return for the previous year.
- (B) I certify that I have filed for an extension of my state income tax return for the previous year.

**CERTIFICATION OF ACCURACY**

**I do hereby certify, after having been first duly sworn, that the information contained in this personal financial disclosure form is true and correct to the best of my knowledge, information and belief.**

\_\_\_\_\_  
Signature of Filer

**Sworn to and subscribed** before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public  
Printed Name: \_\_\_\_\_  
ID# \_\_\_\_\_

Commission Expires \_\_\_\_\_

Page 1 of \_\_\_\_

**SCHEDULE A**  
**EMPLOYMENT INFORMATION**

Please disclose the name of the employer, job title, a brief description of the job description for each full-time or part-time employment position held by the individual or spouse.

---

Filer  Spouse  Full-time  Part-time

Employer Name \_\_\_\_\_ Job Title \_\_\_\_\_

Employer Address \_\_\_\_\_  
Street Suite #

City State Zip Code

Job Description \_\_\_\_\_  
\_\_\_\_\_

---

Filer  Spouse  Full-time  Part-time

Employer Name \_\_\_\_\_ Job Title \_\_\_\_\_

Employer Address \_\_\_\_\_  
Street Suite #

City State Zip Code

Job Description \_\_\_\_\_  
\_\_\_\_\_

---

Filer  Spouse  Full-time  Part-time

Employer Name \_\_\_\_\_ Job Title \_\_\_\_\_

Employer Address \_\_\_\_\_  
Street Suite #

City State Zip Code

Job Description \_\_\_\_\_  
\_\_\_\_\_

---

Filer  Spouse  Full-time  Part-time

Employer Name \_\_\_\_\_ Job Title \_\_\_\_\_

Employer Address \_\_\_\_\_  
Street Suite #

City State Zip Code

Job Description \_\_\_\_\_  
\_\_\_\_\_

**SCHEDULE B**  
**POSITIONS - BUSINESS**

The name, address, brief description, nature of association, and the amount of interest in each business in which you or your spouse is a director, officer, owner, partner, member, or trustee, AND in which you or your spouse, either individually or collectively, owns an interest which exceeds ten percent of that business.

**Note: For this page ONLY, the "amount of interest" must be reported as a percentage figure.**

Filer  Spouse  Both

Amount of Interest \_\_\_\_\_%

Name of Business \_\_\_\_\_

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Business Description \_\_\_\_\_

Nature of Association \_\_\_\_\_

Filer  Spouse  Both

Amount of Interest \_\_\_\_\_%

Name of Business \_\_\_\_\_

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Business Description \_\_\_\_\_

Nature of Association \_\_\_\_\_

Filer  Spouse  Both

Amount of Interest \_\_\_\_\_%

Name of Business \_\_\_\_\_

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Business Description \_\_\_\_\_

Nature of Association \_\_\_\_\_





**SCHEDULE E**  
**INCOME RECEIVED FROM EMPLOYMENT**

---

Please disclose the name and address of the employer that provides income, job title, a brief description of the nature of services rendered and the amount of income for each full-time or part-time employment position held by the individual or spouse. **INCOME SHALL BE REPORTED BY CATEGORY.**  
**DO NOT INCLUDE INFORMATION WITH RESPECT TO INCOME DISCLOSED ON SCHEDULE D.**  
**INCOME RECEIVED THROUGH SELF-EMPLOYMENT SHALL BE DISCLOSED ON SCHEDULE F.**

---

Filer  Spouse Amount of Income: I II III IV

Full-time  Part-time

Employer Name \_\_\_\_\_

Employer Address \_\_\_\_\_  
Street Suite #  
City State Zip Code

Nature of services rendered pursuant to the employment \_\_\_\_\_  
\_\_\_\_\_

---

Filer  Spouse Amount of Income: I II III IV

Full-time  Part-time

Employer Name \_\_\_\_\_

Employer Address \_\_\_\_\_  
Street Suite #  
City State Zip Code

Nature of services rendered pursuant to the employment \_\_\_\_\_  
\_\_\_\_\_

---

Filer  Spouse Amount of Income: I II III IV

Full-time  Part-time

Employer Name \_\_\_\_\_

Employer Address \_\_\_\_\_  
Street Suite #  
City State Zip Code

Nature of services rendered pursuant to the employment \_\_\_\_\_  
\_\_\_\_\_

**SCHEDULE F**  
**INCOME FROM BUSINESS INTERESTS**

The name and address of all businesses which provide income to you or your spouse, including a brief description of the nature of services rendered for each business or the reason such income was received, and the aggregate amount (in value ranges by category) of such income, excluding income reported in another section of this report. **DO NOT INCLUDE INFORMATION WITH RESPECT TO INCOME DISCLOSED ON SCHEDULES D AND/OR E.**

Aggregate Amount of Income received from the business interests listed on Schedule F: I II III IV

- Filer  
 Spouse

Name of Business \_\_\_\_\_

Address \_\_\_\_\_  
Street \_\_\_\_\_ Suite # \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Description of services rendered for the business or a reason the income was received:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- Filer  
 Spouse

Name of Business \_\_\_\_\_

Address \_\_\_\_\_  
Street \_\_\_\_\_ Suite # \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Description of services rendered for the business or a reason the income was received:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- Filer  
 Spouse

Name of Business \_\_\_\_\_

Address \_\_\_\_\_  
Street \_\_\_\_\_ Suite # \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Description of services rendered for the business or a reason the income was received:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SCHEDULE G  
OTHER INCOME**

A description of any other type of income, exceeding \$1,000 received by the individual or spouse, including a brief description of the nature of the services rendered or the reason such income was received, and the amount of income (**in value ranges by category**), excluding income reported in another section of this report.

**Note:** Do NOT include income derived from child support and alimony payments contained in a court order OR from disability payments from any source. **DO NOT INCLUDE INFORMATION WITH RESPECT TO INCOME DISCLOSED ON SCHEDULES D, E and/or F.**

- Filer
- Spouse

Amount of Income: I II III IV

Description of Income \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Description of service rendered or the reason the income was received:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- Filer
- Spouse

Amount of Income: I II III IV

Description of Income \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Description of service rendered or the reason the income was received:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- Filer
- Spouse

Amount of Income: I II III IV

Description of Income \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Description of service rendered or the reason the income was received:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SCHEDULE H**  
**IMMOVABLE PROPERTY**

A brief description, fair market value or use value (in value ranges by category) as determined by the assessor for purposes of ad valorem taxes, and the location of the property by state and parish or county of each parcel of immovable property in which you or your spouse, either individually or collectively, has an interest provided that the fair market value or use value as determined by the assessor exceeds \$2,000.

---

Filer  Spouse  Both

Value of Property: I II III IV

Location of property:

Country \_\_\_\_\_

State \_\_\_\_\_

Parish/County \_\_\_\_\_

Property Description \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

---

Filer  Spouse  Both

Value of Property: I II III IV

Location of property:

Country \_\_\_\_\_

State \_\_\_\_\_

Parish/County \_\_\_\_\_

Property Description \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

---

Filer  Spouse  Both

Value of Property: I II III IV

Location of property:

Country \_\_\_\_\_

State \_\_\_\_\_

Parish/County \_\_\_\_\_

Property Description \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

---

Filer  Spouse  Both

Value of Property: I II III IV

Location of property:

Country \_\_\_\_\_

State \_\_\_\_\_

Parish/County \_\_\_\_\_

Property Description \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SCHEDULE I  
INVESTMENT HOLDINGS**

The name and a brief description of each investment security having a value exceeding \$5,000 held by you or your spouse, excluding variable annuities, variable life insurance, variable universal life insurance, whole life insurance, any other life insurance product, mutual funds, education investment accounts, retirement investment accounts, government bonds, and cash or cash equivalent investments. (NOTE: Exclude any information concerning any property held and administered for any person other than you or your spouse under a trust, tutorship, curatorship, or other custodial instrument.)

<b>Individual, Spouse, or Both</b>	<b>Name of Security</b>	<b>Description</b>
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both		

**SCHEDULE J  
TRANSACTIONS**

A brief description, amount (**in value ranges by category**), and date of any purchase or sale, in excess of \$5,000, of any immovable property AND of any personally owned tax credit certificates, stocks, bonds, or commodities futures, including any option to acquire or dispose of any immovable property or of any personally owned tax credit certificates, stocks, bonds, or commodities futures. (NOTE: Exclude variable annuities, variable life insurance, variable universal life insurance, whole life insurance, any other life insurance product, mutual funds, education investment accounts, retirement investment accounts, government bonds, cash or cash equivalent investments.)

Individual, Spouse, or Both	Transaction Date	Description of Transaction	Amount
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV
<input type="checkbox"/> Filer <input type="checkbox"/> Spouse <input type="checkbox"/> Both			I II III IV





§1320. Statements Filed Pursuant to Section 11242.1  
of the Code of Governmental Ethics

**PERSONAL FINANCIAL DISCLOSURE**  
**“TIER 2.1”**  
**LSA-R.S. 42:1124.2.1**

---

This form applies only to:

- (1) Each member and designee of a board or commission (see definition below) with the authority to expend, disburse, or invest \$10,000 in a fiscal year.
  - (2) Civil Service Commission members
  - (3) Stadium and Exposition District commissioners
- 

**DUE ANNUALLY BY MAY 15<sup>TH</sup>**

The statute provides NO exceptions to this filing date.

---

**INSTRUCTIONS**

Use as many pages of each section of the form as are required. Machine copies of the form's pages may be used. Additional copies of the forms or individual schedules may be obtained on the Louisiana Board of Ethics website at [www.ethics.state.la.us](http://www.ethics.state.la.us). In addition, information sheets and Frequently Asked Questions (FAQs) are available on the Louisiana Board of Ethics website.

Please file the completed form with the Louisiana Board of Ethics by mail or facsimile at:

**P.O. Box 4368                      or                      (225) 381-7271**  
**Baton Rouge, LA 70821**

The report shall reflect income, amounts, and values for the activities with respect to employment, transactions, liabilities, etc. for the prior calendar year. For example, if the report is due on May 15, 2009, the information provided should be for the 2008 calendar year.

**If you hold more than one office that requires the filing of a financial disclosure statement, please note that only one financial disclosure report shall be filed by the filer. Such report shall be filed under the highest Tier (with Tier 1 being the highest, then Tier 2, then Tier 2.1 and Tier 3 being the lowest).**

For the purposes of this form, the following definitions apply:

- **“Board or commission”** shall mean:
  - Each board, commission, and like entity created by law or executive order that is made a part of the executive branch, or that is placed in an executive branch department or in the office of the governor or lieutenant governor by law or executive order, or that exercises any authority or performs any function of state government.
  - Each board, commission, and like entity created by the constitution, by law, by a political subdivision, or jointly by two or more political subdivisions as a governing authority of a political subdivision of the state or local government.

**Instructions** (continued):

- **“Board or commission”** shall **NOT** mean:
  - The governing authority of a parish
  - Any board or commission that governs a political subdivision created by a single parish governing authority of a parish with a population of 200,000 or less, or any subdistrict of such a political subdivision.
  - The governing authority of a municipality
  - Any board or commission that governs a political subdivision created by a single municipal governing authority of a municipality with a population of 25,000 or less, or any subdistrict of such a political subdivision.
  - A board of directors of a private nonprofit corporation that is not created by law.
- **“Business”** means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, business, organization, self-employed individual, holding company, trust, or any other legal entity or person.
- **“Income”** for a business means gross income less (i) costs of goods sold, and (ii) operating expenses.
- **“Income”** for an individual means taxable income and shall not include any income received pursuant to a life insurance policy.
- **“Public office”** means any state, parish, municipal, ward, district, or other office or position that is filled by election of the voters, except the president or vice president of the United States, presidential elector, delegate to the political party convention, US Senator, US congressman, or political party office.
- **“Political Subdivision”** means a parish, municipality, and any other unit of local government, including a school board and a special district, authorized by law to perform governmental functions. Examples are: Hospital Service Districts, School Boards and the schools under its authority, Police Jurys, Parish Councils, Board of Aldermen, Cities, Towns, Villages, etc.
- **LSA-R.S. 18:1505.2(L)(3)(a)** refers to (i) any person who holds a license or permit as a distributor of gaming devices, who holds a license or permit as a manufacturer of gaming devices, who holds a license or permit as a device service entity, and any person who owns a truck stop or a licensed pari-mutuel or off-track wagering facility which is a licensed device establishment, all pursuant to the Video Draw Poker Devices Control Law; (ii) any person who holds a license to conduct gaming activities on a riverboat, who holds a license or permit as a distributor or supplier of gaming devices or gaming equipment including slot machines, or who holds a license or permit as a manufacturer of gaming devices or gaming equipment including slot machines issued pursuant to the Louisiana Riverboat Economic Development and Gaming Control Act, and any person who owns a riverboat upon which gaming activities are licensed to be conducted, and (iii) any person who holds a license or entered into a contract for the conduct of casino gaming operations, who holds a license or permit as a distributor of gaming devices or gaming equipment including slot machines, or who holds a license or permit as a manufacturer of gaming devices or gaming equipment including slot machines issued pursuant to the Louisiana Economic Development and Gaming Corporation Act, and any person who owns a casino where such gaming operations are licensed.

**PERSONAL FINANCIAL DISCLOSURE**  
**"TIER 2.1"**  
**LSA-R.S. 42:1124.2.1**

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ORIGINAL REPORT

AMENDED REPORT

This Report Covers Calendar Year 20\_\_\_\_

I hold multiple offices/positions that fall under Tier 2.1 and/or would require a filing under Tier 3. If this box is checked, filer must complete Schedule E.

Full Name of Filer: \_\_\_\_\_

Mailing Address:

Street	Apt. #
City	State
	Zip Code

Name of Board or Commission \_\_\_\_\_

Date of Appointment \_\_\_\_\_ Expiration of Appointment \_\_\_\_\_

Full Name of Spouse: \_\_\_\_\_

Spouse's Occupation: \_\_\_\_\_

Spouse's Principal Business Address, if any:

Street	Apt. #
City	State
	Zip Code

(A) I certify that I have filed my federal income tax return for the previous year.

(B) I certify that I have filed my state income tax return for the previous year.

or

(A) I certify that I have filed for an extension of my federal income tax return for the previous year.

(B) I certify that I have filed for an extension of my state income tax return for the previous year.

---

I do hereby certify that neither I nor any member of my immediate family has a personal or financial interest in any entity, contract, or business, or a personal or financial relationship, that in any way poses a conflict of interest, which would affect the impartial performance of my duties. OR

I have attached a statement describing each conflict and action I am taking to resolve or avoid this conflict.

**[CERTIFICATION OF ACCURACY ON FOLLOWING PAGE]**

Page 1 of \_\_\_\_

**CERTIFICATION OF ACCURACY**

**I do hereby certify that the information contained in this personal financial disclosure form is true and correct to the best of my knowledge and belief.**

\_\_\_\_\_  
Signature of Filer

Page 2 of \_\_\_\_

**SCHEDULE A  
EMPLOYMENT INFORMATION**

---

Please disclose the name of the employer, job title, a brief description of the job description for each full-time or part-time employment position held by the individual or spouse.

---

Filer  Spouse  Full-time  Part-time

Employer Name \_\_\_\_\_ Job Title \_\_\_\_\_

Job Description \_\_\_\_\_

---

Filer  Spouse  Full-time  Part-time

Employer Name \_\_\_\_\_ Job Title \_\_\_\_\_

Job Description \_\_\_\_\_

---

Filer  Spouse  Full-time  Part-time

Employer Name \_\_\_\_\_ Job Title \_\_\_\_\_

Job Description \_\_\_\_\_

---

Filer  Spouse  Full-time  Part-time

Employer Name \_\_\_\_\_ Job Title \_\_\_\_\_

Job Description \_\_\_\_\_

---

Filer  Spouse  Full-time  Part-time

Employer Name \_\_\_\_\_ Job Title \_\_\_\_\_

Job Description \_\_\_\_\_

---

Filer  Spouse  Full-time  Part-time

Employer Name \_\_\_\_\_ Job Title \_\_\_\_\_

Job Description \_\_\_\_\_

---



**SCHEDULE C**  
**POSITIONS - BUSINESS**

---

The name, address, brief description, nature of association, and the amount of interest in each business in which you or your spouse is a director, officer, owner, partner, member, or trustee, AND in which you or your spouse, either individually or collectively, owns an interest which exceeds ten percent of that business. **Note: For this page ONLY, the "amount of interest" must be reported as a percentage figure.**

---

Filer  Spouse Amount of Interest \_\_\_\_\_%

Name of Business \_\_\_\_\_

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Business Description \_\_\_\_\_

Nature of Association \_\_\_\_\_

---

Filer  Spouse Amount of Interest \_\_\_\_\_%

Name of Business \_\_\_\_\_

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Business Description \_\_\_\_\_

Nature of Association \_\_\_\_\_

---

Filer  Spouse Amount of Interest \_\_\_\_\_%

Name of Business \_\_\_\_\_

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Business Description \_\_\_\_\_

Nature of Association \_\_\_\_\_





§1322. Statements Filed Pursuant to Section 1124.5  
of the Code of Governmental Ethics

**SCHEDULE M**  
**POSITIONS - BUSINESS**

The name, address, brief description of, nature of association with and the amount of interest in each business in which you or your spouse is a director, officer, owner, partner, member, or trustee, OR in which you or your spouse owns any interest, excluding a publicly traded corporation.

**DO NOT INCLUDE INFORMATION WITH RESPECT TO THOSE BUSINESSES THAT WERE DISCLOSED ON SCHEDULE B.**

---

Filer  Spouse Amount of Interest \_\_\_\_\_%

Name of Business \_\_\_\_\_

Address \_\_\_\_\_

Street	Suite #	
_____		
City	State	Zip Code

Business Description \_\_\_\_\_

\_\_\_\_\_

Nature of Association \_\_\_\_\_

---

Filer  Spouse Amount of Interest \_\_\_\_\_%

Name of Business \_\_\_\_\_

Address \_\_\_\_\_

Street	Suite #	
_____		
City	State	Zip Code

Business Description \_\_\_\_\_

\_\_\_\_\_

Nature of Association \_\_\_\_\_

---

Filer  Spouse Amount of Interest \_\_\_\_\_%

Name of Business \_\_\_\_\_

Address \_\_\_\_\_

Street	Suite #	
_____		
City	State	Zip Code

Business Description \_\_\_\_\_

\_\_\_\_\_

Nature of Association \_\_\_\_\_

**SCHEDULE N**  
**INCOME FROM THE STATE AND/OR POLITICAL SUBDIVISIONS**

The name, address, type, and amount of each source of income received by you or your spouse, or by any business in which you or your spouse owns an interest, excluding a publicly traded corporation, which is received from the state or any political subdivision as defined in Article VI of the Constitution of Louisiana.

**DO NOT INCLUDE INFORMATION WITH RESPECT TO INCOME DISCLOSED ON SCHEDULE D.**

Filer  Spouse  Business Amount of Income \_\_\_\_\_

Name of Business, if applicable \_\_\_\_\_

Type of Income:  State  Political Subdivision

Name of Source of Income \_\_\_\_\_

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Filer  Spouse  Business Amount of Income \_\_\_\_\_

Name of Business, if applicable \_\_\_\_\_

Type of Income:  State  Political Subdivision

Name of Source of Income \_\_\_\_\_

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

Filer  Spouse  Business Amount of Income \_\_\_\_\_

Name of Business, if applicable \_\_\_\_\_

Type of Income:  State  Political Subdivision

Name of Source of Income \_\_\_\_\_

Address \_\_\_\_\_

Street

Suite #

City

State

Zip Code

**SCHEDULE O**  
**INCOME FROM A GOVERNMENTAL ENTITY**

The name of each governmental entity from whom the filer or his spouse derives any thing of economic value through any contract or subcontract involving a governmental entity, including the Louisiana Insurance Guaranty Association, the Louisiana Health insurance Guaranty Association, Louisiana Citizens Property Insurance Corporation, the property Insurance Association of Louisiana, and any other quasi public entity, the nature of the contract or subcontract; and the value of thing of economic value derived.

Filer  Spouse Value Derived \_\_\_\_\_

Name of the Governmental Entity \_\_\_\_\_

Nature of Contract/Subcontract \_\_\_\_\_

Filer  Spouse Value Derived \_\_\_\_\_

Name of the Governmental Entity \_\_\_\_\_

Nature of Contract/Subcontract \_\_\_\_\_

Filer  Spouse Value Derived \_\_\_\_\_

Name of the Governmental Entity \_\_\_\_\_

Nature of Contract/Subcontract \_\_\_\_\_

Filer  Spouse Value Derived \_\_\_\_\_

Name of the Governmental Entity \_\_\_\_\_

Nature of Contract/Subcontract \_\_\_\_\_

Filer  Spouse Value Derived \_\_\_\_\_

Name of the Governmental Entity \_\_\_\_\_

Nature of Contract/Subcontract \_\_\_\_\_

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 36:301 (February 2010).

Kathleen M. Allen  
Ethics Administrator

**RULE**

**Department of Civil Service  
Board of Ethics**

**Food and Drink Limit  
(LAC 52:I.1703)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Louisiana Board of Ethics, has amended the rules for the Board of Ethics to bring the rules into compliance with current statutory provisions and Section 1115.1(C) of the Code of Governmental Ethics.

**Title 52  
ETHICS**

**Part I. Board of Ethics**

**Chapter 17. Code of Governmental Ethics**

**§1703. Food and Drink Limit**

A. In accordance with R.S. 42:1115.1(C), beginning on July 1, 2009, the limit for food, drink or refreshments provided in R.S. 42:1115(A) and (B) is \$53.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1115.1.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 36:304 (February 2010).

Kathleen M. Allen  
Ethics Administrator

1002#109

**RULE**

**Department of Economic Development  
Office of Business Development  
Office of Entertainment Industry Development**

**Sound Recording Production and Infrastructure  
Tax Credit Programs (LAC 61:I.1631-1639)**

The Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development pursuant to the authority of R.S. 47:6023 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby adopt the following Rules of the Louisiana Entertainment Industry Tax Credit Programs, specifically the Sound Recording Production and Infrastructure Tax Credit Programs.

**Title 61**

**REVENUE AND TAXATION**

**Part I. Taxes Collected and Administered by the  
Secretary of Revenue**

**Chapter 16. Louisiana Entertainment Industry Tax  
Credit Programs**

**Subchapter C. Louisiana Sound Recording Investor Tax  
Credit Program**

**§1631. Purpose and Description of Louisiana Sound  
Recording Investor Tax Credit Program**

A. The purpose of this program is to encourage development in Louisiana of a strong capital and infrastructure base for sound recording productions in order to achieve an independent, self-supporting sound recording

industry, and to encourage investments in multiple state-certified sound recording production projects and infrastructure.

B. Approvals and certifications as to whether a project qualifies as a state-certified production as required for Sound Recording Investor Tax Credits are not to be considered as entitlements for sound recording production companies, and the Louisiana Department of Economic Development shall have the discretion to determine whether or not each particular sound recording or infrastructure project, meets the criteria for such qualification as provided herein.

C. These rules implement the Louisiana Sound Recording Investor Tax Credit pursuant to R.S. 47:6023. This credit was created by Act 485 (H.B. 631), Laws 2005 and amended by Act 368 (S.B. 70), Laws 2007 of Reg. Sess., effective July 1, 2007.

D. These provisions are in addition to and shall not limit the authority of the Secretary of the Department of Revenue to assess or to collect under any other provision of law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, and the Department of Revenue, LR 34:1347 (July 2008), amended by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 36:304 (February 2010).

**§1633. Definitions**

A. The following terms shall have the meanings provided herein, unless the context clearly indicates otherwise.

*Base Investment*—shall mean the actual investment made and expended in the state by:

a. a state-certified production as production expenditures incurred in this state that are directly used in state-certified production or productions;

b. a person or other legal entity in the development of a state-certified infrastructure project. Infrastructure Expenditures shall include, but are not limited to, expenditures for sound recording infrastructure project development, sound recording production spaces, sound production equipment, facilities, equipment for sound recording companies domiciled within Louisiana, sound processing and recording equipment, land acquisition and closing costs, construction costs, design and professional consulting fees associated with the state-certified infrastructure project, furniture, fixtures, percussion, pianos, keyboards, organs, musical and amplification equipment, and financing costs which shall remain permanently located within Louisiana for the useful life of the object. Infrastructure Expenditures shall not include indirect costs, any amounts that are later reimbursed by a third party, any costs related to the allocation of tax credits, or any amounts that are paid to persons or entities as a result of their participation in profits from the exploitation of the State-certified Infrastructure Project.

*Department*—the Louisiana Department of Economic Development, or its successor.

*Expended in the State*—an expenditure to acquire property from a source within the state which is subject to state sales or use tax, or an expenditure as compensation for services performed within the state which is subject to state income tax.

*Holder*—the holder of a partnership interest, membership interest, or other similar ownership interest on any entity not taxed as a corporation.

*Investor*—any individual or entity that makes an investment in a state-certified production or infrastructure project.

*Secretary*—Secretary of the Louisiana Department of Economic Development.

*Series*—more than one state-certified production produced in a 12 month period, by or on behalf of the sound recording company or an affiliate grouped together in such a way that the group meets the minimum in-state spend of \$15,000.

*Sound Recording*—a recording of music, poetry, or spoken-word performance made in Louisiana, in whole or in part. The term *sound recording* shall not include the audio portions of dialogue or words spoken and recorded as part of television news coverage or athletic events.

*Sound Recording Production Company*—a company engaged in the business of producing sound recordings as defined in this Section. *Sound recording production company* shall not mean or include any person or company, or any company owned, affiliated, or controlled, in whole or in part, by any company or person, which is in default on a loan made by the state or a loan guaranteed by the state, nor which has ever declared bankruptcy under which an obligation of the company or person to pay or repay public funds or monies was discharged as a part of such bankruptcy.

*State-Certified Musical Recording Infrastructure Project*—a sound recording capital infrastructure project and base investment related to such project that are approved by the Louisiana Department of Economic Development.

*State-Certified Production*—a sound recording production or a series of productions occurring over the course of a 12-month period, and costs related to such production or productions that are approved by the Louisiana Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, and the Department of Revenue, LR 34:1347 (July 2008), amended by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 36:304 (February 2010).

### **§1635. Rules of Application**

A. The sound recording investor tax credit authorized by R.S. 47:6023(C) may be earned and claimed as follows.

1. Until January 1, 2015, there is authorized a credit against the state income tax for investments made in state-certified productions and state-certified sound recording infrastructure projects, which credit will be earned by investors at the time expenditures are certified by the Louisiana Department of Economic Development according to the total base investment certified for the sound recording production company per calendar year. No credit shall be allowed for any expenditures for which a credit was granted under R.S. 47:6007.

2. For state-certified productions certified on and after July 1, 2007, and state-certified infrastructure projects which have applied on or before August 1, 2009, each investor

shall be allowed a tax credit of twenty-five percent of the base investment made by the investor in excess of \$15,000.

a. Once the \$15,000 minimum investment threshold is met, each investor shall be allowed a tax credit for all investments made up to and in excess of \$15,000.

3. An application for initial certification of a project shall be submitted to the Louisiana Department of Economic Development prior to the granting of the credit, and the granting of the credits under this Rule shall be on a first-come, first-served basis based on when the proper cost reports as defined here under RS 47:6023, are submitted to DED for certification of tax credits, which shall be determined by the date of a signed receipt via certified or registered mail, courier, hand or other delivery, or the date on a proof of transmission via facsimile and/or by the DED stamped and staff initialed date. The Secretary of the Department of Economic development shall determine annually the annual aggregate maximum. If the total amount of credits earned for any particular year exceeds the aggregate amount of tax credits allowed for that year, the excess will be treated as having been earned on the first day of the subsequent year.

a. Applications for a series of productions shall provide the titles, budgets and a brief description for each production in the series. The series of productions, as a combined group, must at least achieve, and may exceed the minimum investment. If one single project may, on its own, exceed the \$15,000 minimum threshold, it must make separate application.

4. Individuals or entities may earn sound recording investor tax credits pursuant to R.S. 47:6023(C).

5. Any individual or entity shall be allowed to claim the sound recording investor tax credit authorized by R.S. 47:6023:

a. whether or not any such individual is a Louisiana resident; and

b. whether or not any such entity is domiciled in Louisiana, organized under Louisiana law, or headquartered in Louisiana.

6. Any applicant applying for the credit shall be required to reimburse the department for any audits required in relation to granting the credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, and the Department of Revenue, LR 34:1348 (July 2008), amended by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 36:305 (February 2010).

### **§1637. Certification**

A. Initial Certification of State-Certified Productions

1. To obtain the approval of the department for a "state-certified production" as required by R.S. 47:6023(B)(5) and (6), the sound recording production company that will produce the sound recording production must submit a written request to the department for approval of the production as a "state-certified musical recording infrastructure project" or as a "state-certified production" and setting forth the following facts, when applicable:

a. working title of the sound recording production for which approval is requested;

b. name of the requesting production company;

- c. telephone number of requesting production company;
- d. name and telephone number of the requesting production company's contact person;
- e. approximate beginning and ending date of production in Louisiana;
- f. Louisiana office address of requesting production company (if available);
- g. telephone number of requesting production company's Louisiana office address (if available);
- h. estimated total production-related costs of the sound recording production for which approval is requested;
- i. estimated total amount of production-related costs to be expended in Louisiana in connection with the sound recording production for which approval is requested;
- k. estimated total payroll to be paid by the requesting production company to Louisiana residents employed by the requesting production company in connection with the production for which approval is requested.;
- l. facts sufficient to determine each of the following:
  - i. that the requesting production company is a sound recording production company as defined by R.S. 47:6023(B)(4);
  - m. for "state-certified productions" the application shall also include:
    - i. the distribution plan;
    - ii. a preliminary budget including estimated Louisiana payroll and estimated base investment;
    - iii. a description of the type of sound to be recorded;
    - iv. a list of the principal creative elements including performing artist(s) and producer;
    - v. the name and address of the recording studio or other location where the recording production will take place;
    - vi. a statement that the production will qualify as a state-certified production; and
    - vii. estimated start and completion dates;
  - n. for "state-certified sound recording infrastructure projects" the application shall also include:
    - i. a detailed description of the infrastructure project;
    - ii. a preliminary budget;
    - iii. a statement that the project meets the definition of a state-certified infrastructure project; and
    - iv. estimated start and completion dates;
    - v. a business plan for startup sound recording infrastructure companies.

2. The department shall submit its initial certification of a project as an "initial state-certified production" or an "initial state-certified musical recording infrastructure project" to investors and to the Secretary of the Department of Revenue, containing a unique identifying number. The department shall issue their written approval of a project as a "state-certified musical recording infrastructure project" or of a sound recording production as a "state-certified production" within 90 business days after receiving a request with respect to such production that complies with Paragraph 1 of this Section. In the alternative, if the

department determines that a request for approval of a project as a "state-certified musical recording infrastructure project" or of a sound recording production as an "initial state-certified production" received from a production company is not in compliance with Paragraph 1 of this Section, then within 45 business days after receiving such request, the department shall request in writing from the requesting production company any information necessary in their determination for such request to comply with Paragraph 1 of this Section. Upon receiving all of the requested additional information in writing from the production company, and if the department determine that the request for approval with respect to such project or production complies with Paragraph 1 of this Section, the department shall issue to the requesting production company their written approval of the project as a "state-certified musical recording infrastructure project" or of a sound recording production as a "state-certified production."

3. The approval of a project as an "initial state-certified musical recording infrastructure project" or of a sound recording production as an "initial state-certified production" issued by the department pursuant to the above Paragraph 2 of this Section will include the following, as appropriate.

a. For initial state-certified musical recording infrastructure projects:

"Based solely on our examination of the factual representations set forth in your request for state certification of ["Name of Project"] dated [Date of Request] attached hereto as Exhibit A, the Department of Economic Development does hereby certify that ["Name of the Project"] qualifies as of [Date] as a initial state-certified musical recording infrastructure project as such term is defined in Louisiana Revised Statutes 47:6023 B(6). ["Identifying Number"] is hereby assigned to ["Name of Project"] and such number shall constitute such project's identifying number as contemplated by R.S. 47: 6023 E(2)(c)."

b. For initial state-certified sound recording productions:

"Based solely on our examination of the factual representations set forth in your request for state certification of ["Name of Production"] dated [Date of Request] attached hereto as Exhibit A, the undersigned does hereby certify that ["Name of the Production"] qualifies as of [Date] as a initial sound recording state-certified production as such term is defined in Louisiana Revised Statutes 47:6023 B(5). ["Identifying Number"] is hereby assigned to ["Name of Production"] and such number shall constitute such production's identifying number as contemplated by R.S. 47: 6023 E(2)(c)."

B. Any funds expended prior to the department's receipt of the official sound recording application for initial credit, shall not qualify as part of the base investment and will not be certified for tax credits. The Sound Recording application must be in writing on the official form to the department.

C. Certification of Sound Recording Investor Tax Credits

1. Prior to any certification of the state-certified production or infrastructure project, the sound recording production company, in the case of an infrastructure project, shall submit to the department a cost report of production or project expenditures to be prepared and audited by an independent Louisiana certified public accountant. The department shall review such expenditures and shall issue a tax credit certification letter to the investors and the Louisiana Department of Revenue indicating the amount of tax credits certified for the state-certified production or state-

certified infrastructure project. The certified public accountant must follow the standards as set out in the CPA Auditing Instructions, which are provided by the Department of Economic Development. This must also be accompanied by the CPA Certification Form, which is provided by the Department of Economic Development.

2. After receiving a written request from an investor and after the meeting of all criteria, the department shall issue a letter of certification to such investor signed by the secretary reflecting the investor's name, the dollar amount of sound recording investor tax credits earned by the investor pursuant to R.S. 47:6023(C) through the date of such request, the calendar year in which the sound recording investor tax credits were earned by the investor, the state-certified sound recording infrastructure project or the state-certified production with respect to which the investor earned the sound recording investor tax credits, and the identifying number assigned to such state-certified sound recording infrastructure project or state-certified production.

3. The tax credits when issued and upon receipt shall not be transferred to any third party and will be held valid only to the party which was certified by the Department of Economic Development. After certification, the Louisiana Department of Economic Development shall submit the tax credit certification letter to the Department of Revenue on behalf of the investor who earned the sound recording tax credits. The Department of Revenue may require the investor to submit additional information as may be necessary to administer the provisions of this Section. Upon receipt of the tax credit certification letter and any necessary additional information, the secretary of the Department of Revenue shall make payment to the investor in the amount to which he is entitled from the current collections of the taxes collected pursuant to Chapter 1 of Subtitle II of this Title, as amended.

4. Once certification of a project has been granted under the criteria established within this provision and pursuant to 47:6023, the granting of such credit will be based upon a first come, first serve basis of the approved cost report or audit and shall be set for a maximum aggregate amount not to exceed \$3 million. For purposes of this Section the applicant will be considered the investor

5. If the total amount of qualifying credits in any particular year exceeds the aggregate amount of tax credits allowed for that year the excess credits will be treated as having been certified for the first day of the subsequent year.

6. The failure of the department to issue a letter of certification in accordance with this Subpart shall not:

a. void or otherwise affect, in any way, the legality or validity of any allocation of sound recording investor tax credits;

b. prohibit any Louisiana taxpayer from claiming sound recording investor tax credits against its Louisiana income tax liability if the sound recording investor tax credits are otherwise allocated or claimed in accordance with R.S. 47:6023(C) and this Subpart; or

c. result in any recapture, forfeiture or other disallowance of sound recording investor tax credits under R.S. 47:6023(G) or otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, and the

Department of Revenue, LR 34:1348 (July 2008), amended by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 36:305 (February 2010).

#### **§1639. Credits**

A. Application of the Sound Recording Investor Tax Credits

1. The sound recording investor tax credit can be used to offset taxes, penalties and interest.

B. Recapture of Credits

1. If the Department of Economic Development and the Department of Revenue find that funds for which an investor received credits according to this program are not invested in and expended with respect to a state-certified production within 24 months of the date that such credits are earned, then the investor's state income tax for such taxable period shall be increased by such amount necessary for the recapture of credit provided by this program.

2. Credits previously granted to a taxpayer, but later disallowed, may be recovered by the secretary of the Department of Revenue through any collection remedy authorized by R.S. 47:1561 and initiated within three years from December 31 of the year in which the 24 month investment period specified in the above Paragraph ends.

3. The only interest that may be assessed and collected on recovered credits is interest at a rate three percentage points above the rate provided in Civil Code Article 2924(B)(1), which shall be computed from the original date of the return on which the credit was taken.

C. Brand

1. As a condition for receiving certification of tax credits under this Section, state-certified productions may be required to display the state brand or logo, or both, as prescribed by the secretary of the Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, and the Department of Revenue, LR 34:1350 (July 2008), amended by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 36:307 (February 2010).

Kristy Mc Kearn  
Undersecretary

1002#085

#### **RULE**

#### **Department of Economic Development Office of Business Development Services**

Technology Commercialization Credit and Jobs Program  
(LAC 13:I.Chapter 27)

The Department of Economic Development, Office of Business Development Services, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 36:104 and 36:108 hereby adopts the following Rules of the Technology Commercialization Credit and Jobs Program as LAC 13:I.Chapter 27.

**Title 13**  
**ECONOMIC DEVELOPMENT**

**Part I. Financial Incentive Programs**

**Chapter 27. Technology Commercialization Credit and Jobs Program**

**§2701. Purpose and Application**

A. The purpose of this Chapter is to implement the Technology Commercialization Credit and Jobs Program as established by R.S. 51:2351 et seq.

B. This Chapter shall be administered to achieve the following purposes:

1. to induce companies purchasing the rights to commercialize technology produced at a Louisiana university to locate and grow their businesses in Louisiana;

2. to expand the economy of the state by enlarging its base of technology and research-based businesses;

3. to enlarge the number of quality jobs available to an educated workforce to retain the presence of young people educated in Louisiana colleges and universities; and

4. to attract and retain the finest research faculty to Louisiana universities.

C. This Chapter shall apply to any person:

1. seeking to become qualified to claim a credit; or
2. claiming a credit.

D. Qualifying individuals or businesses that invest in the commercialization of Louisiana technology in Louisiana may earn, apply for, and be granted a refundable tax credit on any income or corporation franchise tax liability and earn a refundable tax credit based on new jobs created. Qualifying research centers that develop Louisiana technology to be commercialized may earn apply for, and be granted a refundable tax credit based on new jobs created.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351 and 2353.B.(1).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 36:308 (February 2010).

**§2703. Definitions**

A. Terms not otherwise defined in this Chapter shall have the same meaning given to them in R.S. 51:2352 unless the context clearly requires otherwise.

B. In this Chapter, the following terms shall have the meaning provided in this Section, unless the context clearly requires otherwise.

*Basic Health Benefits Plan*—a health benefits plan which shall be determined by the Department of Economic Development to have a value of at least \$1.25 per hour; shall include coverage for basic hospital care, and coverage for physician care; and shall include coverage for health care, which shall be the same coverage as is provided to employees employed in a bona fide executive, administrative, or professional capacity by the employer who are exempt from the minimum wage and maximum hour requirements of the federal Fair Labor Standards Act, 29 U.S.C.A. §201 et seq.

*Commercialization*—the development of a technology into a commercial product by going through the process of prototyping, securing funding, and other steps necessary to get the final product to the marketplace. Commercialization begins after a technology has been reduced to practice and the company is proceeding to develop a commercial market.

*Commercialization Costs*—investment in machinery and equipment, all expenditures associated with obtaining

the rights to use or the use of technology, including fees related to patents, copyrights, and licenses, payments to Louisiana universities for research agreements, and payments to third-party Louisiana research or clinical trial companies.

*Credit Certification*—a certification by DED of the amount of the technology commercialization credit earned by a taxpayer for a particular tax year.

*DED*—Louisiana Department of Economic Development.

*Eligibility Certification*—a certification by the DED that a taxpayer is eligible to earn technology commercialization credits.

*LDR*—Louisiana Department of Revenue.

*Machinery and Equipment*—machinery or equipment that is a capital asset used in a trade or business subject to depreciation under federal tax law that is placed in service and used in Louisiana.

*New Direct Job*—employment in Louisiana of an employee working an average of at least 30 hours per week, who was not previously on the *taxpayer's* payroll in Louisiana, nor previously on the payroll of the *taxpayer's* parent entity, subsidiary, or affiliate in Louisiana, or previously on the payroll of any business whose physical plant and employees are substantially the same as those of the *taxpayer* in Louisiana and meets the following requirements:

a. the employee shall occupy a job which did not exist in Louisiana prior to the fiscal year of the *taxpayer* during which the *taxpayer* filed an application for eligibility to earn tax credits pursuant to §2705 below.

b. shall not mean any job that is a result of job shifts due to the gain or loss of an in-state contract to supply goods and services. *New direct job* shall not mean any employees who were retained following the acquisition of all or part of an in-state business by an employer.

*Taxpayer*—a natural person, business, corporation, or other business entity that seeks to or has become qualified to claim a credit on any income or corporation franchise tax liability against taxes owed to Louisiana.

*Technology*—the product or intellectual property owned or research sponsored at a regionally accredited college, technical school, or university located in Louisiana or any product or intellectual property to which significant development or enhancement occurred in Louisiana

*Technology Commercialization Credits*—credits against Louisiana income or corporation franchise taxes that are earned by a taxpayer for investment in commercialization costs.

*Technology Jobs Credit*—credits against Louisiana income or corporation franchise taxes that are earned by a taxpayer for new direct jobs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2353.B.(1)

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 36:308 (February 2010).

**§2705. Determination of Eligibility to Earn Tax Credits**

A. Prior to earning any credits pursuant to the Technology Commercialization Credit and Jobs Program, a taxpayer must apply for and obtain an eligibility certification from DED that the taxpayer is eligible to earn such credits.

B. The application for eligibility certification must be submitted prior to the end of the taxpayer's tax year for which the taxpayer first seeks to earn a technology commercialization credit or technology jobs credit.

C. A taxpayer shall apply for an eligibility certification by submitting an application on a form specified by the DED and provide at a minimum, the following information:

1. for a Technology Commercialization Credit:

a. a description of the technology to be commercialized;

b. a description of how and from whom (what university) the technology was acquired including the terms of the acquisition;

c. if the technology is not owned by a university, in what manner research was sponsored by the university or what significant development or enhancement to the technology occurred at the university;

d. An agreement with a Louisiana regionally accredited college, technical school, university, or research company to commercialize or research a technology;

e. a description of the taxpayer's Louisiana facilities or proposed Louisiana facilities, and the taxpayer's proposed investment in machinery and equipment.

f. any other information requested by DED or LDR;

2. for a Technology Jobs Credit:

a. a description of the type of entity the taxpayer is, that is, for profit corporation, LLC, non-profit, governmental entity etc.;

b. a description of the type of research the taxpayer does,

c. a listing of proposed new direct jobs that the taxpayer expects to create along with the estimated salary;

d. a description of the taxpayer's health benefits plan that will be offered to employees.

D. DED shall review the application with an emphasis on the eligibility requirements stated in §2707 and, if DED determines that the taxpayer is eligible under the provisions of the Technology Commercialization Credit and Jobs Program to earn technology commercialization credits or technology jobs credits, DED shall issue an eligibility certificate. DED shall maintain a record of all eligibility certificates issued and shall provide a copy of each certificate to the Louisiana Department of Revenue.

E. An eligibility certification shall be valid for a period of five tax years of the taxpayer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2353.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 36:308 (February 2010).

#### **§2707. Requirements for Eligibility**

A. To be eligible for certification under §2705, the taxpayer must meet the following requirements:

1. for a Technology Commercialization Credit:

a. the taxpayer must invest in commercialization costs, including investment by purchase or lease of machinery and equipment which is placed into and maintained in service in Louisiana that is directly related to the production of technology or is used to produce resources essential to the production of technology;

b. the taxpayer must enter into an agreement with a Louisiana regionally accredited college, technical school,

university, or research company to commercialize or research a technology;

2. for a Technology Jobs Credit:

a. the applicant must be certified eligible to earn a technology commercialization credit, or be a nonprofit or governmental research center approved by the Secretary of the Department of Economic Development;

b. the applicant must create a minimum of five new direct jobs in this state as defined by R.S. 51:2453(4) of the Quality Jobs Program;

c. the applicant must offer a basic health benefits plan to the individuals it employs in new direct jobs in this state;

d. the new direct jobs shall pay an average minimum of \$50,000 per year in wages to qualify for the new jobs refundable tax credit, excluding wages to a person who owns more than 30 percent of the equity of the applicant.

B. An eligibility certification may be renewed for an additional five tax years on the following conditions:

1. the taxpayer has complied with all requirements of the program for the initial five tax years; and

2. an application for renewal is filed with DED not sooner than the end of the fifth tax year and no later than the end of the sixth tax year;

3. for renewal of the Technology Jobs Credit Eligibility Certification, the new direct jobs shall pay an average minimum of \$56,000.

AUTHORITY NOTE: Promulgated III accordance with R.S. 51:2353.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 36:309 (February 2010).

#### **§2709. Certification of Amount of Credit**

A. The technology commercialization tax credit shall be:

1. equal in value to 40 percent of the amount of money invested by the taxpayer applicant in commercialization costs for one business location;

2. a refundable credit which may be applied to any income or corporation franchise tax liability owed to the state by the taxpayer;

3. limited to an investment of \$250,000 per five-year certification period.

B. The technology jobs credit shall be:

1. equal to 6 percent multiplied by the gross payroll of new direct jobs as verified by the Department of Economic Development;

2. a refundable credit which may be applied to any income or corporation franchise tax liability owed to the state by the taxpayer.

C. Prior to claiming a technology commercialization credit or technology jobs credit on any tax return, a taxpayer must apply for and obtain a credit certification from DED. A taxpayer must have been issued an eligibility certification before a credit certification may be issued.

D. The application for a credit certification shall be submitted on a form provided by the DED. The application shall include a detailed itemization of all commercialization costs incurred during the tax year.

E. DED shall review the application and issue a credit certification in the amount determined to be eligible and provide a copy to the Department of Revenue. The credit certification and the amount of such certification shall be

considered preliminary and shall be subject in all respects to audit by the Louisiana Department of Revenue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2353.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 36:309 (February 2010).

#### **§2711. Eligible Commercialization Costs**

A. Investment in machinery and equipment shall include:

1. the purchase price, including any taxes and costs of delivery and installation, and the capitalized amount of a capitalized lease;

2. the machinery and equipment must remain in use at the business location during the five tax years the taxpayer is eligible to earn the credit or its expected useful life, whichever is less. The sales price, trade in value, or other value received in the sale or disposition of the machinery or equipment shall be deducted from the commercialization costs for that year.

B. Other expenditures must be associated with obtaining the rights to use or the use of technology, and may include:

1. any transaction costs incurred in obtaining technology rights such as attorney fees for negotiation of licensing agreements, accounting, or other fees;

2. costs incurred for the use of technology such as royalties or licensing fees; and

3. costs incurred in protecting the rights to technology such as costs for filing or obtaining patents, recordation fees.

C. No expenditures for which a research and development tax credit was claimed pursuant to R.S. 47:6015 shall be eligible as a commercialization cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2353.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 36:310 (February 2010).

#### **§2713. Recapture of Credits**

A. An application for eligibility certification or credit certification shall constitute:

1. a consent by the taxpayer that in the event the taxpayer must repay any technology commercialization credits:

a. the Secretary of the Department of Revenue may recover any such amounts as authorized by R.S. 47:1561.2; and

b. such amounts will be deemed to constitute refundable tax credit; and

2. a written agreement between the taxpayer and the Secretary of the Department of Revenue for the suspension of the running of prescription for any technology commercialization credits claimed by the taxpayer until one year after the end of the fourth tax year of the eligibility certification;

3. a consent by the taxpayer that the Department of Revenue may disclose to DED, any tax information of the taxpayer related to the earning of, or use of technology commercialization credits by the taxpayer or any other information required by DED for the effective administration of this program, provided that such tax information, shall remain confidential in the possession of DED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2353.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 36:310 (February 2010).

#### **§2715. Application Fee**

A.1. An application fee in the amount of \$250 shall be submitted with each application.

2. All fees shall be made payable to: Louisiana Department of Economic Development

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2353 and R.S. 51:936.2.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 36:310 (February 2010).

#### **§2717. Applicant Receiving Tax Credits not Eligible to Receive Certain other Tax Credits and Exemptions**

A. Notwithstanding any other provision of law to the contrary, an applicant who receives tax credits pursuant to the provisions of this Chapter shall not be eligible to receive the other credits or exemptions provided for in the following provisions of law in connection with the activity for which the tax credits or rebates were received:

1. the tax credit for generation of new jobs provided for in R.S. 47:34;

2. the Louisiana Quality Jobs Program provided for in R.S. 51:2451 et seq.;

3. the employer credit for employment of previously unemployed persons provided for in R.S. 47:6004;

4. the Louisiana basic skills training tax credit provided for in R.S. 47:6009;

5. the tax credit for employee alcohol and substance abuse treatment programs provided for in R.S. 47:6010;

6. the sales tax rebate and income tax credits of the Enterprise Zone Program provided for in R.S. 51:1787;

7. the reentrant jobs credit for formerly incarcerated employees provided for in R.S. 47:287.748;

8. the corporation income tax credit for new jobs provided for in R.S. 47:287.749;

9. the neighborhood assistance tax credit provided for in R.S. 47:287.753.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2353.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 36:310 (February 2010).

Kristy Mc Kearn  
Undersecretary

1002#084

#### **RULE**

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

Bulletin 120—Adult Education Data Quality and Procedures  
(LAC 28:CXVII.303)

Editor's Note: This Rule was promulgated on pages 2315-2317 of the November 2009 *Louisiana Register*. Section 303 is being repromulgated in its entirety to correct a citing error.

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 120—Adult Education Data Quality and Procedures*: §101.Introduction,

§301. *Standardized Assessments*, §303. *Approved Assessments*, §305. *Placement in an Educational Functioning Level*, §307. *Follow-up Assessments*, §309. *Special Populations*, §501. *NRS Core and Secondary Measures*, §701. *Data Accuracy and Entry*, §703. *Quarterly Reporting*, §705. *State Approved Adult Education Data System*, and §707. *Resolving Data Analysis Problems and Deviations*. A summary of the revisions to *Bulletin 120—Adult Education Data Quality and Procedures* are:

Revised the division title from Division of Family, Career and Technical Education to Division of Dropout Prevention, Adult and Family Services.

Added Program Performance requirements.

Revised approved assessments to reflect current USDE approved assessment updates.

Included NRS approved assessment ranges.

Added accommodation information to comply with NRS and OVAE requirements.

Included training requirements such as timelines and responsibilities of the state and local agencies.

The revisions to *Bulletin 120—Adult Education Data Quality and Procedures* will ensure that the department guidelines are aligned with the USDE National Reporting System for Adult Education.

#### **Title 28**

#### **EDUCATION**

#### **Part CXVII. Bulletin 120—Adult Education Data Quality and Procedures**

#### **Chapter 3. Assessment and Student Placement**

#### **§303. Approved Assessments**

A. The Louisiana Department of Education has approved certain assessments, which are aligned with educational functioning levels within NRS to measure student level and growth. Only assessments on this list may be used to determine student placement upon intake or demonstrate educational growth. No other assessments, other than the assessments listed on the placement chart found in the NRS Guidelines, are to be used by local programs for placement purposes or to demonstrate educational growth at an educational functioning level.

B. Assessments for Adult Basic Education and Adult Secondary Students:

1. Test of Adult Basic Education (TABE);
2. Comprehensive Adult Student Assessment System (CASAS);
3. Wonderlic (to be used at the Low Intermediate Basic Education, High Intermediate Basic Education and Low Adult Secondary Education levels only);
4. WorkKeys: (to be used at the High Intermediate Basic Education and Adult Secondary Education educational functioning levels only).

C. Assessments for English-as-a-Second Language Students:

1. Basic English Skills Test (BEST) Literacy and BEST Plus;
2. Comprehensive Adult Student Assessment System (CASAS);
3. Test for Adult Basic Education—Complete Language Assessment System—English (TABE CLAS-E).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services,

LR 31:3066 (December 2005), amended LR 34:605 (April 2008), LR 35:2316 (November 2009), repromulgated LR 36:311 (February 2010).

Jeanette B. Vosburg  
Executive Director

1002#108

#### **RULE**

#### **Student Financial Assistance Commission Office of Student Financial Assistance**

Scholarship/Grant Programs  
(LAC 28:IV.301, 507, and 703)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6). (SG10109R)

#### **Title 28**

#### **EDUCATION**

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

#### **Chapter 3. Definitions**

#### **§301. Definitions**

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

\* \* \*

*Returning Student*—a student who graduated from high school beginning with academic year (high school):

a. 2001-2002, and met all the academic requirements for a TOPS Award, but who enrolled for the first time as a full-time student no later than the deadline established in §703.A.4 in an out-of-state postsecondary institution accredited by a regional accrediting organization recognized by the United States Department of Education and, thereafter, returns to Louisiana and enrolls as a full-time student in an eligible college or university; or

b. who was determined eligible for a TOPS opportunity, performance or honors award and enrolled for the first time as a full-time student no later than the deadline established in §703.A.4 in an eligible college or university in Louisiana, subsequently enrolled in an out-of-state postsecondary institution accredited by a regional accrediting organization recognized by the United States Department of Education and, thereafter, returns to Louisiana and enrolls as a full-time student in an eligible college or university during or after the 2009-2010 academic year (college).

\* \* \*

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September

2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008), LR 34:1884 (September 2008), LR 35:228 (February 2009), LR 35:1489 (August 2009), LR 35:1490 (August 2009), LR 36:311 (February 2010).

## **Chapter 5. Applications, Federal Grant Aid and ACT Test**

### **§507. Final Deadline for Submitting Documentation of Eligibility**

A. - C.3.a. ...

b.i. To receive the full benefits of a TOPS award as provided in §701.E, returning students, who enroll in an eligible college or university in the fall semester of 2007 or later, must submit an application to return from an out-of-state college no later than July 1 immediately following the academic year (college) the student enrolls as a full-time student in an eligible college or university and must submit any supporting documentation required by the application no later than January 15 following the July 1 deadline.

ii. If an application to return from an out-of-state college is received after the July 1 deadline as provided in the clause above, but not later than 60 days after that date, the time period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

iii. If an application to return from an out-of-state college is received more than 60 days after the July 1 deadline as provided in the clause above, but not later than 120 days after that date, the time period of eligibility for the award shall be reduced by two semesters, three quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

iv. An application to return from an out-of-state college received more than 120 days after the July 1 deadline shall not be considered.

v. If a prescribed deadline date falls on a weekend or holiday, it will automatically be extended to the next business day.

c. Examples

i. A returning student who enrolled in an eligible college or university in the fall semester of 2005 must submit the application to return from an out-of-state college no later than July 1, 2006, and any required supporting documentation such as college transcripts no later than April 15, 2007.

ii. A returning student who enrolled in an eligible college or university in the spring semester of 2007 must submit the application to return from an out-of-state college no later than July 1, 2007, and any required supporting documentation such as college transcripts no later than April 15, 2008.

iii. A returning student who enrolled in an eligible college or university in the fall semester of 2007 must submit the application to return from an out-of-state college

no later than July 1, 2008, and any required supporting documentation such as college transcripts no later than January 15, 2009.

iv. A returning student who enrolled in an eligible college or university in the spring semester of 2008 must submit the application to return from an out-of-state college no later than July 1, 2008, and any required supporting documentation such as college transcripts no later than January 15, 2009.

v. A returning student who enrolls in an eligible college or university in the fall semester of 2009 must submit the application to return from an out-of-state college no later than July 1, 2010, and any required supporting documentation such as college transcripts no later than January 15, 2011.

vi. A returning student who enrolls in an eligible college or university in the fall semester of 2009, and whose application to return from an out-of-state college is received on July 10, 2010, will be eligible for a TOPS award reduced by one semester or two quarters if any required supporting documentation such as college transcripts is received no later than January 15, 2011.

vii. A returning student who enrolls in an eligible college or university in the fall semester of 2009, and whose application to return from an out-of-state college is received on September 10, 2010, will be eligible for a TOPS award reduced by two semesters or three quarters if any required supporting documentation such as college transcripts is received no later than January 15, 2011.

C.4.a. - D.3. ...

E. The reduction of the student's period of eligibility for this award under §507.C above shall not be cumulative with any reduction under §505.D or §509.C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001), amended LR 28:447 (March 2002), LR 30:1161 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 32:2238 (December 2006), LR 33:2357 (November 2007), LR 34:1389 (July 2008), LR 34:1884 (September 2008), LR 36:312 (February 2010).

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

### **§703. Establishing Eligibility**

A. - G.2. ...

H. Returning Students

1. A *returning student*, as defined in §301, is eligible for a TOPS Award if:

a. he submits an application to return from an out-of-state college that includes:

H.I.a.i. - J.4.b.ii. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000),

LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010).

George Badge Eldredge  
General Counsel

1002#038

## **RULE**

### **Tuition Trust Authority Office of Student Financial Assistance**

#### **START Saving Program—Educational Savings Account (LAC 28:VI.301)**

The Louisiana Tuition Trust Authority has amended its START Saving Program rules (R.S. 17:3091 et seq.) (ST10110R)

### **Title 28 EDUCATION**

#### **Part VI. Student Financial Assistance Higher Education Savings**

#### **Chapter 3. Education Savings Account**

#### **§301. Education Savings Accounts**

- A. - H.4. ...
- I. Repealed.
- J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:713 (June 1997), amended LR 24:436 (March 1998), LR 24:1269 (July 1998), LR 25:1794 (October 1999), LR 26:2262 (October 2000), LR 27:1878 (November 2001), LR 28:450 (March 2002), LR 28:778 (April 2002), LR 28:2334 (November 2002), LR 30:786 (April 2004), LR 33:443 (March 2007), LR 36:313 (February 2010).

George Badge Eldredge  
General Counsel

1002#039

## **RULE**

### **Department of Environmental Quality Office of the Secretary Legal Affairs Division**

#### **Training Requirements for Underground Storage Tank System Operators (LAC 33:XI.601, 603, 605, 607, 609, and 611)(UT017)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has adopted the Underground Storage Tanks

regulations, LAC 33:XI.601, 603, 605, 607, 609, and 611 (Log #UT017).

This Rule requires training for all operators of underground storage tank (UST) facilities by August 8, 2012. The rule defines the classes of operators (Class A, lass B, and Class C), lists the acceptable training and certification processes for each class, establishes a phase-in schedule for operators to attend training, and requires that UST owners maintain documentation of certification of operators. The federal 2005 Underground Storage Tank Compliance Act, which amends Section 9003 of Subtitle 1 of the Solid Waste Disposal Act, mandates that states authorized to administer the Underground Storage Tank program take certain actions to reduce the incidence of leaking USTs. One such action is to require that all operators of UST facilities receive training by August 8, 2012. This action must be implemented to maintain federal funding of the UST program in the state and to maintain federal delegation of the UST program. This will further enhance our effort to maintain protection of human health and the environment. The basis and rationale for this rule are to comply with the federal guidelines required by the 2005 Underground Storage Tank Compliance Act. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

### **Title 33**

### **ENVIRONMENTAL QUALITY**

#### **Part XI. Underground Storage Tanks**

#### **Chapter 6. Training Requirements for Underground Storage Tank System Operators**

#### **§601. Purpose**

A. This Chapter implements requirements mandated by the Underground Storage Tank Compliance Act, 42 U.S.C. 6991.

B. The requirements outlined in this Chapter apply to UST systems regulated under this Part, except those excluded by regulation in LAC 33:XI.101.B and those deferred by regulation in LAC 33:XI.101.C.2.a.i – v.

C. Owners and operators of UST systems described in Subsection B of this Section must comply with the UST operator training requirements listed in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 36:313 (February 2010).

#### **§603. Underground Storage Tank Operator Classes**

A. There shall be three classes of UST operators, identified as Class A, Class B, and Class C.

1. Designation. Owners of UST systems described in LAC 33:XI.601.B must designate for each UST system or group of UST systems at a facility, at least one named individual for each class of operators.

a. UST owners may designate a different individual for each class of operators, or one individual for more than one operator class.

b. Any individual designated for more than one operator class shall be trained and certified for each operator class that the individual is designated to represent.

c. During hours of operation, UST facilities must have at least one certified UST operator (either a Class A, Class B, or Class C UST operator) present at the UST

facility, except when a UST facility is un-manned. A UST facility is considered *un-manned* when there is no attendant present at the facility who could respond to alarms or emergencies caused by spills or overfills from the UST system. Examples of UST facilities that may be un-manned at times include, but are not limited to, card lock or card access fueling stations with no attendant present at the time of operation, telecommunication towers or utility transfer stations serviced by emergency generator USTs, and un-attended UST systems located at industrial facilities.

2. Training. Individuals designated as Class A, B, or C UST operators shall be trained and certified in accordance with these regulations by the applicable deadlines in LAC 33:XI.607.

B. The three classes of UST operators are identified as follows.

1. Class A UST Operator

a. Functions. A class A operator of a UST system is the tank owner, or person designated by the tank owner to represent the owner's interest, who has the primary responsibility of ensuring the proper operation and maintenance of the UST system, including managing resources and personnel necessary to achieve and maintain compliance with these regulations.

b. Qualifications and Training. Class A UST operators must be trained in and have a general knowledge of the requirements of these regulations, including, but not limited to, the UST registration, system components, product compatibility, spill and overfill prevention, corrosion protection, and release detection requirements, and the UST recordkeeping and notification requirements, release and suspected release reporting and response requirements, temporary and permanent closure requirements, operator training requirements, and financial responsibility requirements.

2. Class B UST Operator

a. Functions. A class B operator of a UST system is a person or persons designated by the tank owner to implement all applicable requirements of these regulations in the field and to implement the day-to-day aspects of the operation and maintenance of, and recordkeeping for, UST systems at one or more facilities.

b. Qualifications. Class B UST operators must be capable of monitoring, maintaining, and ensuring compliance with all the release detection and prevention methods and equipment requirements, the release detection and prevention recordkeeping and reporting requirements, and the release detection equipment performance standards, and must be capable of ensuring that Class C UST operators are trained in facility-specific emergency procedures and notification requirements, and that these procedures and requirements are posted for the use of Class C UST operators.

c. Training. Class B UST operators must be trained in and have knowledge of:

i. UST system components, including the materials and compatibility of such components;

ii. methods of release detection and release prevention; and

iii. the operation and maintenance requirements that apply to:

- (a). spill and overfill prevention;
- (b). release detection and corrosion protection;
- (c). emergency response procedures;
- (d). product compatibility;
- (e). reporting and recordkeeping; and
- (f). Class C UST operator training.

3. Class C UST Operator

a. Function. A Class C operator of a UST system is a person or persons designated by the tank owner to be responsible for the effective response to alarms or other indications of emergencies caused by spills, overfills, or releases from UST systems, and to any other indication of possible releases from UST systems.

b. Training. Class C UST operators must be trained in emergency response procedures, which must include the operation of emergency shut-off equipment, initial response procedures to alarms and releases, and required notifications to emergency responders and to the designated Class A and Class B operators of a UST system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 36:313 (February 2010).

**§605. Acceptable UST Operator Training and Certification Processes**

A. Training. Operator training must evaluate operator fulfillment of the training requirements described for each class of operator in LAC 33:XI.603. The following is a list of acceptable approaches to meet the operator training requirements.

1. Acceptable Training for Class A and Class B UST Operators. Class A and Class B UST operators must complete a UST operator training seminar that includes the information listed in LAC 33:XI.603.B.1 or 2, respectively, and that has received approval by the department. This program may include in-class or hands-on training performed, contracted for, or approved by the department, and must include an evaluation of operator knowledge through testing, practical demonstration, or other tools deemed acceptable by the department.

2. Acceptable Training for Class C UST Operators

a. Class A or Class B UST operators must ensure that the UST facility's Class C UST operators complete training in emergency procedures that includes the information listed in LAC 33:XI.603.B.3. Class C UST operator training programs may include in-class, hands-on, on-line, or any other training format deemed acceptable by the Class A or Class B UST operator.

b. UST owners and Class B UST operators must ensure that site-specific notices that include site-specific emergency procedures, the location of emergency shut-off devices, and appropriate emergency contact telephone numbers are posted in a prominent area at the UST facility that is easily visible to the Class C UST operator.

B. Certification. UST operators are considered certified UST operators after successfully completing one of the training processes listed in Subsection A of this Section.

1. Class A and Class B UST Operators. The department or a department-approved training contractor will provide written verification to all Class A and Class B UST operators who have successfully completed training, in the form of a training certificate stating the classification(s) obtained.

2. Class C UST Operators. Certified Class A or Class B UST operators for a UST facility must submit, to the department or a department-approved contractor, a list of all Class C UST operators at that facility who have been trained, and the department or department-approved contractor will provide each such Class C UST operator with written verification of successful training completion in the form of a training certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 36:314 (February 2010).

#### **§607. Underground Storage Tank Operator Training Deadlines**

A. On or after February 20, 2010 owners of UST systems must designate their Class A and Class B UST operators and provide these designations to department personnel or to department-contracted inspectors during department or contract inspections.

B. In order to ensure that all Class A and Class B UST operators have completed an acceptable operator training course as specified in LAC 33:XI.605 by August 8, 2012, the following training schedule for Class A and Class B UST operators who have not been previously certified must be followed.

1. All Class A and Class B UST operators for facilities inspected between February 20, 2010 and November 8, 2011 must complete an acceptable operator training course as specified in LAC 33:XI.605 within nine months of the inspection date.

2. All Class A and Class B UST operators, including those Class A and Class B UST operators who have not been given departmental notice during inspections of their need to receive qualifying training, must complete an acceptable operator training course as specified in LAC 33:XI.605 no later than August 8, 2012.

C. All Class C UST operators must complete an acceptable operator training course as specified in LAC 33:XI.605.A.2 by August 8, 2012.

D. After August 8, 2012, UST owners must require that all newly-designated Class A or Class B UST operators complete an acceptable operator training course as specified in LAC 33:XI.605 within 30 days after assuming operation and maintenance responsibilities at the UST system.

E. After August 8, 2012, UST owners must require that all newly-designated Class C UST operators complete an acceptable operator training course as specified in LAC 33:XI.605 before assuming unsupervised responsibility for responding to emergencies at UST system facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 36:315 (February 2010).

#### **§609. Underground Storage Tank Operator Training Frequency**

A. Certified Class A and Class B UST operators must be re-trained in accordance with LAC 33:XI.603 and 605 within three years of their last training date.

1. Certified Class A and Class B UST operators who are the designated operators for multiple facilities are only required to attend one department-approved UST operator training seminar every three years.

2. Certified Class A and Class B UST operators may work at any UST facility in Louisiana without having to be re-trained until their certifications expire.

B. Certified Class C UST operators may only work at UST facilities owned by the UST owners that provided their initial training without having to be re-trained. Class C UST operators must be re-trained prior to assuming responsibility at a facility owned by a different UST owner that did not provide the initial training.

C. When issues of noncompliance are noted at a facility, Class A and/or Class B UST operators, as determined by the department for that UST facility, must attend either a department-sponsored compliance class that addresses the noted noncompliant areas or an acceptable operator training course as specified in LAC 33:XI.605, as determined by the department, within the time frame given in the notification by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 36:315 (February 2010).

#### **§611. Documentation of Underground Storage Tank Operator Training**

A. Owners and operators must maintain the following records demonstrating compliance with UST operator training requirements for operators associated with the facility:

1. a training certificate for each person who is currently serving as a Class A, Class B, or Class C UST operator for as long as that person serves as a UST operator for the facility; and

2. a list of emergency procedures, which includes site-specific emergency procedures, the location of emergency shut-off devices, and appropriate emergency contact telephone numbers, that is posted in a prominent area at the UST facility that is easily visible to the Class C UST operator.

B. Owners and operators must either keep the required training records at the UST site and immediately available for the department's inspection, or at a readily available alternative location and provide them to the department for inspection upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 36:315 (February 2010).

Herman Robinson, CPM  
Executive Counsel

1002#107

**RULE**  
**Office of the Governor**  
**Office of Financial Institutions**

Expired License Reinstatement Procedure (LAC 10:XII.301)

In accordance with R.S. 49:950 et seq., of the Administrative Procedure Act, the Commissioner of the Office of Financial Institutions has approved for advertisement the repeal of Louisiana Administrative Code, LAC 10:XII.301, regarding the reinstatement of licenses issued pursuant to the Residential Mortgage Lending Act. This action is being effectuated because the statute pertaining to reinstatement of said licenses has been amended. Thus the rule is rendered obsolete and no longer necessary.

**Title 10**  
**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,**  
**INVESTMENT SECURITIES AND UCC**  
**Part XII. Residential Mortgage Lending Act**  
**Chapter 3. Residential Mortgage Lending Licenses**  
**§301. Expired License Reinstatement Procedure**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121 and 6:1085.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 31:2893 (November 2005), amended LR 34:2563 (December 2008), repealed LR 36:316 (February 2010).

John Ducrest, CPA  
Commissioner

1002#043

**RULE**  
**Office of the Governor**  
**State Military Department**

National Guard Death and Disability Benefits  
(LAC 41:III.101)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:950 et seq. and R.S.29:11, The State Military Department hereby promulgates National Guard Death and Disability Benefits as provided by R.S. 22:941(A)(5) as enacted by Act 260 of the 2007 Regular Session of the legislature. The National Guard Death and Disability Benefit Statute requires the payment of \$250,000 to the beneficiary of a guardsman who died while on state or federal active duty while in the course of the business of the military forces of this state. Additionally, the statute requires the payment of \$100,000 for permanent total disability due to injuries suffered while the guardsman was on state or federal active duty while in the course of the business of the military forces of this state. This regulation became effective August 21, 2009, by Emergency Rule.

**Title 41**  
**MILITARY FORCES OF THE STATE**  
**Part III. Benefits**

**Chapter 1. National Guard Death and Disability**  
**Benefits**

**§101. General Provisions**

**A. Purpose**

1. To establish an effective and efficient mechanism for fulfilling the provisions of R.S. 22:941(A)(5), which became effective on July 6, 2007.

2. To govern the submission, evaluation and determination of claims submitted pursuant to R.S. 22:941(A)(5).

**B. Application**

1. The rules will apply to all claims arising from R.S. 22:941(A)(5).

**C. Definitions**

*Beneficiary*—unless otherwise designated by the deceased guardsman as set forth in this regulation, the person designated by the guardsmen on DD Form 93 who receives the death gratuity from DoD pursuant to Title 10 U.S. Code, Subtitle A, Part II, Chapter 75, Subchapter II, Section 1475, et seq.

*Course of Business*—the performance of the business of the military forces of the State of Louisiana or the United States.

*DD Form 93*—record of emergency data executed by every member of LANG pursuant to DoD policies and regulations.

*DoD*—United States Department of Defense.

*Disabled or Disability*—permanent total disability.

*Guardsmen or Guardsman*—an officer or enlisted member of the Louisiana National Guard.

*LANG*—Louisiana National Guard.

*Period of Activation*—

a. that period when the Governor of the State of Louisiana orders a guardsman to state active duty pursuant to Title 29, Section 7 of the Louisiana Revised Statutes; and

b. that period when the President of the United States orders a guardsman to federal active duty pursuant to Title 10, Section 12301, 12302, 12303 of the U.S. Code.

*Permanent Total Disability*—a 100 percent permanent total or unemployability disability rating as determined by the U.S. Veterans Administration (VA) for federal active duty or in accordance with the worker's compensation law of this state for state active duty.

*Qualifying Claim*—those claims meeting the criteria of claims request documentation, and the meaning ascribed to course of business.

**D. Claims for Benefits**

1. All claims for death benefits under R.S. 22:941(A)(5) shall be submitted to the Louisiana National Guard, ATTN: J-1, Casualty Branch, Building 496, 3rd Street, Camp Beauregard, LA 71360. A claim form may be obtained from this agency.

2. All claims for disability benefits under R.S. 22:941(A)(5) shall be submitted to Louisiana Department of

Veterans Affairs, P.O. Box 94095, 1885 Wooddale Blvd. Baton Rouge, LA 70804-9095. A claim form may be obtained from this agency.

3. All death benefit claim requests must include the following documentation:

a. the guardsman's signed LANG death beneficiary designation form or, in absence thereof, a signed DD Form 93;

b. DD Form 1300 (death certificate) or death certificate from the state of Louisiana;

c. a copy of the guardsman's state or federal orders or copy of DD Form 214;

d. death benefit claim form signed by claimant and certified by the Adjutant General or his designee.

Figure D Application for Death Benefits

**INTERIM APPLICATION FOR LOUISIANA NATIONAL GUARD DEATH BENEFITS UNDER LOUISIANA REVISED STATUTE 22:941**

(Please Print)

1. Today's date:		2. Date of Death:	
<b>DECEASED GUARDSMAN INFORMATION</b>			
3. Last Name of Deceased Soldier:		First:	Middle:
		4. Marital status (circle one) Single / Mar / Div / Sep / Wid	
5. (Any Former name): <input type="checkbox"/> Yes <input type="checkbox"/> No	6. Birth date: / /	7. Age:	8. Gender: <input type="checkbox"/> M <input type="checkbox"/> F
9. Unit:	10. Social Security no.:		11. Please attach a copy of <input type="checkbox"/> DD Form 1300 (Death Certificate) <input type="checkbox"/> DD Form 93 (Record of Emergency Data)
12. Duty Status of Soldier (Attach copy of State or Federal Orders or DD Form 214) <input type="checkbox"/> Attached			13. Status
<b>INFORMATION CONCERNING APPLICANT</b>			
Please read the instructions below before answering			
14. Name and relationship of claimant:	15. Birth date: / /	16. Address (if different):	17. Social Security Number
<b>Benefits payable under this provision will be paid in accordance with Department of Defense Death Gratuity policies applicable at the time of death of the Guardsman.</b>			
<b>CERTIFICATION OF APPLICANT AND CERTIFYING OFFICIAL</b>			
Applicant signature			18. Home phone no.:
			19. Work phone no.:
Applicant certifies that the above information is true to the best of his/her knowledge. Applicant understands that willful or intentional misrepresentation relative hereto is punishable by a fine or imprisonment.			

**For internal use only: Certifying Official hereby represents that he/she has made inquiry into this application and found the application and accompanying documents to be in order and recommends payment of benefits.**

\_\_\_\_\_  
Last Name, First Name, Rank

\_\_\_\_\_  
Date

4. All claims for disability benefits must include the following:

a. a copy of the guardsman's state or federal orders or copy of DD Form 214;

b. a rating decision by the U.S. Department of Veterans Affairs or in accordance with the worker's compensation law of this state;

c. disability benefit claim form signed by claimant and certified by the Secretary of the Louisiana Department of Veterans Affairs or his designee.

E. Death and Disability Benefit Payment Eligibility

1. Benefits under R.S. 22:941(A)(5) will be paid to the beneficiary of guardsmen who die while on state active duty or federal active duty. Benefits will also be paid in the event of death while a guardsman is ordered to active duty by the governor pursuant to R.S. 29:7 and in a federal pay status pursuant to 32 U.S.C 502(f)(1).

2. Benefits under R.S. 22:941(A)(5) will be paid to guardsmen who are disabled due to injuries suffered while on state active duty or federal active duty. Benefits will also be paid in the event of disability due to injuries suffered while a guardsman is ordered to active duty by the governor

pursuant to R.S. 29:7 and in a federal pay status pursuant to 32 U.S.C 502(f)(1).

3. Benefits under this Part will not be paid to guardsmen who die or become disabled while in any training status pursuant to Title 29 of the Louisiana Revised Statutes or Title 32 of the U.S. Code.

4. Members of the Active Guard Reserve (AGR) program, federal technicians and state employees are not eligible for benefits under R.S. 22:941(A)(5) unless otherwise qualified as set forth in Paragraph E.1 or E.2 of this regulation.

5. Guardsmen who die or become disabled while on state active duty or federal active duty, but are not in the course of business at the time of their death or injury may not be eligible for benefits under R.S. 22:941(A)(5). If an investigation determines that the Guardsman was not in the line of duty as defined by Army Regulation 600-8-4 at the time of his death or injury, that Guardsman may be determined to be ineligible for this benefit.

6. Guardsmen who are declared 100 percent disabled by the U.S. Veterans Administration for injuries suffered during a Period of Activation are eligible for the disability benefit under R.S. 22:941(A)(5). Eligibility for guardsmen

who become disabled due to injuries suffered while on state active duty will be determined in accordance with the worker's compensation law of this state.

**F. Determination of Eligibility and Payment of Benefits**

1. Death benefit eligibility and certification will be determined by The Adjutant General or his designee.

2. Disability benefit eligibility and certification will be determined by the Secretary of the Louisiana Department of Veterans Affairs or his designee.

3. Payment to eligible recipients of qualified claims will be made by the Louisiana Office of Risk Management after certification of eligibility and request for payment is made as set forth herein above.

**G. Beneficiary Designation by Guardsmen**

1. All members of LANG shall complete and execute a "Death Benefit Beneficiary Designation Form" which will contain the name of the beneficiary of the guardsman's death benefit under R.S. 22:941(A)(5) to whom this benefit will be paid in a lump sum.

2. The designation form will be signed by the guardsman before a witness in the grade of E-7 or above.

3. The designation form will be kept in the personnel files of the LANG in the regular course of business.

Figure G Sample Beneficiary Designation Form

**Louisiana National Guard**  
**Death Benefit Beneficiary Designation Form**  
**For Benefits Payable Under La. R.S. 22: 941(A)(5)**  
(Please Print)

INSTRUCTIONS TO SOLDIER / AIRMAN: The State of Louisiana provides a special benefit to your designated beneficiary in the event of your death while mobilized by the Governor of Louisiana on State Active Duty or while mobilized by the President of the United States on Federal Active Duty. The benefit is in the amount of \$250,000.00 and is payable by the State in a lump sum to the person you designate below. Only one beneficiary may be designated. Consider this designation carefully.

INSTRUCTIONS TO UNIT: This form shall be reviewed annually with the Soldier or Airman. This form and all updates are forwarded to J-1 Casualty Branch for review, approval and placement in personnel records.

GUARDMAN'S INFORMATION		
1. GUARDSMAN'S NAME (LAST, FIRST, MIDDLE INITIAL)	2. SOCIAL SECURITY NUMBER	
3. UNIT		
BENEFICIARY DESIGNATION		
I hereby designate the following person as my beneficiary for death benefits paid by the State of Louisiana pursuant to La. R.S. 22: 941(A)(5) in the amount of \$250,000.00 payable in a lump sum to this person:		
4. BENEFICIARY NAME: (LAST, FIRST, MIDDLE INITIAL)		
5. STREET ADDRESS:		
6. CITY:	7. STATE:	8. ZIP CODE:
9. MAILING ADDRESS (IF DIFFERENT):		
10. CITY:	11. STATE:	12. ZIP CODE:
13. HOME PHONE NUMBER:	14. OTHER PHONE NUMBER	15. EMAIL ADDRESS
SIGNATURE		
16. Signature of Guardsman		Date
WITNESS (E-7 OR ABOVE)		
17. Signature of Witness		Rank Date

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:11(F).

HISTORICAL NOTE: Promulgated in accordance with the Office of the Governor, State Military Department, LR 36:316 (February 2010).

Bennett C. Landreneau  
Adjutant General

1002#002

## RULE

### Department of Health and Hospitals Board of Veterinary Medicine

#### Continuing Veterinary Medicine Education (LAC 46:LXXXV.403, 409, 413, 811, and 1227)

The Board of Veterinary Medicine amends and adopts LAC 46:LXXXV.403, 409, 413, 811, and 1227 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1518A(9). The rules are being amended and adopted to address the requirements and program approval of continuing veterinary medicine education for annual renewal of veterinary medicine license, registered veterinary technician certification, and animal euthanasia technician certification in order to maintain and improve professional competencies for the health, welfare, and safety of the citizens and animals of Louisiana. The amended and adopted rules allow one-half of the required continuing education credits to be taken as compendium/self-help and online continuing education courses with third party grading; continuing education for annual renewal for registered veterinary technicians, and in-house continuing education programs for veterinarians. Upon promulgation, the rules are intended to become effective for the period of time (July 1, 2010-June 30, 2011) for the 2011-2012 annual license and certification renewal and every annual license and certification renewal period thereafter. The rules have no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

The Notice of Intent of the rules was first published in the Louisiana Register on May 20, 2009, however, due to written comments received, the board elected to make substantive changes. First, the requirement of "Board Certified Specialist" as the presenter for in-house continuing education has been deleted from §409.A.4 in the original Notice of Intent. Second, due to the deletion above, the effective date will now be for the period of time (July 1, 2010-June 30, 2011) for the 2011-2012 annual license and certification renewal and ever annual license and certification renewal period thereafter. The appropriate state officials and persons providing comments have been notified of the changes and the board's decision.

## Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

### Part LXXXV. Veterinarians

#### Chapter 4. Continuing Veterinary Education

##### §403. Continuing Veterinary Education Requirements

A. A minimum of twenty actual hours is required each fiscal year (July 1 through June 30) as a prerequisite for annual renewal of a license. Hours may be taken from:

1. ...
2. a maximum of 10 hours of credit may be obtained in approved videotaped, self-test programs with third party grading, and/or self-help instruction, including online instruction with third party grading;
3. the 20-hour requirement for annual renewal of a license may be taken in any combination of the following board-approved programs regarding subject matter content: clinical, alternative, regulatory, practice management, and/or research; however, the actual mediums of approved videotaped, self-test programs with third party grading, and/or self-help instruction, including online instruction with third party grading, are limited to the 10-hour maximum set forth in Paragraph A.2 of this Section.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated as §405 by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:224 (March 1990), amended LR 19:1427 (November 1993), LR 23:1147 (September 1997), LR 28:1208 (June 2002), LR 33:649 (April 2007), repromulgated LR 33:847 (May 2007), amended LR 36:319 (February 2010).

##### §409. Approved Continuing Education Programs

A. - A.3. ...

4. an in-house continuing education program may be approved by the board if such program's subject matter content complies with the board's rules, and the program is open by invitation/advertisement to interested veterinarians in general who are not associated with the in-house practice at issue at least ten calendar days prior to the commencement of the program. The general requirements regarding continuing education, including timely submission for pre-approval of the program by the board, continues to apply.

5. In order to qualify for board approval, all continuing education programs must be open by invitation/advertisement to interested veterinarians in general.

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 19:1428 (November 1993), LR 33:649 (April 2007), repromulgated LR 33:848 (May 2007), amended LR 36:319 (February 2010).

## **§413. Non-Compliance**

A. - D. ...

E. The promulgation of rule amendments by the board published in the *Louisiana Register* on November 20, 2009 shall become effective for the period of time (July 1, 2010 - June 30, 2011) for the 2011-2012 annual license renewal and every annual license renewal period thereafter.

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 16:225 (March 1990), amended LR 19:1428 (November 1993), LR 33:649 (April 2007), repromulgated LR 33:848 (May 2007), amended LR 36:320 (February 2010).

## **Chapter 8. Registered Veterinary Technicians**

### **§811. Certificate Renewal, Late Charge, Continuing Education**

A. - C. ...

#### **D. Continuing Education Requirements**

1. A minimum of ten continuing education units is required each fiscal year (July 1 through June 30) as a prerequisite for renewal of certification. An RVT who fails to obtain a minimum of ten continuing education units within the applicable fiscal period will not meet the requirements for renewal of his certificate.

2. All continuing education programs must be approved by the board prior to attendance with the subject matter content properly addressing the clinical practice of a registered veterinary technician. Those continuing education programs not timely submitted in accordance with Subsection F below will not be allowed for annual continuing education credit.

3. Proof of attendance, which shall include the name of the course, date(s) of attendance, hours attended, and specific subjects attended, shall be attached to the annual renewal form. Proof of attendance must include verification from the entity providing or sponsoring the educational program. However, the actual mediums of videotaped, self-test programs with third party grading, and/or self-help instruction, including online instruction with third party grading, are limited to five hours per fiscal period (July 1 through June 30). The requirement of timely pre-approval of the program by the board shall apply.

4. All hours shall be obtained for the applicable fiscal year (July 1 through June 30) preceding the renewal period of the certificate.

5. Each RVT must fulfill his annual educational requirements at his own expense or through a sponsoring agency other than the board.

6. Employment at an accredited school or college will not be accepted in lieu of performance of the required hours of continuing education.

7. Presenters of an approved continuing education program may not submit hours for their presentation of, or preparation for, the program as continuing education.

#### **E. Failure to Meet Requirements**

1. If an RVT fails to obtain a minimum of ten continuing education units within the prescribed fiscal period, his certificate shall automatically expire on September 30, and shall remain expired until such time as the continuing education requirements have been met and documented to the satisfaction of the board. If the RVT

practices during the period of such expiration, then he is subject to disciplinary action by the board.

2. The board may grant extensions of time for extenuating circumstances. The RVT must petition the board at least 30 days prior to the expiration of the certificate. The board may require whatever documentation it deems necessary to verify the circumstances necessitating the extension.

#### **F. Approved Continuing Education Programs**

1. Organizations sponsoring a continuing education program for RVTs must submit a request for approval of the program to the board no less than 14 days prior to the commencement of the program. Information to be submitted shall include:

- a. the name of the proposed program;
- b. course content; and
- c. the number of continuing education units to be obtained by attendees.

2. RVTs may also submit a request for approval of a continuing education program, however, it must be submitted to the board no less than 14 days prior to the commencement of the program. Information to be submitted shall comply with the requirements of Paragraph F.1 of this Section.

3. Continuing education units which are submitted for renewal and were not pre-approved by the board may be reviewed by the board. If the units are not approved, the RVT will be required to take additional continuing education in an approved program prior to renewal of his certificate.

G. The promulgation of rules by the board published in the *Louisiana Register* on November 20, 2009 shall become effective for the period of time (July 1, 2010 - June 30, 2011) for the 2011-2012 annual certificate renewal and every annual certificate renewal period thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1549.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:227 (March 1990), amended LR 23:1686 (December 1997), LR 26:84 (January 2000), LR 36:320 (February 2010).

## **Chapter 12. Certified Animal Euthanasia Technicians**

### **§1227. Continuing Education**

#### **A. Basic Requirements**

1. - 2. ...

3. Proof of attendance, which shall include the name of the course, date(s) of attendance, hours attended, and specific subjects attended, shall be attached to the annual renewal form. Proof of attendance must include verification from the entity providing or sponsoring the educational program. However, the actual mediums of video tapes, self-test programs with third party grading, and/or self-help instruction, including online instruction with third party grading, are limited to three hours per fiscal period (July 1 through June 30). The requirement of pre-approval of the program by the board continues to apply.

A.4. - B.2. ...

#### **C. Approved Continuing Education Programs**

1. Organizations sponsoring a continuing education program for CAETs must submit a request for approval of the program to the board no less than 14 days prior to the commencement of the program. Information to be submitted shall include:

- a. - c. ...

2. CAETs may also submit a request for approval of a continuing education program, however, it must be submitted to the board no less than 14 days prior to the commencement of the program. Information to be submitted shall comply with the requirements of Paragraph C.1 of this Section.

3. ...

D. The promulgation of rule amendments by the board published in the *Louisiana Register* on November 20, 2009 shall become effective for the period of time (July 1, 2010-June 30, 2011) for the 2011-2012 annual certificate renewal and every annual certificate renewal period thereafter.

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 26:321 (February 2000), amended LR 36:320 (February 2010).

Wendy D. Parrish  
Executive Director

1002#052

### **RULE**

#### **Department of Health and Hospitals Board of Wholesale Drug Distributors**

Enforcement Action (LAC 46:XCI.901)

The Louisiana Board of Wholesale Drug Distributors has added LAC 46:XCI.901 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 37:3467 et seq., of the Louisiana Board of Wholesale Drug Distributors Practice Act. This Rule addition will support the board's ability to license entities and regulate the wholesale distribution of legend drugs and devices into and within the state of Louisiana in its effort to safeguard the life and health of its citizens and promote the public welfare. The amendments to the Rule are set forth below.

#### **Title 46**

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

#### **Part XCI. Wholesale Drug Distributors**

#### **Chapter 9. Proceedings for Enforcement Action**

#### **§901. Proceedings**

A. The board, through its compliance officer, may investigate, mediate, or initiate enforcement action or legal proceedings on behalf of the board with respect to charges initiated or information received by the board alleging that a non-licensee committed or engaged in any of the acts or offenses listed in R.S. 37:3474.2.

B. Enforcement action is instituted by the board, acting through its compliance officer, filing charges against any non-licensee who commits or engages in any of the acts or offenses listed in R.S. 37:3474.2.

C. Within 20 days of the board's filing of charges, the board shall mail a copy of said charges to the last known address of the non-licensee so charged.

D. All charges shall be heard by the board within 12 months after the date on which filed. This 12-month period may be extended for good cause shown.

E. The date, time and place for said hearing shall be fixed by the board and a copy of the charges, together with a notice of the date, time and place of the hearing, shall be

personally served on or mailed to the last known address of the charged party, at least 30 days before the date fixed for hearing. At any hearing, the charged party shall have the right to appear in person, or by counsel, or both, to cross-examine witnesses in his defense, and to produce evidence and witnesses in his defense. If the charged party fails or refuses to appear at the hearing, the board may proceed to hear and determine the validity of the charges.

F. If, after such hearing, a majority of the board participating in the proceeding vote in favor of sustaining the charges, the board may take enforcement action against the charged party.

G. A charged party aggrieved by any enforcement action taken by the board may appeal therefrom, pursuant to the provisions of the Administrative Procedure Act.

H. All enforcement actions taken shall be published in the official journal of the board and may be released to other boards, agencies, or professional organizations relating to wholesale drug distribution, or to the news media.

I. The board, through its compliance officer, may make informal disposition by consent order, agreement, settlement, or default of any enforcement proceeding pending before it. Each such informal disposition shall have no force of effect until ratified by the board. Consent orders are considered enforcement actions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 36:321 (February 2010).

John Liggio  
Executive Director

1002#041

### **RULE**

#### **Department of Health and Hospitals Board of Wholesale Drug Distributors**

General Provisions (LAC 46:XCI.105)

The Louisiana Board of Wholesale Drug Distributors has amended LAC 46:XCI.105 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 37:3467 et seq., of the Louisiana Board of Wholesale Drug Distributors Practice Act. These rule amendments will support the board's ability to license entities and regulate the wholesale distribution of legend drugs and devices into and within the state of Louisiana in its effort to safeguard the life and health of its citizens and promote the public welfare. The amendments to the Rule are set forth below.

#### **Title 46**

#### **PROFESSIONAL AND OCCUPATION STANDARDS**

#### **Part XCI. Wholesale Drug Distributors**

#### **Chapter 1. General Provisions**

#### **§105. Wholesale Drug Distribution—Exemptions**

A. Wholesale drug distribution does not include:

1. - 6. ...

7. the distribution of drug samples by manufacturers' representatives or distributors' representatives;

8. the sale, purchase, or trade of blood and blood components intended for transfusion; or

9. the sale of legend drugs by retail pharmacies to licensed practitioners for office use where the annual dollar volume of legend drugs sold to licensed practitioners does not exceed five percent of the dollar volume of that retail pharmacy's annual legend drug sales.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 35:1537 (August 2009), amended LR 36:321 (February 2010).

John Liggio  
Executive Director

1002#040

## RULE

### Department of Health and Hospitals Board of Wholesale Drug Distributors

Wholesale Drug or Device Distributors  
(LAC 46:XCI.301 and 311)

The Louisiana Board of Wholesale Drug Distributors has amended LAC 46:XCI.301 and 311 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and R.S. 37:3467 et seq., of the Louisiana Board of Wholesale Drug Distributors Practice Act. These Rule amendments will support the board's ability to license entities and regulate the wholesale distribution of legend drugs and devices into and within the state of Louisiana in its effort to safeguard the life and health of its citizens and promote the public welfare. The amendments to the Rule are set forth below.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XCI. Wholesale Drug Distributors

#### Chapter 3. Wholesale Drug or Device Distributors

#### §301. Licensing, Renewal and Reinstatement Requirements

A. - G.3. ...

H. An initial application for a new license is valid for 180 days after receipt by the board and must be completed within this time frame.

1. If the application is not completed, the application becomes void and any application fee(s) paid is forfeited by the applicant and is non-refundable.

2. After the 180 days have expired, a new application for a license will be required to be submitted by the applicant to include payment of another license application fee.

I. Requests for voluntary cancellation of a license made by a licensee must be made in writing and must include information such as, but not limited to, the date the request is effective and the reason for the voluntary cancellation of the license.

1. If the request for voluntary cancellation is made before the license has expired, the original unexpired license certificate must be returned to the board and no refund of any portion of the license fee(s) paid will be made by the board.

J. If a licensed in-state wholesale drug or device distributor has an additional off-site storage facility, the off-site storage facility may operate under the current wholesale drug or device distribution license held by the licensee as long as the off-site storage facility is in compliance with §309.A.1 of these regulations and has temperature monitoring and an alarm system and the off-site storage facility does not physically receive or distribute legend drugs or devices from its location.

K. A license shall not be issued by the board for any wholesale drug or device distributor to operate from or out of a dwelling, building, or property zoned as residential.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:382 (April 1992), amended LR 29:1480 (August 2003), LR 32:396 (March 2006), LR 34:875 (May 2008), LR 35:1538 (August 2009), LR 36:322 (February 2010).

#### §311. Drug or Device Distribution Recordkeeping

A. - E. ...

F. Wholesale drug or device distributors physically located and conducting operations in Louisiana:

1. shall not purchase or receive drugs or devices from other than wholesale drug distributors licensed by the board to ship or sell in or into Louisiana; and

2. shall notify the board of any wholesalers not licensed by this Board shipping in or into Louisiana or selling or offering to sell in or into Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:383 (April 1992), amended LR 29:1480 (August 2003), LR 32:399 (March 2006), LR 34:875 (May 2008), LR 36:322 (February 2010).

John Liggio  
Executive Director

1002#042

## RULE

### Department of Health and Hospitals Bureau of Health Services Financing

Facility Need Review—Adult Day Health Care Providers  
(LAC 48:I.12501, 12503, 12505 and 12525)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 48:I.12501, §12503, §12505 and to adopt §12525 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2116. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

**Title 48**  
**PUBLIC HEALTH—GENERAL**  
**Part 1. General Administration**  
**Subpart 5. Health Planning**

**Chapter 125. Facility Need Review**

**Subchapter A. General Provisions**

**§12501. Definitions**

A. Definitions. When used in this Chapter the following terms and phrases shall have the following meanings unless the context requires otherwise.

\*\*\*

*Adult Day Health Care (ADHC)*—provides services five or more hours a day (not to exceed five days per week) for medical, nursing, social, care management, and personal care needs to adults who are functionally impaired.

*Adult Day Health Care Provider*—any place owned or operated for profit or nonprofit by a person, society, agency, corporation, institution, or any other group, wherein two or more functionally impaired adults who are not related to the owner or operator of such agency are provided with adult day health care services.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), amended LR 28:2190 (October 2002), amended LR 30:1023 (May 2004), amended LR 32:845 (May 2006), LR 34:2611 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:323 (February 2010).

**§12503. General Information**

A. - B. ...

C. The department will also conduct a FNR for the following provider types to determine if there is a need to license additional units, providers or facilities:

1. adult residential care providers or facilities;
2. home and community-based service providers, as defined under this Chapter; and
3. adult day health care providers.

D. - D.1.d. ...

E. No nursing facility, skilled nursing facility, or ICF-DD bed, nor provider units/beds shall be enrolled in the Title XIX Program unless the bed has been approved through the FNR Program. No adult residential care provider, home and community-based services provider or adult day health care provider may be licensed by the department unless the facility, unit or agency has been approved through the FNR Program.

F. - F.4. ...

G. Additional Grandfather Provision. An approval shall be deemed to have been granted under FNR without review for HCBS providers, ICFs-DD and ADHC providers that meet one of the following conditions:

1. HCBS providers which were licensed by January 31, 2009 or had a completed initial licensing application submitted to the department by June 30, 2008;
2. existing licensed ICFs-DD that are converting to the proposed Residential Options Waiver; or
3. ADHC providers who were licensed as of December 31, 2009 or who had a completed initial licensing application submitted to the department by December 31,

2009, or who are enrolled or will enroll in the Louisiana Medicaid Program solely as a Program for All-Inclusive Care for the Elderly provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 28:2190 (October 2002), LR 30:1483 (July 2004), LR 34:2612 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:323 (February 2010).

**§12505. Application and Review Process**

A. FNR applications shall be submitted to the Bureau of Health Services Financing, Health Standards Section, Facility Need Review Program. Application shall be submitted on the forms (on 8.5 inch by 11 inch paper) provided for that purpose, contain such information as the department may require, and be accompanied by a nonrefundable fee of \$10 per bed or unit for nursing facilities, ICFs-DD and adult residential care providers. The nonrefundable application fee for an HCBS provider (other than an adult residential care provider) and an ADHC provider shall be a flat fee of \$150. An original and three copies of the application are required for submission.

A.1. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:812 (August 1995), amended LR 34:2612 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:323 (February 2010).

**Subchapter B. Determination of Bed, Unit, Facility or Agency Need**

**§12525. Adult Day Health Care Providers**

A. No ADHC provider shall be licensed to operate unless the FNR Program has granted an approval for the issuance of an ADHC provider license. Once the FNR Program approval is granted, an ADHC provider is eligible to be licensed by the department, subject to meeting all of the requirements for licensure.

B. The service area for proposed or existing ADHC providers is the parish in which the ADHC provider is or will be licensed.

C. Determination of Need/Approval

1. The department will review the application to determine if there is a need for an additional ADHC provider in the geographic location for which the application is submitted.

2. The department shall grant FNR approval only if the FNR application, the data contained in the application, and other evidence effectively establishes the probability of serious, adverse consequences to recipients' ability to access adult day health care if the ADHC provider is not allowed to be licensed.

3. In reviewing the application, the department may consider, but is not limited to, evidence showing:

- a. the number of other ADHC providers in the same geographic location and parish servicing the same population; and
- b. allegations involving issues of access to health care and services.

4. The burden is on the applicant to provide data and evidence to effectively establish the probability of serious, adverse consequences to recipients' ability to access health care if the provider is not allowed to be licensed. The department shall not grant any FNR approvals if the application fails to provide such data and evidence.

D. Applications for approvals of licensed providers submitted under these provisions are bound to the description in the application with regard to the type of services proposed as well as to the site and location as defined in the application. FNR approval of licensed ADHC providers shall expire if these aspects of the application are altered or changed.

E. FNR approvals for licensed ADHC providers are non-transferrable and are limited to the location and the name of the original licensee.

1. An ADHC provider undergoing a change of location in the same parish in which it is licensed shall submit a written attestation of the change of location and the department shall re-issue the FNR approval with the name and new location. An ADHC provider undergoing a change of location outside of the parish in which it is licensed shall submit a new FNR application and fee and undergo the FNR approval process.

2. An ADHC provider undergoing a change of ownership shall submit a new application to the department's FNR Program. FNR approval for the new owner shall be granted upon submission of the new application and proof of the change of ownership, which shall show the seller's or transferor's intent to relinquish the FNR approval.

3. FNR approval of a licensed ADHC provider shall automatically expire if the ADHC provider moves or relocates, if the ADHC provider sells, transfers, or conveys ownership of the ADHC provider to another party or entity, or if the ADHC provider sells, transfers or conveys the FNR approval to another party, entity, or location, unless the ADHC provider has submitted application to and received approval from the FNR Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:323 (February 2010).

Alan Levine  
Secretary

1002#078

## RULE

### Department of Health and Hospitals Bureau of Health Services Financing and

### Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers  
Children's Choice Family Training Services  
(LAC 50:XXI.11303 and 12101)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities has amended LAC

50:XXI.11303 and §12101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community-Based Services Waivers

#### Subpart 9. Children's Choice

#### Chapter 113. Service

#### §11303. Service Definitions

A. - D.5. ...

E. Family training consists of formal instruction offered through training and education designed to assist the families of Children's Choice Waiver (CCW) participants in meeting the needs of their children.

1. The training must be conducted by professional organizations or practitioners and offer formal instruction that is relevant to the waiver participant's needs as identified in the plan of care.

2. Family training must be prior approved by the Bureau of Health Services Financing or its designee, the Office for Citizens with Developmental Disabilities, and incorporated into the approved plan of care.

3. For purposes of this service only, "family" is defined as unpaid persons who live with or provide care to the waiver participant, and may include a parent, stepparent, grandparent, sibling, legal guardian or foster family.

4. Payment for family training services includes coverage of registration and training fees associated with formal instruction in areas relevant to the participant's needs as identified in the plan of care. Payment is not available for the costs of travel, meals and overnight lodging to attend a training event or conference.

F. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1983 (September 2002), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1871 (September 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:324 (February 2010).

#### §12101. Reimbursement Methodology

A. - B.1. ...

2. Family training shall be reimbursed at cost.

B.3. - B.4.j.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1987 (September 2002), LR 33:1872 (September 2007), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:250 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:324 (February 2010).

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

Alan Levine  
Secretary

1002#079

## RULE

### Department of Health and Hospitals Bureau of Health Services Financing

#### Nursing Facilities Per Diem Rate Reduction (LAC 50:VII.1305 and 1309)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:VII.1305 and 1309 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part VII. Long Term Care Services

##### Subpart 1. Nursing Facilities

#### Chapter 13. Reimbursement

##### §1305. Rate Determination

A. - D.4.b. ...

5. Adjustment to the Rate. Adjustments to the Medicaid daily rate may be made when changes occur that will eventually be recognized in updated cost report data (such as a change in the minimum wage, a change in FICA or a utility rate change). These adjustments would be effective until the next rebasing of cost report data or until such time as the cost reports fully reflect the change.

6. Budget Shortfall. In the event the department is required to implement reductions in the nursing facility program as a result of a budget shortfall, a budget reduction category shall be created. Without changing the parameters established in these provisions, this category shall reduce the statewide average Medicaid rate by reducing the reimbursement rate paid to each nursing facility using an equal amount per patient day.

a. Effective for dates of service on or after July 1, 2010, the per diem rate paid to non-state nursing facilities shall be reduced by an amount equal to 10.52 percent of the rate in effect on June 30, 2010 until such time that the rate is rebased.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1791 (August 2002), amended LR 31:1596 (July 2005), LR 32:2263 (December 2006), LR 33:2203 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:325 (February 2010).

### §1309. Non-State, Government Owned or Operated Facilities and State-Owned or Operated Facilities

A. Non-state, government-owned or operated nursing facilities will be paid a case-mix reimbursement rate in accordance with §1305.

1. Repealed.

B. State-owned or operated nursing facilities will be paid a prospective per diem rate. The per diem payment rate for each of these facilities will be calculated annually on July 1, using the nursing facility's allowable cost from the most recently filed Medicaid cost report trended forward from the midpoint of the cost report year to the midpoint of the rate year using the index factor.

1. - 2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1793 (August 2002), amended LR 30:53 (January 2004), LR 31:1596 (July 2005), LR 32:2265 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:325 (February 2010).

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

Alan Levine  
Secretary

1002#080

## RULE

### Department of Health and Hospitals Bureau of Health Services Financing

#### Nursing Facility Minimum Licensing Standards Emergency Preparedness—Electronic Reporting Requirements (LAC 48:I.9729)

The Department of Health and Hospitals, Bureau of Health Services Financing has amend LAC 48:I.9729 in the Medical Assistance Program as authorized by R.S. 36:254 and 40:2009.2.–2009.11. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

#### Title 48

### PUBLIC HEALTH—GENERAL

#### Part I. General Administration

##### Subpart 3. Licensing

#### Chapter 97. Nursing Facilities

##### Subchapter B. Organization and General Services

##### §9729. Emergency Preparedness

A. - B.3. ...

4. Effective immediately, upon declaration by the secretary and notification to the Louisiana Nursing Home Association and Gulf States Association of Homes and Services for the Aging, all nursing facilities licensed in Louisiana shall file an electronic report with the HSS

emergency preparedness webpage/operating system, or a successor operation system, during a declared disaster or other public health emergency.

a. The electronic report will enable the department to monitor the status of nursing facilities during and immediately following an emergency event.

b. The electronic report shall be filed twice daily at 7:30 a.m. and 2:30 p.m. throughout the duration of the disaster or emergency event.

c. The electronic report shall include, but is not limited to the following:

- i. status of operation (open, limited or closed);
- ii. availability of beds;
- iii. resources that have been requested by the nursing facility from the local or state Office of Emergency Preparedness;
- iv. generator status;
- v. evacuation status;
- vi. shelter in place status; and
- vii. other information requested by the department.

NOTE: The electronic report is not to be used to request resources or to report emergency events.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.2 – 2009.11.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 24:49 (January 1998), amended LR 32:2261 (December 2006), amended LR 34:1917 (September 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing LR 35:248 (February 2009), amended LR 36:325 (February 2010).

Alan Levine  
Secretary

1002#081

## RULE

### Department of Natural Resources Office of Conservation

#### Ground Water Management (LAC 43:VI.103 and 307)

The Louisiana Office of Conservation amends LAC 43:VI.Chapter 1 et seq., in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to power delegated under the laws of the state of Louisiana and particularly Title 38 of the Louisiana Revised Statutes, Sections 38:3097.1 et seq. The amendment modifies the specific provisions at LAC 43:VI.103 and 307 which set forth definitions, the procedures for registering new water wells, the procedures for seeking and declaring areas of ground water concern.

The amendments to existing rules are intended to revise the regulations to correspond with recent amendments to the Ground Water Resources Management Law (R.S. 38:3097.1 et seq.).

## Title 43

### NATURAL RESOURCES

#### Part VI. Water Resources Management

##### Subpart 1. Ground Water Management

#### Chapter 1. General Provisions

##### §103. Definitions

A. ...

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*Critical Ground Water Area*—Repealed.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1584 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:1212 (June 2004), LR 35:249 (February 2009), LR 36:326 (February 2010).

#### Chapter 3. Area of Ground Water Concern Application Procedure

##### §307. Criteria for an Area of Ground Water Concern Designation

A. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1584 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:1212 (June 2004), LR 35:251 (February 2009), LR 36:326 (February 2010).

James H. Welsh  
Commissioner

1002#005

## RULE

### Department of Public Safety and Corrections State Uniform Construction Code Council

#### Uniform Construction Code (LAC 55:VI.505, 701,703, 705, 707, 901, 903, and 905)

Editor's Note: This Rule is being repromulgated to correct a printing error. The original Rule may be viewed in the December 20, 2009 issue of the *Louisiana Register* on pages 2819-2821.

In accordance with the provisions of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730.22(C) and (D) and R.S. 40:1730.34(B) relative to the authority of the Louisiana State Uniform Construction Code Council to promulgate and enforce rules, the Louisiana State Uniform Construction Council hereby amends Chapters 5, 7, and 9 to update various sections with more precise wording, align the rules with current law, provide for changes to certification requirements of the International Code Council, recognize procedural requirements of local jurisdictions, and delete provisions that are no longer applicable.

**Title 55  
PUBLIC SAFETY**

**Part VI. Uniform Construction Code**

**Chapter 5. Enforcement of Louisiana State Uniform Construction Code**

**§505. Commercial Plan Review**

A. Until December 31, 2007, where a parish or municipality is not providing plan review, architects, engineers, owners, parishes or municipalities on commercial projects may request International Building Code plan review by the Office of the State Fire Marshal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 33:1683 (August 2007), amended LR 35:2819 (December 2009), LR 36:327 (February 2010).

**Chapter 7. Certificates of Registration**

**§701. General**

A. On and after January 1, 2007, no person shall practice as a code enforcement officer in this state unless registered with the Louisiana State Uniform Construction Code Council (council). A person desiring to be registered as a parish or municipality building code enforcement officer or a third party provider shall apply to the council for a certificate of registration. The applicant shall apply on the application form prescribed by the council. An applicant shall furnish satisfactory proof to the council of valid certification. A certificate of registration is valid for one year and expires on the last day of the month of issuance. Those possessing Certificates of Registration must renew their certificates in order to remain in good standing with the council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:292 (February 2007), amended LR 35:2819 (December 2009), LR 36:327 (February 2010).

**§703. Classifications and Required Certifications for Municipal or Parish Building Code Enforcement Officers**

**A. General**

1. In order to obtain a certificate of registration from the council for a particular classification, an individual must meet the following qualifications.

**B. Definitions**

*Building Code Enforcement Officer (BCEO)*—a person employed by a public entity who is primarily responsible for the overall inspection or enforcement of applicable building code requirements within the jurisdiction of the employer.

*Building Official*—the BCEO employed and charged by a public entity with the administration and enforcement of the Louisiana State Uniform Construction Code (LSUCC).

*Inspector*—a BCEO, who under the authority of the building official, is charged with the inspection of structures for compliance with his or her specialty classification(s) of the LSUCC.

*Plans Examiner or Reviewer*—a BCEO, who under the authority of the building official, is charged with the inspection of construction documents for compliance with his or her specialty classification(s) of the LSUCC.

*Third-Party Provider (TPP)*—any individual, entity, or an individual employed by an entity, contracted to act in the capacity of a BCEO by an authority having jurisdiction, a licensed contractor, or a homeowner who is exempted from the contractor licensing law under R.S. 37:2170.

*Wind Mitigation Surveyor*—the wind mitigation surveyor classification of third party provider is limited to performing a survey to complete the Louisiana Hurricane Loss Mitigation Survey Form. The Survey Form, LAC 37 Part XIII, Section 12721. Appendix A, is to be utilized by consumers applying for justifying discounts for features that comply with building codes, or, for installed mitigation improvements utilizing construction techniques demonstrated to reduce the amount of hurricane loss from a windstorm. This classification does not qualify applicant to perform building code inspections in compliance with the Louisiana State Uniform Construction Code Council (LSUCCC) or International Code Council (ICC) classifications for building inspectors.

**C. BCEO Registration Classifications/Requirements**

**1. General Classifications**

a. **Building Official (BO)**—requirements; possess a current ICC Certified Building Official certificate, a current ICC Master Code Professional Certificate, or be a Louisiana Licensed Architect, or Louisiana Licensed Engineer and have two years experience as an architect, engineer, inspector, plans examiner, contractor or superintendent of construction or any combination of these. General classifications are not restricted and may enforce all classified specialties of the LSUCC.

**2. Specialty Classifications**

**a. Commercial Inspectors**

**i. Commercial Building Inspector Requirements**—possess a current ICC Commercial Building Inspector, ICC Building Inspector, ICC Commercial Combination Inspector, or ICC Combination Inspector certificate.

**ii. Commercial Electrical Inspector Requirements**—possess a current ICC Commercial Electrical Inspector, ICC Electrical Inspector, ICC Commercial Combination Inspector, or ICC Combination Inspector certificate.

**iii. Commercial Mechanical Inspector Requirements**—possess a current ICC Commercial Mechanical Inspector, ICC Mechanical Inspector, ICC Commercial Combination Inspector, or ICC Combination Inspector certificate.

**iv. Commercial Plumbing Inspector Requirements**—possess a current ICC Commercial Plumbing Inspector, ICC Plumbing Inspector, ICC Commercial Combination Inspector, ICC Louisiana Commercial Plumbing Inspector, or ICC Combination Inspector certificate.

**v. Commercial Energy Inspector Requirements**—shall be enforced by the Office of the State Fire Marshal.

**b. Commercial Plans Examiners or Reviewers**

**i. Building Plans Examiner Requirements**—possess a current ICC Commercial Building Plans Examiner, or ICC Combination Plans Examiner certificate.

ii. Electrical Plans Examiner Requirements—possess a current ICC Commercial Electrical Plans Examiner, or ICC Combination Plans Examiner certificate.

iii. Mechanical Plans Examiner Requirements—possess a current ICC Commercial Mechanical Plans Examiner, or ICC Combination Plans Examiner certificate.

iv. Plumbing Plans Examiner Requirements—possess a current ICC Commercial Plumbing Plans Examiner, ICC Louisiana Plumbing Plan Examiner, or ICC Combination Plans Examiner certificate.

v. Commercial Energy Plans Examiner Requirements—shall be enforced by the Office of the State Fire Marshal.

c. Residential Inspectors

i. Residential Building Inspector Requirements—possess a current ICC Residential Building Inspector, ICC Building Inspector, ICC Residential Combination Inspector, or ICC Combination Inspector certificate.

ii. Residential Electrical Inspector Requirements—possess a current ICC Residential Electrical Inspector, ICC Electrical Inspector, ICC Residential Combination Inspector, or ICC Combination Inspector certificate.

iii. Residential Mechanical Inspector Requirements—possess a current ICC Residential Mechanical Inspector, ICC Mechanical Inspector, ICC Residential Combination Inspector, or ICC Combination Inspector certificate.

iv. Residential Plumbing Inspector Requirements—possess a current ICC Residential Plumbing Inspector, ICC Plumbing Inspector, ICC Residential Combination Inspector, ICC Louisiana Residential Plumbing Inspector, or ICC Combination Inspector certificate.

v. Residential Energy Inspector Requirements—possess a current ICC Residential Energy Inspector/Plans Examiner certificate.

d. Residential Plans Examiners or Reviewers

i. Residential Plans Examiner – possess a current ICC Residential Plans Examiner certificate.

ii. Residential Energy Plans Examiner – possess a current ICC Residential Energy Inspector/Plans Examiner certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.34(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 33:292 (February 2007), amended LR 33:1683 (August 2007), LR 34:93 (January 2008), amended by the Department of Public Safety and Corrections, Office of Management and Finance, Uniform Construction Code Council, LR 35:490 (March 2009), LR 35:2819 (December 2009), LR 36:327 (February 2010).

**§705. Third Party Providers**

A. General

1. A third party provider shall register with the council. Third party providers shall meet the requirements of the general or specialty classification(s) whichever applicable and as contracted with the parish or municipality. Furthermore, any individual employed by a third party

provider who is also performing work for the parish or municipality, shall also be registered with this council.

B. Insurance. All third party providers shall carry at least \$500,000 in professional liability insurance. Proof of valid and current insurance coverage must be provided to the council upon registration and renewal of registration in the form of an insurance certificate listing the Louisiana State Uniform Construction Code Council as the certificate holder.

1. Exceptions

a. Wind mitigation surveyors shall carry at least \$300,000 in professional liability insurance.

C. Restrictions

1. Third party providers shall not provide plan review or inspections on projects of their own design and/or construction.

D. Code Enforcement Services for Non-Governmental Entities

1. Third party providers providing plan review services for non-governmental entities shall provide written copies of the plan review to the code enforcement officer of the municipality or parish prior to issuance of construction permits and in accordance with the administrative procedures of the authority having jurisdiction.

2. Where a third party provider provides services in a jurisdiction which has a building department, third party providers shall adhere to the permitting and inspection procedures of said jurisdiction in accordance with the administrative procedures of the authority having jurisdiction.

3. Third party providers providing inspection services for non-governmental entities shall provide written copies of the approved inspection reports to the code enforcement officer of the jurisdiction prior to the issuance of the certificate of occupancy in accordance with the administrative procedures of the authority having jurisdiction.

E. A wind mitigation surveyor classification of third party provider may specialize as a wind mitigation surveyor upon meeting the following qualifications:

1. possession of a home inspector license through the Louisiana State Board of Home Inspectors; and

2. possession of a certificate of completion for the 2006 IRC Hurricane Resistant Residential Construction Program, or other equivalent program approved by the LSUCCC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:292 (February 2007), amended LR 33:2462 (November 2007), amended by the Department of Public Safety and Corrections, Office of Management and Finance, Uniform Construction Code Council, LR 35:491 (March 2009), amended by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 35:2820 (December 2009), LR 36:328 (February 2010).

**§707. Continuing Education Requirements**

A. Prior to annual renewal of the certificate of registration as required by this Chapter, all building code enforcement officers and third-party providers, except Louisiana licensed architects or engineers as allowed by R.S. 40:1730.24(B), shall be registered with the International

Code Council and obtain the continuing education units required for that registry.

B. Building code enforcement officers holding provisional certificates of registration and prior to certification and registration with the International Code Council shall provide evidence of one continuing education unit relating to construction code enforcement for the preceding year.

C. Prior to annual renewal of the certificate of registration, Louisiana licensed architects and engineers exempted by R.S. 40:1730.24(B) shall be licensed in the state of Louisiana and obtain the continuing education units required for that licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and R.S. 40:1730.38

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:2666 (December 2007), amended LR 35:2821 (December 2009), LR 36:328 (February 2010).

### **Chapter 9. Temporary Exemption to Certification Requirement**

#### **§901. Employment after January 1, 2007**

A. Upon employment by a parish, municipality, or other political subdivision, an individual must be granted a provisional certificate of registration without certification by a recognized code organization or testing agency, provided that such individual is under the supervision of a registered code enforcement officer who is certified by the International Code Council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:293 (February 2007), amended LR 35:2821 (December 2009), LR 36:329 (February 2010).

#### **§903. Employment prior to January 1, 2007**

A. Certificates of registration may be issued without certification by a recognized code organization or testing agency to building code enforcement officers already employed in code enforcement on January 1, 2007, only for the position and locality held at the time of registration. This registration is valid for three years for building officials and six months for building inspectors and plans reviewers. Additionally, inspectors and plan reviews who were employed by an authority having jurisdiction before July 1, 2006, and remain employed by that authority having jurisdiction, an additional 30 month provisional certificate or registration may be granted provided the individual can demonstrate an annual minimum of three continuing education units for a core discipline as required in §703. Thereafter, anyone renewing this certificate of registration shall satisfy the certification requirement(s) as set forth in §703.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:293 (February 2007), amended LR 35:2821 (December 2009), LR 36:329 (February 2010).

#### **§905. Third Party Providers**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, State Uniform Construction Code Council, LR 33:1370 (July 2007), amended LR 34:93 (January 2008), repealed by the Department of Public Safety, State Uniform Construction Code Council, LR 35:2819 (December 2009), LR 36:329 (February 2010).

Jill Boudreaux  
Undersecretary

1002#007

### **RULE**

#### **Department of Revenue Policy Services Division**

Extension of Time to File; Waiver of Interest  
(LAC 61:I.1701)

Under the authority of R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, repeals LAC 61:I.1701, which set forth the reasons for which the time to extend the filing of an inheritance and estate transfer tax return could be granted and for which interest could be waived.

Act 822 of 2008 repealed the inheritance tax law comprised of R.S. 47:2401 through 47:2426 in its entirety, effective January 1, 2010.

### **Title 61**

#### **REVENUE AND TAXATION**

#### **Part I. Taxes Collected and Administered by the Secretary of Revenue**

#### **Chapter 17. Inheritance and Estate Transfer Tax**

#### **§1701. Extension of Time to File; Waiver of Interest**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2420.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Income and Corporation Franchise Taxes Division, LR 22:1141 (November 1996), repealed by the Department of Revenue, Policy Services Division, LR 36:329 (February 2010).

Cynthia Bridges  
Secretary

1002#053

### **RULE**

#### **Department of Social Services Office of Community Services**

Residential Licensing  
(LAC 67:V.6115, 6709, 6903, 6905,  
6909, 6953, 6955, and 6959)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Social Services (DSS), Office of Community Services (OCS), has amended LAC 67:V, Subpart 8, Residential Licensing in order to carry into effect the provisions of Acts 194 and 343 of the 2009 Regular Session of the Louisiana Legislature.

Acts 2009, No. 194 amended the provisions of the Child Care Facilities and Child-Placing Agencies Licensing Act to

give the DSS authority to enact regulations and to revoke or deny licenses to operate child care facilities. It further transferred sole authority over rule-making and decisions to deny or revoke a child care facility license from external committees to the DSS and shortens the time during which a center may remain open following revocation. This Rule conforms the revocation, denial and appeal provisions with existing statutory law and allows the department to exercise the authority granted it by the Legislature.

Acts 2009, No. 343 directed the department to provide current information on influenza, including known risks of the various strains of the disease and the risks and benefits of immunization, to parents of children in child care facilities, including child residential care facilities. This Rule conforms the child residential regulations with existing statutory law and provides for the provision of influenza information to parents and guardians of children in out-of-home care as mandated by Act 343.

**Title 67**  
**SOCIAL SERVICES**

**Part V. Community Services**

**Subpart 8. Residential Licensing**

**Chapter 61. Emergency Shelter**

**§6115. Required Records and Reports**

NOTE: This Section has been moved from LAC 67:1.1115.

A. - D.4.a. ...

5. Influenza Notice to Parents. In accordance with Act 343 of the 2009 Regular Legislative Session, providers shall make available to each child's parent or legal guardian information relative to the risks associated with influenza and the availability, effectiveness, known contraindications and possible side effects of the influenza immunization. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information and where a child may be immunized against influenza. The information shall be updated annually if new information on the disease is available. The information shall be provided annually to each licensed facility by the Department of Social Services and shall be made available to parents or legal guardians prior to November 1 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2677 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1552 (August 2009), amended LR 36:330 (February 2010).

**Chapter 67. Maternity Homes**

**§6709. Organization and Administration**

NOTE: This Section has been moved from LAC 67:1.1709.

A. - G.2. ...

H. Influenza Notice to Parents. In accordance with Act 343 of the 2009 Regular Legislative Session, providers shall make available to each child's parent or legal guardian information relative to the risks associated with influenza and the availability, effectiveness, known contraindications and possible side effects of the influenza immunization. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information

and where a child may be immunized against influenza. The information shall be updated annually if new information on the disease is available. The information shall be provided annually to each licensed facility by the Department of Social Services and shall be made available to parents or legal guardians prior to November 1 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1571 (August 2009), amended LR 36:330 (February 2010).

**Chapter 69. Child Residential Care**

**§6903. Authority**

NOTE: This Section has been moved from LAC 67:1.1903.

A. - C.3. ...

D. Waivers. The Secretary of the Department of Social Services, in specific instances, may waive compliance with a minimum standard upon determination that the economic impact is sufficiently great to make compliance impractical, only if the health, safety, and well-being of the staff/children are not imperiled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2129 (November 1998), LR 25:2458 (December 1999), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2698 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1574 (August 2009), amended LR 36:330 (February 2010).

**§6905. Procedures**

NOTE: This Section has been moved from LAC 67:1.1905.

A. - E.1. ...

2. The administrator or owner may appeal this decision by submitting a written request with the reasons to the Secretary of the Department of Social Services. Write to Department of Social Services, Bureau of Appeals, P.O. Box 2994, Baton Rouge, LA 70821-9118. This written request shall be postmarked within 15 days of the receipt of the notification in Paragraph E.1 of this Section, in the case of a revocation or non-renewal, or within 30 days of denial of a new application.

3. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2130 (November 1998), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2699 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1575 (August 2009), amended LR 36:330 (February 2010).

**§6909. Administration and Organization**

NOTE: This Section has been moved from LAC 67:1.1909.

A. - P.3. ...

Q. Influenza Notice to Parents. In accordance with Act 343 of the 2009 Regular Legislative Session, providers shall make available to each child's parent or legal guardian information relative to the risks associated with influenza and the availability, effectiveness, known contraindications and possible side effects of the influenza immunization. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information and where a child may be immunized against influenza. The information shall be updated annually if new information on the disease is available. The information shall be provided annually to each licensed facility by the Department of Social Services and shall be made available to parents or legal guardians prior to November 1 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2132 (November 1998), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2701 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1578 (August 2009), amended LR 36:330 (February 2010).

#### **§6953. Authority**

NOTE: This Section has been moved from LAC 67:I.1953.

A. Legislative Provisions. The licensing authority of the Department of Social Services is established by R.S. 46:1401 et seq., and R.S. 46:51 which mandate the licensing of all child care facilities and child placing agencies, including child residential facilities. A Class "B" child residential facility is defined as any place, facility or home operated by any institution, society, agency, corporation, person or persons or any other group to provide full-time care (24-hour residential care) for four or more children under the age of 18 years who are not related to the operators, and whose parents or guardians are not residents of the same facility, with or without transfer of custody, and no state or federal funds received for the care of the children.

B. - C.3. ...

D. - D.2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1565 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1617 (August 2009), amended LR 36:331 (February 2010).

#### **§6955. Procedures**

NOTE: This Section has been moved from LAC 67:I.1955.

A. - D.2.g. ...

E. Appeal Procedure

1. If a license is denied or revoked because a facility does not meet the minimum requirements for licensure, the Department of Social Services shall notify the licensee or applicant in writing of the denial or revocation, of the reasons for the denial or revocation, and of the right to appeal the agency action.

2. The administrator or owner may appeal this decision by submitting a written request for a fair hearing,

together with the reasons he/she believes the decision to be incorrect, to the Department of Social Services Appeals Bureau, P.O. Box 2994, Baton Rouge, LA 70821. The written request must be submitted within 15 days of receipt of notice of the department's notice, in the case of a revocation or non-renewal, or within 30 days of receipt of the notice of denial of a new application for an initial license.

3. A fair hearing shall be conducted by an administrative law judge within 30 days of filing the request for hearing.

4. Following the hearing, the administrative law judge shall render a decision within 90 days and shall notify the appellant in writing of the decision, either affirming or reversing the department's original action. If the department's action is upheld, the revocation or denial shall be effective immediately.

5. If a facility continues to operate without a license following a decision upholding revocation the department may file suit in the district court in the parish in which the facility is located seeking injunctive relief and statutory fines of not less than \$75 per day nor more than \$250 per day for each day the facility has operated without a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1565 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1617 (August 2009), amended LR 36:331 (February 2010).

#### **§6959. Administration and Organization**

NOTE: This Section has been moved from LAC 67:I.1959.

A. Class "B" facilities must comply with all regulations set by the Office of the State Fire Marshal, the Office of Public Health, local zoning laws and all laws regarding child abuse or neglect. Client-staff ratios and minimum space requirements will be enforced by the Department of Social Services. Class "B" facilities must comply with regulations restricting hiring felons, prohibiting racial discrimination and prohibiting the use of corporal punishment without parental permission, and with all other regulations promulgated by the Department of Social Services. Core regulations must promote safe physical facilities, adequate supervision and qualified staff, healthful food service, procedures for nighttime care, and procedures for the disposition of complaints.

B. - B.2. ...

3. Repealed.

C. - Q. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1567 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2743 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1620 (August 2009), amended LR 36:331 (February 2010).

Kristy H. Nichols  
Secretary

1002#094

**RULE**

**Department of Social Services  
Office of Family Support**

Child Daycare Services  
Child Care Quality Rating System  
(LAC 67:III 5121, 7302, 7303,  
7305, 7355, 7357, 7359, 7361)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Social Services, Office of Family Support is amending rules in the Louisiana Administrative Code, Title 67, Part III Subpart 12, Child Care Assistance Program, and Title 67, Part III Subchapter 21, Child Care Licensing, to comply with Acts 194, 351 and 343 of the 2009 Regular Session of the Louisiana Legislature.

Act 194 of the 2009 Regular Session transferred sole authority over rulemaking and decisions to deny or revoke a child care facility license from external committees to the Department of Social Services, makes uniform the requirements of licensure for all types of facilities, and shortens the time during which a center may remain open following revocation. It also requires creation of an advisory council on child care to advise the department on rulemaking for child day care facilities. Act 343 requires the department to provide current information on influenza, including known risks of the various strains of the disease and the risks and benefits of immunization, to parents of children in child care facilities, including child residential care facilities. Act 351 requires child day care facilities to make available to parents information on violations of the child care minimum standards at those facilities.

In this Rule LAC 67: III Chapter 51, Subchapters A, B and D remains intact without amendment; Subchapter C has been amended and re-enacted to clarify that a quality star rating will be revoked if the facility’s license is revoked. LAC 67: Chapter 73 has been amended and reenacted to create the Advisory Council on Child Care and Early Education to comply with Act 194 and to remove references to the former Class A and Class B Committees abolished by that Act. It has also been amended to include notification to parents' requirements regarding licensing surveys and influenza outbreaks mandated by Acts 351 and 343 of the 2009 Regular Session.

**Title 67**

**SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 12. Child Care Assistance**

**Chapter 51. Child Care Assistance Program**

**Subchapter C. Quality Start Child Care Quality Rating System**

**§5121. Participation**

A. - C. ...

D. Centers that have achieved a star rating will have their rating revoked if the child care license is revoked.

E. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:2788 (December

2007), amended LR 34:2412 (November 2008), amended LR 36:332 (February 2010).

**Subpart 21. Child Care Licensing**

**Chapter 73. Day Care Centers**

**Subchapter A. Licensing Class “A” Regulations for Child Care Centers**

**§7302. Authority**

A. Legislative Provisions. The State of Louisiana, Department of Social Services, is charged with the responsibility for developing and publishing standards for the licensing of child care centers. The licensing authority of the Department of Social Services is established by R.S. 46:1401 et seq., making mandatory the licensing of all child care facilities and child placing agencies, including child care centers. Under R.S. 46:1403, a child *day care center* is defined as a place or facility operated by any institution, society, agency, corporation, person or persons, or any other group for the purpose of providing care, supervision, and guidance of seven or more children, not including those related to the caregiver, unaccompanied by parent or guardian, on a regular basis for at least 12 1/2 hours in a continuous 7-day week. Additionally, related or relative is defined as the natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver.

B. – C.3. ...

D. The Louisiana Advisory Council on Child Care and Early Education

1. The Louisiana Advisory Council on Child Care and Early Education is hereby created in accordance with R.S. 46:1414, as amended by Acts 2009, No. 194, to provide input and guidance to the Department of Social Services on matters pertaining to rules, regulations and standards for licensure of Class A and Class B day care centers as defined in R.S. 46:1403(A)(4).

2. The council shall be composed of 12 voting members, appointed by the Secretary of the Department of Social Services and 9 non-voting ex-officio members. The membership shall consist of:

a. one parent of a child currently enrolled in a licensed child care facility;

b. three owners or directors of licensed child care facilities in Louisiana, and one faith based child care provider;

c. two professionals and/or faculty of child development and/or early childhood education programs at community technical colleges or universities located in Louisiana;

d. one representative from each of the following advocacy organizations: the Louisiana Head Start Association, the Louisiana Partnership for Children and Families, the Louisiana Association for the Education of Young Children, the Child Care Association of Louisiana, and the Louisiana Early Childhood Association of Louisiana; and

e. nine non-voting ex-officio members consisting of one representative of each of the following offices or agencies: the Department of Education Pre-Kindergarten Program, the Department of Education Child and Adult Care Food Program, the Louisiana Office of State Fire Marshal, the Department of Health and Hospitals Office of Sanitarian Services, the Louisiana Workforce Commission, the Louisiana State Police Bureau of Criminal Identification,

and three representatives from the Department of Social Services.

3. Members will be appointed to serve an initial two-year term on the council and may be eligible to be reappointed to serve an additional two-year term.

4. A member shall be automatically removed from the advisory council if he/she has two or more unexcused absences during any 12-month period. An absence is excused for purposes of this Section when the cause is one which a reasonably-prudent person would deem to take precedence over fulfillment over a solemn public duty; or, if the absence is known in advance to be probable, if the member notifies the chairperson of his/her expected absence not less than 24 hours in advance of the scheduled meeting.

5. A quorum shall consist of a simple majority of the active voting members.

6. Whenever a vacancy occurs in any council seat, whether by death, resignation, or automatic removal, such vacant seat shall no longer be counted as an active voting member in determining a quorum until a successor has been appointed by the secretary to fill the unexpired term.

7. Officers of the council shall include a chair, vice-chair and secretary.

8. All meetings shall be conducted in accordance with the state's Open Meetings Law. Procedural matters shall be conducted in accordance with the latest edition of Robert's Rules of Order.

9. Members shall serve without compensation or reimbursement.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1107 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2755 (December 2007), amended LR 36:332 (February 2010).

### **§7303. Procedures**

A. - C.2. ...

3. If the survey reveals that the provider is not meeting minimum requirements, a decision may be made by the department for adverse action.

D. - E.1. ...

2. A provider may appeal the revocation or non-renewal of a license by submitting a written request to appeal the decision along with a copy of the notice within fifteen days of receipt of the notice of revocation or non-renewal. In the case of a denial of an initial application for a license, a provider may appeal the denial by submitting a written request to appeal the decision within 30 days of receipt of the notice of denial of application. A request for appeal should include the specific reasons the decision is believed to be erroneous and/or the specific reasons the decision is believed to be incorrect, and mailed to: Department of Social Services, Bureau of Appeals, P.O. Box 2944, Baton Rouge, LA 70821-9118.

E.3. - F.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of

Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1108 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2756 (December 2007), amended LR 36:333 (February 2010).

### **§7305. General Requirements**

A. - K. ...

L. Licensing Surveys; Notice Requirements. In accordance with Act 351 of the 2009 Regular Legislative Session, providers shall prominently post information advising parents or guardians that findings from licensing surveys are available online which includes the current web address, and that findings from licensing surveys are also available upon written request to the Department of Social Services.

M. Influenza Notice to Parents. In accordance with Act 343 of the 2009 Regular Legislative Session, providers shall make available to each child's parent or legal guardian information relative to the risks associated with influenza and the availability, effectiveness, known contraindications and possible side effects of the influenza immunization. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information and where a child may be immunized against influenza. The information shall be updated annually if new information on the disease is available. The information shall be provided annually to each licensed facility by the Department of Social Services and shall be made available to parents or legal guardians prior to November 1 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1112 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2760 (December 2007), amended LR 36:333 (February 2010).

### **Subpart 21. Child Care Licensing**

#### **Chapter 73. Day Care Centers**

#### **Subchapter B. Licensing Class "B" Regulations for Child Care Centers**

### **§7355. Authority**

A. The Louisiana Advisory Council on Child Care and Early Education

1. The Louisiana Advisory Council on Child Care and Early Education is hereby created in accordance with R.S. 46:1414, as amended by Acts 2009, No. 194, to provide input and guidance to the Department of Social Services on matters pertaining to rules, regulations and standards for licensure of Class A and Class B day care centers as defined in R.S. 46:1403(A)(4).

2. The council shall be composed of 12 voting members appointed by the Secretary of the Department of Social Services and 9 non-voting ex-officio members. The membership shall consist of:

a. one parent of a child currently enrolled in a licensed child care facility;

b. three owners or directors of licensed child care facilities in Louisiana, and one faith-based child care provider;

c. two professionals and/or faculty of child development and/or early childhood education programs at community technical colleges or universities located in Louisiana.

d. one representative from each of the following advocacy organizations:

i. the Louisiana Head Start Association, the Louisiana Partnership for Children and Families;

ii. the Louisiana Association for the Education of Young Children;

iii. the Child Care Association of Louisiana; and

iv. the Louisiana Early Childhood Association of Louisiana; and

e. nine non-voting ex-officio members consisting of one representative of each of the following offices or agencies:

i. the Department of Education Pre-Kindergarten Program;

ii. the Department of Education Child and Adult Care Food Program;

iii. Louisiana Office of State Fire Marshal;

iv. the Department of Health and Hospitals, Office of Sanitarian Services;

v. the Louisiana Workforce Commission; the Louisiana State Police Bureau of Criminal Identification; and

vi. three representatives from the Department of Social Services.

3. Members will be appointed to serve an initial two-year term on the council and may be eligible to be reappointed to serve an additional two-year term.

4. A member shall be automatically removed from the advisory council if he/she has two or more unexcused absences during any 12-month period. An absence is excused for purposes of this Section when the cause is one which a reasonably-prudent person would deem to take precedence over fulfillment over a solemn public duty; or, if the absence is known in advance to be probable, if the member notifies the chairperson of his/her expected absence not less than 24 hours in advance of the scheduled meeting.

5. A quorum shall consist of a simple majority of the active voting members.

6. Whenever a vacancy occurs in any council seat, whether by death, resignation, or automatic removal, such vacant seat shall no longer be counted as an active voting member in determining a quorum until a successor has been appointed by the secretary to fill the unexpired term.

7. Officers of the council shall include a chair, vice-chair and secretary.

8. All meetings shall be conducted in accordance with the state's Open Meetings law. Procedural matters shall be conducted in accordance with the latest edition of Robert's Rules of Order.

9. Members shall serve without compensation or reimbursement.

B. Penalties. The penalty for the operation of a center without a valid license is a fine of not less than \$75 and not more than \$250 for each day of operation without a license.

C. Injunctions. If any child care facility operates without a valid license issued by the department, the department may file suit in the district court in the parish in which the facility is located for injunctive relief. This injunctive order may

include a temporary restraining order to restrain the institution, society, agency, corporation, person or persons, or any other group operating the child care facility from continuing the violation.

D. Inspections. It shall be the duty of the Department of Social Services, through its duly authorized agents, to inspect at regular intervals not to exceed one year or as deemed necessary by the department and without previous notice all child care facilities and child-placing agencies subject to the provisions of R.S. 46:1401 et seq. The facility shall be open to inspection at all times during working hours or when children are in care by the parents or legal guardians of children in care and by all authorized inspection personnel.

E. Waivers. The Secretary of the Department of Social Services, in specific instances, may waive compliance with a minimum standard if it is determined that the economic impact is sufficiently great to make compliance impractical. These standards may be waived only if the health and well being of the staff and/or the children are not placed in danger.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1635 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2770 (December 2007), amended LR 36:333 (February 2010).

#### §7357. Definitions

A. The following are definitions of terms used in these minimum standards.

*Bureau*—Bureau of Licensing of the Louisiana Department of Social Services.

*Child Day Care Center*—is defined as any place or facility operated by any institution, society, agency, corporation, person or persons, or any other group for the purpose of providing care, supervision, and guidance of seven or more children, not including those related to the caregiver, unaccompanied by parent or guardian, on a regular basis for at least twelve and one-half hours in a continuous 7-day week. Related or relative is defined as the natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver.

*Child Care Staff*—an individual directly involved in the care and supervision of the children in the center.

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*Committee on Private Child Care*—Repealed.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1636 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2770 (December 2007), amended LR 36:334 (February 2010).

#### §7359. Procedures

A. - F.10. ...

G. Appeal Procedure

1. A provider may appeal the revocation or non-renewal of a license by submitting a written request to appeal the decision along with a copy of the notice within 15 days of receipt of the notice of revocation or non-renewal. A prospective provider may appeal the denial of an initial application by submitting a written request to appeal the decision within 30 days of receipt of the notice of denial of application. A request for appeal shall include the specific reasons the provider believes the decision to be erroneous and/or the specific reasons the decision is believed to be incorrect, and mailed to: Department of Social Services, Bureau of Appeals, P.O. Box 2944, Baton Rouge, LA 70821-9118.

G.2. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1636 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2771 (December 2007), amended, LR 36:335 (February 2010).

### **§7361. General Requirements**

A. - J. ...

K. Licensing Surveys; Notice Requirements. In accordance with Act 351 of the 2009 Regular Legislative Session, providers shall prominently post information advising parents or guardians that findings from licensing surveys are available online which includes the current web address and that findings from licensing surveys are also

available upon written request to the Department of Social Services.

L. Influenza Notice to Parents. In accordance with Act 343 of the 2009 Regular Legislative Session, providers shall make available to each child's parent or legal guardian information relative to the risks associated with influenza and the availability, effectiveness, known contraindications and possible side effects of the influenza immunization. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information and where a child may be immunized against influenza. The information shall be updated annually if new information on the disease is available. The information shall be provided annually to each licensed facility by the Department of Social Services and shall be made available to parents or legal guardians prior to November 1 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1112 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2760 (December 2007), amended, LR 36:335 (February 2010).

Kristy H. Nichols  
Secretary

1002#097

# Notices of Intent

## NOTICE OF INTENT

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Seed Commission

Seed Certification Standards and Fees  
(LAC 7:XIII.101, 113, 191, and 207)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., and with the enabling statute, R.S. 3:1433, the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, is intending on amending these regulations (“the proposed rule”) to (1) increase the license fee for seed dealers, beginning July 1, 2010, from \$75 a year to \$100 a year, which is the maximum allowed by law; (2) update the sweet potato certification standards to conform with current industry standards; (3) consolidate the sweet potato certifications standards for general certification and virus-tested certification into one section to avoid duplication; (4) reduces the number of sugarcane certification inspections from 4 to 3; (5) provide for inspections and sampling for Sugarcane Yellow Leaf Virus; and (6) includes the Mexican Rice Borer as a listed sugarcane pest.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XIII. Seeds

#### Chapter 1. Louisiana Seed Law

#### Subchapter A. Enforcement of the Louisiana Seed Law

#### §101. Definitions

\* \* \*

*LAES*—Louisiana Agricultural Experiment Station

*LDAF*—Louisiana Department of Agriculture and Forestry

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:1431 and R.S. 3:1433.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Seed Commission, LR 4:104 (April 1978), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 36:

#### §113. License Fee; Laboratory Fees

A. The annual fee for a Seed Dealer’s License shall be \$100.

B. - B.8. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:1433 and 3:1437.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), amended LR 7:164 (April 1981), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 14:603 (September 1988), LR 29:2632 (December 2003), LR 36:

#### Subchapter C. Certification of Specific Crops/Varieties §191. Sweet Potato Certification Standards (Virus-Tested and Non Virus-Tested)

A. The standards for certification of virus-tested and non virus-tested sweet potatoes are the general seed certification standards for roots, plants and cuttings as adopted in Subchapter B of this Part and the following specific standards.

B. The following definitions apply to this Section only.

*Certified G0 Plant*—a plant grown in a greenhouse and which has been produced by a certified greenhouse grower from a foundation plant.

*Daughter Plant*—a plant produced by cuttings from a mother plant.

*Foundation Plant*—a plant that has been produced by the LAES from a virus-tested nuclear stock plant recognized by LDAF if the plant is grown in a greenhouse under strict isolation in a screen cage in which only plants that are virus-tested are grown.

*Mericlone*—plants clonally propagated from a single meristem tip. For example, mericlone B-63 includes all plants descended from the sixty-third meristem-tip culture derived from the variety Beauregard.

*Micropropagated*—plant multiplication in vitro. The process includes many steps; stock plant care, explant selection and sterilization, media manipulation to obtain proliferation, rooting, acclimation, and growing on. Sweet potato is most commonly micropropagated in tissue culture by aseptic transfer of stem segments containing 1-3 nodes to sterile tissue culture medium.

*Mini-Roots*—storage roots produced on plants grown in certified G0 greenhouses that may be used to establish certified G2 field plantings.

*Mother Plant*—a plant obtained from LAES.

*Nuclear Stock Plant*—plant that is derived from Source Seed and which has been micropropagated, virus-tested, is apparently free of other pests, and has been evaluated in field test for trueness to variety.

*Source Seed*—material entering the LAES seed program obtained by methods acceptable to DAF).

*Symptomatic Plant*—a plant that shows an indication or symptom of a disease, mutation, pest, virus, or other problem that may affect sweet potato production.

*Vine Cutting*—a section of a vine, preferably 10-12 inches in length, capable of being transplanted.

*Virus-Tested*—a plant that has been previously tested for the presence of viruses by grafting a sweet potato shoot to the Brazilian morning glory (*Ipomoea setosa*) on at least three separate occasions and by at least one negative assay by the DNA and PCR assay for Sweet potato geminiviruses using the Li et al. method (Li, R., Salih, S., and Hurtt, S. 2004. Detection of geminiviruses in sweet potato by polymerase chain reaction. *Plant Dis.* 88:1347-1351)

C. Plant Generations

1. Mother plants may be cut repeatedly for no more than 5 months and the cuttings propagated to produce daughter plants.

2. Daughter plants may be cut repeatedly for no more than 5 months and the cuttings propagated to produce additional daughter plants. All daughter plants shall be designated as certified G0 and may be used to establish certified G1 field plantings.

3. All plants, vine cuttings and roots produced from mini-roots shall be designated as certified G2.

4. Certified G1 (Field Generation 1) plantings will be established from certified G0 plants. Vine cuttings may be taken repeatedly from this original G1 planting, to establish a second G1 planting. Vine cuttings may be taken repeatedly from the second G1 planting to establish a third G1 planting. No additional plantings may be established from this third G1 planting. All vine cuttings and roots produced during this first year of field production shall be designated as certified G1.

5. Certified G2 (Field Generation 2) plantings will be established from certified G1 stocks. Vine cuttings may be taken repeatedly from this original G2 planting, to establish a second G2 planting. Vine cuttings may be taken repeatedly from the second G2 planting, to establish a third G2 planting. No additional plantings may be established from this third G2 planting. All vine cuttings and roots produced during this second year of field production shall be designated as certified G2.

6. Certified G3 (Field Generation 3) plantings will be established from Certified G2 stocks. Vine cuttings may be taken repeatedly from this original G3 planting, to establish a second G3 planting. Vine cuttings may be taken repeatedly from the second G3 planting to establish a third G3 planting. No additional plantings may be established from this third G3 planting. All vine cuttings and roots produced during this third year of field production shall be designated as Certified G3.

D. Greenhouse Requirements for Certification of Virus-Tested Sweet Potatoes

1. LDAF must approve greenhouses before mother plants are released to the grower.

2. Mother plants grown in a greenhouse shall be kept isolated in screen cages.

3. Greenhouses used for production of mother plants shall meet the following requirements.

- a. The entry points shall use a set of double doors.
- b. A system for sanitizing hands and feet prior to entry into the growing areas of the greenhouse.
- c. Yellow sticky traps shall be used to monitor aphids and other insects.
- d. Screens of such mesh as to prevent entry of aphids shall cover all openings (vents, fans, windows, etc.).
- e. A legible signs shall be prominently placed in front of every entrance to each greenhouse so as to be clearly visible by workers and other persons warning them that they shall not enter, if they are coming from the field or from non-certified greenhouses.
- f. An integrated pest management program shall be in place to control aphids, whiteflies or other insects with sucking, mouthparts.

g. Cutting tools used in a greenhouse shall be decontaminated on a regular basis and shall always be decontaminated prior to being used on another group of stock plants or plant lots.

h. All growing medium, including benches, containers, etc. used in the greenhouse shall be cleaned by a method approved by LDAF.

i. All plants shall be removed from the greenhouse and the greenhouse kept free of plants for a minimum of 6 weeks between crop years.

j. No plants shall be allowed to grow within 10 feet of the greenhouse, except for turf grass used for stabilization of the soil.

k. No plants other than mother plants shall be allowed in the greenhouse.

l. Greenhouses shall be a minimum of 200 feet away from sweet potato storage sheds, cull piles or other potential sources of sweet potato viruses unless LDAF approves a closer distance.

m. Different varieties or mericlones must be clearly identified and separated.

4. Producer shall inspect vines twice weekly. If symptomatic plants are found, they shall be removed and destroyed and parent plants shall be inspected for disease symptoms. The grower shall keep a log showing that inspections were made and if plants were removed.

5. Producers shall inspect each greenhouse and its perimeter at least once weekly to ensure that the greenhouse isolation requirements are being met. LDAF shall be immediately notified if an inspection indicates that one or more of the isolation requirements have been breached.

6. LDAF shall inspect certified greenhouses at least once prior to cuttings going to the field and as needed if problems are observed. If symptomatic plants are found during these inspections the grower must rogue and dispose of these plants properly.

7. Once shipping of plants begins, final certification will not be allowed if symptomatic plants are found.

8. A Unit of Certification shall be the entire greenhouse and such unit cannot be divided for the purpose for certification.

9. Specific Greenhouse Requirements for the Certification of Virus-tested Sweet Potatoes

Maximum Tolerance Allowed		
Certified	Foundation Plants	
Presence or symptoms of:	(LAES)	
Bacterial Stem Rot ( <i>Erwinia chrysanthemi</i> )*	0	0
Black Rot ( <i>Ceratocystis fimbriata</i> )*	0	0
Scurf ( <i>Monilochaetes infuscans</i> )*	0	0
Root-Knot Nematode ( <i>Meloidogyne</i> spp.)	0	0
Feathery Mottle (sweet potato feathery mottle virus [SPFMV])*	0	0
Russet Crack (a strain of SPFMV)*	0	0
Internal Cork (a virus)*	0	0
Wilt ( <i>Fusarium oxysporum</i> f. sp. <i>batatas</i> )*	0	0
Sweetpotato Weevil ( <i>Cylas formicarius</i> )	0	0
Exotic or hazardous pests	0	0
Variety mixture	0	0
Off-types (mutations)	0	0

\*Plants or mini-roots exhibiting symptoms

E. Field Requirements for Certification of Virus-tested and Non-Virus-tested Sweet Potatoes

1. Seed Bed Inspections and Standards

a. A seed bed field shall contain only certified sweet potato plants.

b. Prior to planting, seed sweet potatoes shall be treated with an approved pesticide approved by LDAF and in accordance with recommendations from the LAES.

c. Seed beds shall be located at least 100 feet from where sweet potatoes were grown or bedded in the previous two years, and in such manner that there will be no wash from the previous two years' seed beds or fields; or treated in a manner satisfactory to LDAF.

d. At least one seed bed inspection shall be made by LDAF to determine that quality plants are being produced and that the plants are apparently free of injurious insects and harmful diseases. Additional seed bed inspection may be made by LDAF when deemed appropriate by LDAF.

2. Field Production for Certification of Virus-Tested and Non-Virus-Tested Sweet Potatoes

a. Sweet potato seed shall not be eligible for certification if produced on land which:

- i. has produced sweet potatoes in the last 2 years;
- ii. has received manure or sweet potato residue in the last 2 years;
- iii. is subject to drainage from fields in which sweet potatoes have been grown in the last 2 years.

b. Isolation

i. Non Virus-tested sweet potato seed production fields shall have a minimum isolation distance of 20 feet.

ii. Virus-tested sweet potato seed production fields shall be isolated by a minimum of 20 feet from sweet potato fields that contain certified but non virus-tested sweet potatoes, and by a minimum of 750 feet from non-certified and non virus-tested sweet potatoes.

d. Specific Field Tolerance Requirements (Vine Inspection)

iii. If the seed of two virus-tested varieties are grown in the same field, they must be clearly identified and separated by at least 20 feet.

iv. Nuclear stock plants shall be maintained under strict isolation in laboratory facilities approved by LDAF and maintained by LAES and/or any contracted micropropagation provider. The facilities shall be in a clean, dust-free building that is at least 250 feet from any sweet potato field or greenhouse.

c. An LDAF approved program shall be in place to control perennial morning glories (e.g. Ipomoea andurata, Bigroot Morning Glory, Ipomoea cordatotriloba sharp-pod or cotton Morning Glory), and volunteer sweet potato plants.

d. Different varieties or mericlones will be clearly identified and separated from each other by a minimum of 20 feet.

e. Each unit of sweet potatoes that has passed field inspection shall be marked or labeled at harvest to correspond with the field unit.

3. Inspections for certification of Virus-tested and Non-Virus-Tested Sweet Potatoes

a. The grower shall inspect fields weekly during the growing season and rogue any symptomatic plants that are found. LDAF shall be informed if any problems concerning certification requirements are found.

b. LDAF shall make a minimum of two inspections of each sweet potato seed production field during each growing season.

i. The first field inspection shall be made before vines have covered the ground so that symptomatic plants may be easily identified.

ii. The second inspection shall be made prior to harvest, but as close to harvest as is practical.

c. The unit of certification for production is a field and cannot be divided for the purpose for certification.

Maximum Tolerance Allowed						
Factor <sup>†</sup>	G1 Plants		G2 Plants		G3 Plants	
	Virus-Tested	Certified	Virus-Tested	Certified	Virus-Tested	Certified
Bacterial Stem Rot	None	None	None	5 plants/acre	None	5 plants/acre
Fusarium Wilt	None	None	None	5 plants/acre	None	5 plants/acre
Sweetpotato Weevil	None	None	None	None	None	None
Exotic/Hazardous Pests	None	None	None	None	None	None
Off-Types (Mutations)	0.05%	0.05%	0.05%	0.05%	0.10%	10 plants/acre
Variety Mixture	None	None	None	10 plants/acre	None	10 plants/acre

<sup>†</sup> If other severe factors are observed at time of inspection, rejection of all or a portion of a field may occur.

F. Storage Requirement for Certification of Virus-tested and Non-Virus-tested Sweet Potatoes

1. The procedures for cleaning and sanitizing the structure where sweet potatoes grown for certification are to be stored shall be in accordance with recommendations from the LAES and approved by LDAF and before any such sweet potatoes are stored in the structure.

2. Sweet potatoes grown for certification shall be stored in new containers (crates, pallet boxes, etc.) or used containers that have been cleaned according to sanitation guidelines approved by LDAF.

3. Certified seed roots shall be stored in a separate room from any non-certified roots.

4. Sweet potatoes from different field units shall be separated in storage by an aisle at least two feet wide.

5. LDAF shall inspect a minimum of 20 percent of each lot of sweet potatoes entered for certification during the storage inspection.

G. General Standards for Plants and Seed Roots of Virus-tested and Non-Virus-tested Sweet Potatoes

1. Plants shall be:

a. apparently free of injurious insects, harmful diseases or other significant pests;

- b. true to variety characteristics;
- c. of good color, fresh, firm, and strong; and
- d. of satisfactory size for commercial planting (cuttings approximately 10"-12" long).

2. All such cuttings will be made at least one inch above the surface of the soil or growing medium. Slips that have been pulled are not to be used to avoid the possibility of carrying pathogens or insects that can be present on stems below the soil surface.

3. Cuttings shall be loosely packed, shipped in an upright position in boxes, and shall not be shipped with non-certified sweet potato plants.

4. Seed Roots

a. LDAF shall make one seed root storage inspection after harvest and before shipment.

b. The minimum size shall be one inch in diameter, four inches in length and 30 ounces maximum weight.

c. Specific Seed Root Tolerance Standards of Virus-Tested and Non-Virus-Tested Sweet Potatoes

Maximum Tolerance Allowed for Virus-tested and Non Virus-tested Sweet Potatoes		
Presence or symptoms of:	G1(Foundation)G2 (Certified) Seed Roots	G3(Certified) Seed Roots
Surface rots (Fusarium spp.) & Soft Rots (Rhizopus spp.)	5%	5%
Bacterial Root Rot (Erwinia spp.)	none	None
Black Rot (Ceratocystis fimbriata)	none	None
Scurf (Monilochaetes infuscans)	1.0%	2.0%
Streptomyces soil rot (Streptomyces ipomoeae)	2.5%	5.0%
Root-Knot Nematode (Meloiodogyne spp.)	1.0%	2.0%
Russet Crack (a strain of SPFMV)	None	None
Wilt (Fusarium oxysporum f. sp. batatas)	None	None
Sweetpotato Weevil (Cylas formicarius)	None	None
Exotic or hazardous pests	None	None
Variety Mixture	None	None
Off-types (mutations)	0.20%	0.50%

H. Tagging and Certificate Reporting System

1. An official numbered certificate or tag provided by LDAF shall accompany each sale of certified sweet potato cuttings and seed roots.

a. When issuing official certificates the grower shall:

i. send a copy of each completed certificate to LDAF within 10 days after each sale; and

ii. maintain a copy of each issued certificate on file.

b. A complete record of certified sweet potato cuttings and seed roots sales shall be maintained and made available to LDAF. The record shall include the purchaser's name, the kind and variety/cultivar, the class, the date of shipment, and the number of plants or bushels shipped.

I. Quarantine of areas used for certification.

1. If a Sweetpotato weevil is found in any field, greenhouse, seed bed, storage or packing shed, or other structure or area affiliated with the production of certified sweet potatoes or sweet potato plants or within 300 yards of

any such structure or area, then the entire area and all structures affiliated with the certification process shall be immediately quarantined in accordance with the Sweetpotato weevil quarantine regulations found in Subchapter C of Part XV of Title 7 of the Louisiana Administrative Code (LAC 7:XV.133 et seq.).

2. If any plant pest or disease subject to regulation or quarantine under Part II or Part III of Chapter 12 of Title 3 of the Louisiana Revised Statutes of 1950, (R.S. 3:1651 et seq.) that may affect sweet potato production is found in any field, greenhouse, seed bed, storage or packing shed, or other structure or area affiliated with the production of certified sweet potatoes or sweet potato plants then the entire area and all structures affiliated with the certification process may be subject to quarantine in accordance with applicable law and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:579 (November 1982), amended LR 9:202 (April 1983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 22:1210 (December 1996), LR 36:

§207. Sugarcane (Tissue Culture) Certification Standards

A. - B.5.c. ...

C. Field Inspections and Sampling

1. At least three field inspections by Louisiana Department of Agriculture and Forestry inspectors shall be made each year to determine if certified seedcane is being produced that apparently meets field standards.

2. The second inspection to be conducted in June by Louisiana Department of Agriculture and Forestry inspectors will include the collection of leaf samples for the detection of Sugarcane Yellow Leaf Virus.

3. ...

4. Tissue samples shall be submitted to the LSU Ag Center Sugarcane Disease Detection Lab for analysis.

5. The department shall have the right to re-inspect, re-sample and re-test fields that are out of tolerance for Sugarcane Yellow Leaf Virus prior to certification.

D. ...

E. Field Standards

Factor	Foundation	Registered	Certified
Isolation	10 ft.	10 ft.	10 ft.
Other Varieties (obvious)	None	1.00%	1.00%
Off-Type (definite)	None	1.00%	1.00%
<b>Noxious Weeds:</b>			
Johnsongrass	None	5 Plants/Acre	5 Plants/Acre
Itchgrass	None	1 Plant/Acre	1 Plant/Acre
Other Weeds: Browntop panicum (Panicum fasciculatum)	None	20 Plants/Acre	20 Plants/Acre
<b>Harmful Diseases:</b>			
*Sugarcane Yellow Leaf Virus	None	10.00%	10.00%
** Sugarcane Mosaic Virus	None	10.00%	10.00%
** Sugarcane Smut	None	0.50%	0.50%

Factor	Foundation	Registered	Certified
Harmful Insects:	None	None	None
Mexican Rice Borer	None	5.00%	5.00%
***Sugarcane Borer			
*Determined by lab analysis for the LSU Sugarcane Disease Detection Lab			
**Plants exhibiting symptoms.			
***Determined by percentage of internodes bored.			

F. - G.2.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 23:1284 (October 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, Seed Commission, LR 30:1143 (June 2004), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:1609 (August 2007), LR 36:

**§222. Virus-Tested Sweet Potato Certification Standards**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Seed Commission, LR 25:1617 (September 1999), amended LR 26:1428 (July 2000), repealed LR 36:

**Family Impact Statement**

It is anticipated that the proposed Rule will have no significant effect on the:

1. stability of the family;
2. authority and rights of parents regarding the education and supervision of their children;
3. functioning of the family;
4. family earnings and family budget;
5. behavior and personal responsibility of children; or
6. ability of the family or a local government to perform the function as contained in the proposed Rule.

**Small Business Statement**

It is anticipated that the proposed rule will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

**Public Comments**

Interested persons may submit written comments, data, opinions, and arguments, whether for, against, or regarding the proposed Rule. Written submissions are to be directed to Lester Cannon, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806 and must be received no later than 4:00 p.m. on the 29th day of March, 2010. No preamble regarding the proposed Rule is available.

Mike Strain, DVM  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Seed Certification Standards and Fees**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule changes are anticipated to impact the Department of Agriculture and Forestry expenditures by an indeterminable amount. The proposed action increases the workload of its inspectors by providing for additional inspections of the Sugarcane Yellow Leaf Virus. The proposed action also decreases the workload of its inspectors by reducing the number of sugarcane certification inspections from 4 to 3. The net effect of such workload modifications is indeterminable. The proposed rule changes also provide for other technical rule adjustments. No significant implementation costs or savings to any local government unit is anticipated.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The effect on the revenue collection of the Department of Agriculture and Forestry is anticipated to be \$20,000 per year, beginning fiscal year 2010-2011. These additional revenues will be generated by the \$25 per year seed dealers license fee increase that flows into the department's Seed Commission Fund and be subject to annual legislative appropriation. It is anticipated that there will be no effect on the revenue collection of local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There are approximately 800 Louisiana seed dealers registered in the state. The anticipated cost to this group is a license fee increase of \$25.00 per dealer. It is anticipated that the fee and other regulation changes will have no significant effect on the costs or economic benefits to seed stock.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

No significant effect on competition or employment is anticipated.

Craig Gannuch  
Assistant Commissioner  
1002#99

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Civil Service  
Board of Ethics**

Financial Disclosures (LAC 52:I.1312)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Louisiana Board of Ethics, has initiated rulemaking procedures to make amendments to the Rules for the Board of Ethics to bring the rules into compliance with current statutory provisions and Act 238 of the 2009 Regular Legislative Session.

**Title 52  
ETHICS**

**Part I. Board of Ethics  
Chapter 13. Records and Reports**

**SCHEDULE L  
CONTRIBUTIONS**

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Any filer required to file a La R.S. 42:1124 personal financial disclosure statement and who is directly employed by a statewide elected official to serve as an agency head and who made a contribution in excess of \$1,000 to a campaign of the official who employed the filer shall disclose: 1) the date of employment; 2) his salary; 3) the name of the candidate to whom a contribution or loan in excess of \$1,000 was made; and 4) the amount of any such contribution or loan.

\* Only those contributions or loans made within one (1) year of employment are required to be disclosed.

\* See the instruction page for applicable definitions.

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Date of employment: \_\_\_\_\_ Candidate name: \_\_\_\_\_

Salary: \$ \_\_\_\_\_ Amount of contribution or loan: \$ \_\_\_\_\_

Date of employment: \_\_\_\_\_ Candidate name: \_\_\_\_\_

Salary: \$ \_\_\_\_\_ Amount of contribution or loan: \$ \_\_\_\_\_

Date of employment: \_\_\_\_\_ Candidate name: \_\_\_\_\_

Salary: \$ \_\_\_\_\_ Amount of contribution or loan: \$ \_\_\_\_\_

Date of employment: \_\_\_\_\_ Candidate name: \_\_\_\_\_

Salary: \$ \_\_\_\_\_ Amount of contribution or loan: \$ \_\_\_\_\_

Date of employment: \_\_\_\_\_ Candidate name: \_\_\_\_\_

Salary: \$ \_\_\_\_\_ Amount of contribution or loan: \$ \_\_\_\_\_

Date of employment: \_\_\_\_\_ Candidate name: \_\_\_\_\_

Salary: \$ \_\_\_\_\_ Amount of contribution or loan: \$ \_\_\_\_\_

Date of employment: \_\_\_\_\_ Candidate name: \_\_\_\_\_

Salary: \$ \_\_\_\_\_ Amount of contribution or loan: \$ \_\_\_\_\_

**SCHEDULE F  
CONTRIBUTIONS**

Any filer required to file a La R.S. 42:1124.2.1 personal financial disclosure statement and who is appointed to a state board or commission and who made a contribution in excess of \$1,000 to a campaign of the official who appointed the filer shall disclose: 1) the date of appointment; 2) any compensation provided for such position; 3) the name of the candidate to whom a contribution or loan in excess of \$1,000 was made; and 4) the amount of any such contribution or loan.

\* Only those contributions or loans made within one (1) year of appointment are required to be disclosed.

\* See the instruction page for applicable definitions.

Date of appointment: \_\_\_\_\_ Candidate name: \_\_\_\_\_

Compensation: \$ \_\_\_\_\_ Amount of contribution or loan: \$ \_\_\_\_\_

Date of appointment: \_\_\_\_\_ Candidate name: \_\_\_\_\_

Compensation: \$ \_\_\_\_\_ Amount of contribution or loan: \$ \_\_\_\_\_

Date of appointment: \_\_\_\_\_ Candidate name: \_\_\_\_\_

Compensation: \$ \_\_\_\_\_ Amount of contribution or loan: \$ \_\_\_\_\_

Date of appointment: \_\_\_\_\_ Candidate name: \_\_\_\_\_

Compensation: \$ \_\_\_\_\_ Amount of contribution or loan: \$ \_\_\_\_\_

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Compensation: \$ \_\_\_\_\_ Amount of contribution or loan: \$ \_\_\_\_\_

Date of appointment: \_\_\_\_\_ Candidate name: \_\_\_\_\_

Compensation: \$ \_\_\_\_\_ Amount of contribution or loan: \$ \_\_\_\_\_

Date of appointment: \_\_\_\_\_ Candidate name: \_\_\_\_\_

Compensation: \$ \_\_\_\_\_ Amount of contribution or loan: \$ \_\_\_\_\_

AUTHORITY NOTE: Promulgated in accordance with Act 238 of the 2009 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 36:

**Family Impact Statement**

The proposed rule changes have no impact on family formation, stability or autonomy, as described in R.S. 49:972.

**Public Comments**

Interested persons may direct their comments to Kathleen M. Allen, Louisiana Board of Ethics, P.O. Box 4368, Baton Rouge, Louisiana 70821, telephone (225) 219-5600, until 4:45 p.m. on March 10, 2010.

Kathleen M. Allen  
Deputy General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Financial Disclosures**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The estimated costs to implement the financial disclosure forms is \$492, which accounts for the cost to publish the Notice of Intent and the forms in the State Register.

The proposed rule provides for adoption of financial disclosure forms to be utilized by those persons who are required to file a personal financial disclosure statement pursuant to La R.S. 42:1124 and who are directly employed by a statewide elected official to serve as an agency head and who made a contribution in excess of \$1,000 to a campaign of the

official who employed the filer. The proposed rule provides for adoption of financial disclosure forms to be utilized by those persons required to file a personal financial disclosure statement pursuant to La R.S. 42:1124.2.1 and who made a contribution in excess of \$1,000 to a campaign of the official who appointed the filer.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed forms will have no anticipated effect on revenue collections of the state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed action will affect all persons required to file a personal financial disclosure statement pursuant to La R.S. 42:1124 who are directly employed by a statewide elected official to serve as an agency head and who made a contribution in excess of \$1,000 to a campaign of the official who employed the filer. The proposed action will also affect all persons required to file a personal financial disclosure statement pursuant to La R.S. 42:1124.2.1 and who made a contribution in excess of \$1,000 to a campaign of the official who appointed the filer.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules will have no effect on competition and employment.

Tracy K. Meyer  
Staff Attorney  
1002#114

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Civil Service  
Civil Service Commission**

**Performance Adjustment**

The State Civil Service Commission will hold a public hearing on Wednesday, March 3, 2010, to consider proposed changes to Civil Service Rule 6.13 as published in this document, all other rules in Chapter 6 and associated rules in Chapters 1, 17 and 24 as published in General Circular 1787 and in the Louisiana State Register, Vol. 35, No. 10. The public hearing will begin at 9:00 a.m. and will be held in the Louisiana Purchase Room in the Claiborne Building, 1201 Third Street, Baton Rouge, Louisiana.

**Summary**

Article X, Section 10 (C) of the Louisiana constitution requires any rule affecting wages adopted by the State Civil Service Commission to be approved by the governor before it may become effective. This constitutional requirement makes the governor a party to changes in rules affecting the pay of employees. Thus, any rule affecting pay adopted by the State Civil Service Commission must satisfy both the Commission and the governor.

On December 9, 2009, the Commission adopted a set of rules affecting pay. That set of rules included rule 6.13 providing for Performance Adjustments to replace the existing Merit Increases. On January 8, 2010, Governor Bobby Jindal disapproved the adopted rules, and asked the Commission to consider changing certain provisions of rule 6.13 regarding Performance Adjustments.

In an effort to meet the goals of both the Commission and the governor, the following changes to rule 6.13 as previously adopted by the Commission are proposed.

- Reduce the maximum increase allowed from 6% to 5%.
- Authorize the Director to grant exceptions to avoid or reduce layoffs.
- Require Commission review of the amounts established for increases at least once every three years.

The resulting proposed Rule 6.13 Performance Adjustments is as follows.

**Proposed New Rule 6.13**

**1.13 Performance Adjustment; Anniversary Dates; Department Rating Dates.**

(a) Performance adjustments may be granted to employees at the discretion of an appointing authority. Performance adjustments are not mandatory.

(b) An employee's eligibility for a performance adjustment shall be based on his or her annual performance rating. Only employees who receive an official overall performance rating of "Achieves Expectations" or better may be eligible for a performance adjustment. An employee who is "Unrated" shall have the same eligibility as an employee who "Achieves Expectations".

(c) The amounts of performance adjustments shall be:

3% for employees who earn ratings of "Achieves Expectations"

4% for employees who earn ratings of "Exceeds Expectations"

5% for employees who earn ratings of "Outstanding"

(d) The Director may authorize payments of lesser amounts when an appointing authority requests an exception to avoid or reduce layoffs.

(e) The Department shall review the performance adjustment limits defined in (c) above based on an analysis of relevant economic indicators, such as the Consumer Price Index, Employer Cost Index, and appropriate market comparisons at least once every three years and make a recommendation to the Commission based upon the results.

(f) An appointing authority may grant a new employee's first performance adjustment after six months of continuous classified service. This first eligibility date becomes the employee's anniversary date. Thereafter, an appointing authority may grant an employee a performance adjustment annually. When an appointing authority chooses not to award a performance adjustment to an employee on his or her anniversary date, the appointing authority may award the increase at any time within the twelve month period following the anniversary date.

(g) An employee shall retain his or her anniversary date and performance adjustment eligibility when he or she:

1. is appointed from a department preferred reemployment list within one year of the date of the layoff, or

2. is returned from military service.

Any former employee who returns to classified service following a break in service shall be given a new anniversary date.

(h) An appointing authority may grant an employee on detail a performance adjustment calculated on his or her pay on detail.

(i) An appointing authority may grant a lump-sum performance adjustment to an employee who:

1. has reached the maximum of his or her pay band or band extension, and

2. has been at the same pay rate for a period of two years.

Employees may not receive such a lump-sum performance adjustment more often than once every other year. Employees who are red-circled shall not be eligible for a lump-sum performance adjustment.

(j) The Department shall review the performance adjustment limits defined in (c) above based on an analysis of relevant economic indicators, such as the Consumer Price Index, Employer Cost Index, and appropriate market comparisons at least once every three years and make a recommendation to the Commission based upon the results.

#### **Current Rule to be Abolished**

#### **6.14 Merit Increases.**

(a) When a new employee has been continuously employed, without a break in service of one or more working days for a period of six months, he becomes eligible for and may be granted a merit increase provided that the appointing authority has determined his performance merits such an award.

(b) At the end of each subsequent 12 month period of such continuous employment, he may be granted an additional merit increase if the appointing authority has determined that his performance merits such an award. This date of eligibility shall be known as an anniversary date and shall not change through such continuous employment within the classified service.

(c) The amount of each merit increase shall be 4 percent of the employee's individual pay rate.

(d) The appointing authority may, at any time within 3 years from the date an employee gained eligibility, grant an employee all or any one of the merit increases for which he has attained eligibility provided the employee has not received an official overall "Poor" or "Needs Improvement" Performance Planning and Review rating for the applicable year(s). A part-time employee shall receive the same credit he would receive if he were employed on a full-time basis.

(e) All increases herein authorized are subject to the requirement that no employee's pay shall exceed the maximum rate of pay established for the job, or the highest rate within the base supplement authorized for the position occupied.

(f) An employee's eligibility for the increases authorized in Subsection (a) and (b) shall not be interrupted by time served in the military service if he is reemployed under the provisions of Rule 23.15.

(g) A former employee who is reemployed following a break in service of one or more working days, except those appointed from a department preferred reemployment list and except those who are restored to duty, under the provisions of Rule 23.16, upon return from military service, shall be considered a "new" employee within the meaning of this rule.

(h) Any adjustment or increase which an employee receives under the provisions of other rules, unless otherwise

indicated, shall not affect such employee's eligibility to receive increases authorized under this rule.

(i) An employee who has a current official overall Performance Planning and Review rating of "Poor" or "Needs Improvement" shall not be eligible for any increase under the provisions of this rule.

(j) A former employee who is reemployed following certification from a department preferred reemployment list within a year of the layoff date shall retain the anniversary dates and merit increase eligibilities earned under subsections (a), (b) and (d) for which he has not been granted an increase. If reemployed from a preferred list after one year, he shall be considered a new employee with regard to the establishment of his anniversary date and merit increase eligibility.

(k) An employee on detail to a position in a higher grade may be eligible for a merit increase in the higher job calculated on his individual pay rate in the higher job.

Shannon Templet  
Director

1002#112

### **NOTICE OF INTENT**

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

Bulletin 741—Louisiana Handbook  
for School Administrators  
(LAC 28: CXV.337, 709, 1103, 1109, 1301 and 2313)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §337. Written Policies and Procedures, §709. Transfer of Student Records, §1103. Compulsory Attendance, §1109. Assignment and Transfer of Students, §1301. Disciplinary Regulations, and §2313. Elementary Program of Studies. The revision to Section 1301 is required by Act 240 of the 2009 legislative session. It relates to awarding credit to students who are suspended or expelled. The change to Section 709 requires principals to provide records for transfer students. The change to Section 2313 required by Act 286 of the 2009 legislative session extends the requirement for 30 minutes of vigorous physical activity each day to students in the seventh and eighth grades. The changes to Sections 337 and 1109 relate to the placement of students in foster care and are required by Act 297 of the 2009 legislative session. The student shall be allowed to remain in the public school the child was previously attending. If the foster care placement is outside the boundaries of the public school, the Department of Social Services (DSS) is responsible for providing transportation from the child's residence to a designated location where the school district may then transport the child to the school. DSS anticipates a small number of children may need to be transported, but the costs will be dependent upon the number of eligible students, the cost of the transportation, and the distance the students must be transported. The costs may be split between federal Title IV-E funding and state general fund dollars. If the children are eligible for the Title IV-E funding, there will be a 50 percent

general fund match rate. The revision to Section 1103 is required by legislative action and allows excused absences up to five days per school year for visitation with a parent in the military who has been called to duty for, or is on leave from, overseas deployment to a combat zone.

## **Title 28**

### **EDUCATION**

#### **Part CXV. Bulletin 741—Louisiana Handbook for School Administrators**

#### **Chapter 3. Operation and Administration**

##### **§337. Written Policies and Procedures**

A. - C.18. ...

19. the school assignment of students in foster care (refer to §1109).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:81; R.S.17:240.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 33:429 (March 2007), LR 35:1101 (June 2009).

#### **Chapter 7. Records and Reports**

##### **§709. Transfer of Student Records**

A. The principal shall provide for the transfer of the education records, including special education records, of any current or former student at the school upon the written request of any authorized person on behalf of a public or nonpublic elementary or secondary school within or outside of the state of Louisiana, where the student has become enrolled or is seeking enrollment.

1. The transfer of such records, whether by mail or otherwise, shall occur not later than 10 business days from the date of receipt of the written request.

2. If a student has been expelled, the transferred records shall include the dates of the expulsion and the reasons for which the student was expelled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:112; R.S. 17:221.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1270 (June 2005).

#### **Chapter 11. Student Services**

##### **§1103. Compulsory Attendance**

A. - J.5. ...

6. visitation with a parent who is a member of the United States Armed Forces or the National Guard of a state and such parent has been called to duty for or is on leave from overseas deployment to a combat zone or combat support posting. Excused absences in this situation shall not exceed five school days per school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:112; R.S. 17:221.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1270 (June 2005), amended LR 36:

##### **§1109. Assignment and Transfer of Students**

A. - B. ...

C. LEAs shall ensure that a student who is in foster care pursuant to placement through the Department of Social Services shall be allowed to remain enrolled in the public school in which the student was enrolled at the time he or she entered foster care if the Department of Social Services determines that remaining in such school is in the best interest of the student.

1. If the foster care placement is outside the jurisdictional boundaries of the public school in which the student is enrolled, the LEA shall be responsible for providing free transportation for the student to and from a designated location which is within that school district and is located nearest to the student's residence and is determined to be appropriate by the LEA and the Department of Social Services.

2. The Department of Social Services shall be responsible for providing the child's transportation between that location and the child's residence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:105; R.S. 17:221.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1274 (June 2005), amended LR 33:2353 (November 2007), LR 36:

#### **Chapter 13. Discipline**

##### **§1301. Disciplinary Regulations**

A. - F. ...

G. Students who are removed from the classroom for disruptive, dangerous, or unruly behavior or who are suspended for ten days or less shall be assigned school work missed and shall receive either full or partial credit for such work if it is completed satisfactorily and timely as determined by the principal or designee, upon the recommendation of the student's teacher. A student who is suspended for more than ten days or is expelled and receives educational services in an alternative school site, shall be assigned school work by a certified teacher and shall receive credit for school work if it is completed satisfactorily and timely as determined by the teacher. Such work shall be aligned with the curriculum used at the school from which the student was suspended or expelled.

H. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:223-224; R.S. 17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1282 (June 2005), amended LR 36:

#### **Chapter 23. Curriculum and Instruction**

##### **§2313. Elementary Program of Studies**

A. - D. ...

E. Each public elementary school that includes any of the grades kindergarten through eight shall provide at least 30 minutes of quality, moderate to vigorous, organized physical activity each day for all students.

1. No later than September 1 of each year, each elementary school shall report to its school board on compliance with this requirement.

2. The LEA shall report to BESE on compliance no later than October 1.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:17.1; R.S. 17: 24.8; R.S. 17:154-154.1; R.S. 17:261 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1289 (June 2005), amended LR 33:2353 (November 2007), LR 36:

##### **Family Impact Statement**

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption,

repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

#### Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., April 11, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: **Bulletin 741—Louisiana Handbook for School Administrators**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The revision to Section 1301 is required by Act 240 of the 2009 legislative session. It relates to awarding credit to students who are suspended or expelled. The change to Section 709 requires principals to provide records for transfer students. The change to Section 2313 required by Act 286 of the 2009 legislative session extends the requirement for 30 minutes of vigorous physical activity each day to students in the seventh and eighth grades. The changes to Sections 337 and 1109 relate to the placement of students in foster care and are required by Act 297 of the 2009 legislative session. The student shall be allowed to remain in the public school the child was previously attending. If the foster care placement is outside the boundaries of the public school, the Department of Social Services (DSS) is responsible for providing transportation from the child's residence to a designated location where the school district may then transport the child to the school. DSS anticipates a small number of children may need to be transported, but the costs will be dependent upon the number of eligible students, the cost of the transportation, and the distance the students must be transported. The costs may be split between federal Title IV-E funding and state general fund dollars. If the children are eligible for the Title IV-E funding, there will be a 50 percent general fund match rate. The revision to Section 1103 is required by legislative action and allows excused absences up to five days per school year for visitation with a parent in the military who has been called to duty for, or is on leave from, overseas deployment to a combat zone.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to schools or school districts.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1002#101

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School  
Administrators—Response to Intervention  
(LAC 28:LXXIX.2308)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §2308. Response to Intervention. The policy states that Response to Intervention (RTI) is a comprehensive process to provide early intervention for students who are struggling academically or behaviorally. The policy requires each LEA to submit an RTI plan to the state that contains the following components: high quality research based instruction and intervention, universal screening, progress monitoring and outcome assessments, multi-tiered interventions, and shared educational responsibility for all students. Louisiana has academically trailed other states for decades. The Response to Intervention (RTI) process is a research based process that has consistently raised the achievement level of students as measured by high-stakes testing in other states and by increased scores on the LEAP and GEE state assessments. The process is required in Federal Regulations: Individuals with Disabilities Act, (IDEA) 34, CFR Section 300.307 and 300.309.

#### Title 28 EDUCATION

#### Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

#### Chapter 23. Curriculum and Instruction §2308. Response to Intervention

A. Response to Intervention (RTI) is a comprehensive process to enable early identification and intervention for students at academic or behavioral risk.

B. Each LEA shall develop and implement an RTI plan containing the components below. Each RTI plan must include the utilization of data to include universal screening, formative assessments, state assessments, district assessments, number of retentions, LEAP, iLEAP, GEE, End of Course exams, behavioral data, attendance data, as well as

suspension and expulsion data. The plan shall be submitted to the DOE according to the guidelines established in the Louisiana Response to Intervention State Plan. The plan should consist of:

1. High Quality Research Based Instruction in General Education

a. All students receive high quality research-based effective instruction in the general education curriculum.

2. Universal screening

a. Students are screened to determine level of risk for failure due to academic or behavioral concerns.

3. Benchmarks, Outcome Assessments/Progress Monitoring

a. Progress of students receiving intervention instruction is monitored throughout the year. Progress monitoring data are continuously collected as students receive academic and/or behavioral interventions. This data will drive educational decisions.

4. Multi-tiered interventions

a. Students identified as at risk receive increasingly intense levels of targeted scientifically, research-based interventions based on individual student needs. Scientifically valid interventions are implemented for students identified at risk and not making progress in the general education curriculum and/or having behavioral difficulties.

5. Shared ownership of all students

a. All staff (general education, special education, Title I, ELL, etc.) assume an active role in student assessment and instruction. Districts should use local, state, and federal funds to support the process (Title I, Title II, IDEA, REAP, Stimulus Funds, etc.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**Family Impact Statement**

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed rule affect the stability of the family? No

2. Will the proposed rule affect the authority and rights of parents regarding the education and supervision of their children? No

3. Will the proposed rule affect the functioning of the family? No

4. Will the proposed rule affect family earnings and family budget? No

5. Will the proposed rule affect the behavior and personal responsibility of children? No

6. Is the family or a local government able to perform the function as contained in the proposed rule? Yes

**Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., April 11, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Bulletin 741—Louisiana Handbook for  
School Administrators**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The impact of this policy change on each Local Education Agency (LEA) is dependent upon the implementation process selected by the LEA and is difficult to estimate before each LEA develops their Response to Intervention (RTI) process plan. Federal IDEA regulations allow LEAs to use up to 15% of their available IDEA funds for development and implementation of local RTI processes. Federal Titles I, II, and III funds may also be used. State personnel along with outside contracted personnel may provide professional development through in-services and webinars. Current processes may be restructured to allow more access to district or school data and some forms may be altered or created. There may be implementation costs to state governmental units for personnel, selected interventions, training, travel, and printing, but the total costs cannot be determined. Federal IDEA and Title I, Title II, and Title III funds that are currently appropriated should be sufficient to cover the costs to implement the proposed policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy adoption will have no noted impact on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no noted financial costs to families or students as a result of the RTI implementation process. This process is designed to improve student academic achievement and as such should result in long term economic and social benefits to students and families.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Minimal personnel changes are required within the process, but staff may be reassigned or reorganized to provide interventions and steer the process within each LEA. Research indicates that increased academic achievement results in more successful educational performance and increased high-school graduation numbers. This in turn results in higher-paying jobs for high-school graduates and students who are more competitive in the job market. This is expected to be a future impact.

Beth Scioneaux  
Deputy Superintendent  
1002#100

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Environmental Quality Office of the Secretary Legal Affairs Division

DEQ Notifications to State Police  
(LAC 33:I.3913, 3915, 3917, 3923, 3925;  
VII.315, 713; and XI.713) (MM012)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Environmental Quality regulations, LAC 33:I.3913, 3915, 3917, 3923, 3925; VII.315, 713; and XI.713 (Log #MM012).

This Rule adjusts the reporting requirements to the one-call system for unauthorized releases in excess of an applicable reportable quantity. Proper notification to the Department of Public Safety and Corrections through the one-call system for a release in excess of applicable reportable quantities, as well as those that cause an emergency, will now satisfy the reporting obligations for these events, except for releases of radionuclides in excess of reportable quantities. This Rule implements Act 81 of the 2008 Regular Session of the legislature. The basis and rationale for this Rule are to update the Environmental Quality regulations for the one-call state notification system for release notifications. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

#### Title 33

### ENVIRONMENTAL QUALITY

#### Part I. Office of the Secretary

##### Subpart 2. Notification

#### Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges

##### Subchapter A. General

#### §3913. Effective Date

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), repealed by the Office of the Secretary, Legal Affairs Division, LR 36:

##### Subchapter B. Requirements for Emergency Notification

#### §3915. Notification Requirements for Unauthorized Discharges That Cause Emergency Conditions

A. - A.3. ...

4. Compliance with this Section does not relieve dischargers of the necessity of following any applicable written notification procedure in LAC 33:I.3925 or any terms and conditions of any applicable permit or license issued under the Louisiana Environmental Quality Act.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2204(A), 2194(C), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), amended by the Office

of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), LR 30:1668 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 36:

#### Subchapter C. Requirements for Non-Emergency Notification

#### §3917. Notification Requirements for Unauthorized Discharges That Do Not Cause Emergency Conditions

A. In the event of an unauthorized discharge that exceeds a reportable quantity specified in Subchapter E of this Chapter but that does not cause an emergency condition, the discharger shall promptly notify DPS by telephone at (225) 925-6595 (collect calls accepted 24 hours a day) within 24 hours after learning of the discharge.

B. Compliance with this Section does not relieve dischargers of the necessity of following any applicable written notification procedure in LAC 33:I.3925 or any terms and conditions of any applicable permit or license issued under the Louisiana Environmental Quality Act.

C. Notification to the Department of Environmental Quality. In the event of an unauthorized discharge that requires notification under Subsection A of this Section, the DPS 24-hour Louisiana Emergency Hazardous Materials Hotline will notify the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), repromulgated LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2443 (November 2000), repromulgated LR 27:38 (January 2001), amended LR 30:1668 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005), LR 33:2080 (October 2007), LR 36:

##### Subchapter D. Procedures for Notifying the Department

#### §3923. Notification Procedures for Other Regulatorily Required Reporting

A. Notifications not required by LAC 33:I.3915 or 3917 shall be provided to the department within a time frame not to exceed 24 hours, or as specified by the specific regulation or permit provision requiring the notification, and shall be given to SPOC, as follows:

1. by the online incident reporting screens found at <http://www.deq.louisiana.gov/apps/forms/irf/forms/>;

2. by e-mail utilizing the information for reporting releases found at <http://www.deq.louisiana.gov/portal/tabid/279/Default.aspx>;

A.3. - B. ...

C. Content of Notifications. The following guidelines will be utilized as appropriate, based on the conditions and circumstances surrounding any unauthorized discharge, to provide relevant information regarding the nature of the discharge:

1. - 7.d. ...

D. Compliance with this Section does not relieve dischargers of the necessity of following any applicable written notification procedure in LAC 33:I.3925 or any terms and conditions of any applicable permit or license issued under the Louisiana Environmental Quality Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1668 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005), LR 33:2080 (October 2007), LR 36:

#### **§3925. Written Notification Procedures**

A. Written reports for any unauthorized discharge that requires notification under LAC 33:I.3915.A, 3917, 3919, or 3923 shall be submitted by the discharger to SPOC in accordance with this Section within seven calendar days after the notification required by LAC 33:I.3915.A, 3917, 3919, or 3923, unless otherwise provided for in a valid permit or other department regulation.

A.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2443 (November 2000), LR 30:1669 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005), LR 33:2080 (October 2007), LR 33:2628 (December 2007), LR 36:

### **Part VII. Solid Waste**

#### **Subpart 1. Solid Waste Regulations**

#### **Chapter 3. Scope and Mandatory Provisions of the Program**

#### **§315. Mandatory Provisions**

A. - G. ...

H. Notice of Fire or Damage to Structures in a Solid Waste Facility. The Office of Environmental Compliance shall be notified in accordance with LAC 33:I.3915 in the case of an *emergency condition* as defined in LAC 33:I.3905, or in accordance with LAC 33:I.3923 in the case of a non-emergency condition, when damage to or degradation of any structure of a solid waste facility occurs that would impair the ability of the facility to meet the conditions of its permit, or when any fire occurs in the waste management area at a solid waste facility.

I. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), LR 19:1315 (October 1993), repromulgated LR 19:1421 (November 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:954 (August 1997), LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2516 (November 2000), LR 30:1675 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2487 (October 2005), LR 33:1030 (June 2007), LR 34:1400 (July 2008), LR 36:

#### **Chapter 7. Solid Waste Standards**

#### **Subchapter A. Landfills, Surface Impoundments, Landfarms**

#### **§713. Standards Governing Surface Impoundments (Type I and II)**

A. - D.3.c. ...

d. If a leak in an impoundment is found, the Office of Environmental Compliance shall be notified in

accordance with LAC 33:I.3915 in the case of an *emergency condition* as defined in LAC 33:I.3905, or in accordance with LAC 33:I.3923 in the case of a non-emergency condition.

D.3.e. - F.2.b.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2524 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2493 (October 2005), LR 33:1053 (June 2007), LR 33:2146 (October 2007), LR 36:

### **Part XI. Underground Storage Tanks**

#### **Chapter 7. Methods of Release Detection and Release Reporting, Investigation, Confirmation, and Response**

#### **§713. Reporting and Cleanup of Spills and Overfills**

A. Owners and operators of UST systems must contain and immediately clean up all spills and overfills. Owners and operators of UST systems shall report and begin corrective action in accordance with LAC 33:XI.715 in the following cases.

1. Any spill or overflow of petroleum that has resulted in a release to the environment that exceeds 25 gallons, that causes a sheen on nearby surface water, or results in an *emergency condition* as defined in LAC 33:I.3905, must be reported in accordance with LAC 33:I.Chapter 39 immediately, but in no case later than one hour, regardless of the amount released.

2. Any spill or overflow of a hazardous substance that has resulted in a release to the environment that equals or exceeds the reportable quantity for that substance in LAC 33:I.3931 or results in an *emergency condition* as defined in LAC 33:I.3905, must be reported in accordance with LAC 33:I.Chapter 39 immediately, but in no case later than one hour, regardless of the amount released. A release of a hazardous substance equal to or in excess of its reportable quantity must also be reported immediately (rather than within 24 hours) to the National Response Center, under Sections 102 and 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and to appropriate authorities under Title III of the Superfund Amendments and Reauthorization Act of 1986 (40 CFR 355.40).

B. ...

C. Owners and operators of UST systems must contain and immediately clean up a spill or overflow of petroleum that is less than 25 gallons and a spill or overflow of a hazardous substance that is less than the reportable quantity. If cleanup cannot be accomplished within 24 hours, owners and operators must immediately notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste,

Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 18:728 (July 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2559 (November 2000), LR 30:1677 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 36:

#### **Family Impact Statement**

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

#### **Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by MM012. Such comments must be received no later than April 6, 2010, at 4:30 p.m., and should be sent to Donald Trahan, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3398 or by e-mail to donald.trahan@la.gov.

#### **Public Hearing**

A public hearing will be held on March 30, 2010 at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. 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, contact Donald Trahan at the above address or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of MM012.

These regulations are available on the internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM  
Executive Counsel

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: DEQ Notifications to State Police**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no costs or savings to state or local governmental units as a result of the proposed rule. DEQ initially estimated in the fiscal note for Act 81 of 2008 that requiring use of the State Police administered "one-call" system to report certain non-emergency unauthorized discharges would necessitate up to 3 additional positions or additional overtime for existing positions to immediately receive and handle up to 7,600 of these calls per year that previously could be reported within a 24 hour time frame, but would now go through the State Police system with subsequent notification of DEQ. However, State Police is able to email

these non-emergency notifications, and DEQ can address these incidents in the same time frame as before the use of the "one-call" system. Therefore, no additional costs to DEQ are anticipated due to the use of this system. However, in order for State Police to adequately respond to the responsibility of the "one-call" system, they will need to recover, at a minimum, the four full time employees lost subsequent to the passage of Act 81 of 2008, or provide additional overtime for the existing six positions to accommodate the non-emergency calls previously reported to DEQ. The Public Safety Hotline is currently adding additional duties to Louisiana State Police Troopers to answer the Hotline in necessary rotation, but this is not their primary objective.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Industry and business will be benefited as a result of this proposed rule by having just one number to call when reporting unauthorized discharges that exceed reportable quantities as well as those that cause emergency conditions.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no impact on competition or employment as a result of this proposed rule.

Herman Robinson  
Executive Counsel  
1002#057

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Environmental Quality Office of the Secretary Legal Affairs Division**

#### **Regulatory Permits for Cement and Concrete Facilities (LAC 33:III.317)(AQ299)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.317 (Log #AQ299).

The Regulatory Permit for Concrete Manufacturing Facilities provided for by this Rule affords a streamlined means of authorizing the construction and operation of facilities engaged in the manufacture of ready-mixed portland cement concrete, including central-mixed concrete, shrink-mixed concrete, and truck-mixed concrete. The authorization to emit air emissions pursuant to the provisions of this regulatory permit will become effective only upon notification by the department that the application required by this regulatory permit Rule has been determined complete. Senate Bill No. 209 of the 2006 Regular Legislative Session was signed by Governor Blanco on June 2, 2006, as Act 115. That Act, which became effective on August 15, 2006, allows LDEQ to develop "regulatory permits" for certain sources of air emissions pursuant to R.S. 30:2054(B)(9). A "regulatory permit" is a permit in the form of standardized rule. The Rule, when promulgated, becomes part of the regulations, in this case Louisiana Administrative

Code 33:III. A Rule is written for a type of facility, activity, or equipment for which the applicability and operational requirements are very similar in most instances. R.S. 30:2054(B)(9)(b)(vii) requires an applicant seeking a regulatory permit to "submit a written notification...in lieu of submission of a permit application." The notification form will be specifically tailored to the activity addressed by the regulatory permit and will replace existing permit application forms. Any operations falling outside the parameters of the Rule will have to apply for and be issued a traditional permit. The basis and rationale for this Rule are to establish a regulatory permit to authorize air emission from minor source cement and concrete facilities. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part III. Air**

**Chapter 3. Regulatory Permits**

**§315. Regulatory Permit for Concrete Manufacturing Facilities**

**A. Applicability**

1. This regulatory permit authorizes the construction and operation of facilities engaged in the manufacture of ready-mixed portland cement concrete, including central-mixed concrete, shrink-mixed concrete, and truck-mixed concrete, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection E of this Section has been determined to be complete.

2. This regulatory permit may be used to authorize both stationary and portable concrete manufacturing facilities.

**B. Control of Fugitive Emissions**

1. Best housekeeping and maintenance practices shall be employed to minimize organic compound emissions. Good housekeeping shall include, but not be limited to, the practices described in LAC 33:III.2113.A.1-5.

2. Emissions which pass onto or across a public road and create a traffic hazard by impairment of visibility or intensify an existing traffic hazard condition are prohibited.

3. All reasonable precautions shall be taken to prevent particulate matter from becoming airborne. These precautions shall include, but not be limited to, the following.

a. Open-bodied trucks transporting materials likely to give rise to airborne dust shall be covered at all times when in motion.

b. Earth or other material on paved areas within the facility due to transport by trucking or other means shall be promptly removed.

c. In-plant roads, vehicle work areas, material stockpiles, and other surfaces at the facility shall be watered, treated with dust-suppressant chemicals, oiled, or paved and cleaned as necessary to minimize dust emissions to the greatest extent practicable.

**C. Filter Vents (Baghouses)**

**1. Monitoring and Repair**

a. Filter vents shall be inspected for visible emissions on a daily basis.

b. Filter elements (bags) shall be inspected every six months or whenever visual checks indicate maintenance may be necessary.

c. Elements shall be changed in accordance with the manufacturer's recommendations or more frequently if maintenance inspections reveal damage or other impairments impacting the design efficiency of the unit.

2. Recordkeeping. The following records shall be kept on site and available for inspection by the Office of Environmental Compliance:

a. the results of the visual checks required by Subparagraph C.1.a of this Section;

b. the dates and results of the maintenance inspections required by Subparagraph C.1.b of this Section; and

c. the dates and a description of any maintenance or repair conducted in accordance with Subparagraph C.1.c of this Section.

**D. Internal Combustion Engines**

**1. Fuels and Fuel Sulfur Content**

a. Internal combustion engines (ICEs) shall not combust noncommercial fuels, including used crankcase oil or any other used oil, facility byproducts, or any other type of waste material. Only commercially available fuels such as diesel or gasoline shall be used.

b. The permittee shall not combust distillate oil that contains greater than 0.5 weight percent sulfur.

**2. Opacity**

**a. Limitations**

i. Smoke. The emission of smoke shall be controlled so that the shade or appearance of the emission is not darker than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

ii. Particulate Matter. The emission of particulate matter shall be controlled so that the shade or appearance of the emission is not denser than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

iii. When the presence of uncombined water is the only reason for failure of an emission to meet the requirements of this Paragraph, this Paragraph will not apply.

**b. Monitoring and Recordkeeping**

i. The permittee shall inspect each ICE's stack for visible emissions once each month.

ii. If visible emissions are detected for more than one 6-minute period over a 60 consecutive minute test period, the permittee shall conduct a 6-minute opacity reading in accordance with Method 9 of 40 CFR 60, Appendix A, during the next monthly visible emissions check.

iii. If the shade or appearance of the emission is darker than 20 percent average opacity (per Method 9), the permittee shall take corrective action to return the ICE to its proper operating condition, and the 6-minute opacity reading in accordance with Method 9 shall be repeated. The permittee shall notify the Office of Environmental Compliance no later than 30 calendar days after any Method 9 reading in excess of 20 percent average opacity. This notification shall include the date the visual check was performed, results of the Method 9 testing, and a record of the corrective action employed.

iv. Records of visible emissions checks shall include the ICE's serial number, the date the visual check was performed, a record of emissions if visible emissions were detected for a period longer than 6 consecutive minutes, the results of any Method 9 testing conducted, and a record of any corrective action employed. These records shall be kept on-site and available for inspection by the Office of Environmental Compliance.

### 3. Operating Time

a. Operating time of each ICE shall be monitored by any technically-sound means.

b. Operating time of each ICE shall be recorded each month, as well as its operating time for the last 12 months. These records shall be kept on-site for five years and available for inspection by the Office of Environmental Compliance.

### 4. New Source Performance Standards

a. Each stationary compression ignition (CI) ICE described in 40 CFR 60.4200(a) shall comply with the applicable provisions of 40 CFR 60, Subpart IIII—Standards of Performance for Stationary Compression Ignition Internal Combustion Engines, unless the ICE is exempted as described in 40 CFR 60.4200(d).

b. Each stationary spark ignition (SI) ICE described in 40 CFR 60.4230(a) shall comply with the applicable provisions of 40 CFR 60, Subpart JJJJ—Standards of Performance for Stationary Spark Ignition Internal Combustion Engines, unless the ICE is exempted as described in 40 CFR 60.4230(e) or meets the conditions set forth in 40 CFR 60.4230(f).

5. National Emissions Standards for Hazardous Air Pollutants. Each stationary reciprocating ICE described in 40 CFR 63.6590 shall comply with the applicable provisions of 40 CFR 63, Subpart ZZZZ—National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.

6. Gasoline storage tanks associated with an ICE and with a nominal capacity of more than 250 gallons shall be equipped with a submerged fill pipe.

E. Notification Requirements. Written notification describing the planned activity shall be submitted to the Office of Environmental Services using the appropriate form (the form and guidance concerning it can be obtained from the Office of Environmental Services or through the department's website).

F. Relocation. The owner or operator shall notify the department prior to moving a portable concrete

manufacturing facility to a new operating site. Approval must be obtained before operations at the new site can commence.

G. Standby Plan. The owner or operator shall develop and retain onsite a standby plan for the reduction or elimination of emissions during an Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency. The plan shall be in accordance with the requirements of LAC 33:III.5611.

H. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit is \$713 (fee number 1722). In accordance with LAC 33:III.209 and 211, the annual maintenance fee associated with this regulatory permit shall be \$143.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 36:

### Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

### Public Comments

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference these proposed regulations by Log #AQ299. Such comments must be received no later than April 6, 2010, at 4:30 p.m., and should be sent to Donald Trahan, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3398 or by e-mail to donald.trahan@la.gov.

### Public Hearing

A public hearing will be held on March 30, 2010, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. 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, contact Donald Trahan at the above address or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ299. These regulations are available on the internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; and 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM  
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Regulatory Permits for Cement and  
Concrete Facilities**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

R.S. 30:2054(B)(9)(b)(vii) provides for "regulatory permits", and requires an applicant seeking such a permit to "submit a written notification ... in lieu of submission of a permit application." Because under this proposed rule the notification form will be specifically tailored to the activity addressed by the regulatory permit, and will replace existing permit application forms, this permitting mechanism should increase the efficiency of the department, resulting in no increased implementation costs to the applicants or the department.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

No increase or decrease in revenue will be realized. R.S. 30:2054(B)(9)(b)(vii) requires an applicant seeking a regulatory permit to submit "any fee authorized by this Subtitle and applicable regulations to the secretary ... in lieu of submission of a permit application." This fee is equivalent to and in place of that which would have been required had a permit been applied for and issued pursuant to LAC 33:III.501, or if another approval mechanism (e.g., a variance) had been employed to authorize air emissions from the activity now to be covered by this regulatory permit.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

Applicants for this regulatory permit will be required to submit a notification form specifically tailored to the activity addressed by the regulatory permit. However, this notification form will be in place of the traditional, more generic permit application and should not require additional time to complete. Use of a notification form specifically tailored to the activity addressed by this regulatory permit provision should also allow for the department's review of such documents to be streamlined. In this way, a final decision on the proposed project should generally be reached more expeditiously, which will not cause any increased costs, and may result in some economic benefits, to applicants.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

There will be no effect on competition or employment in the public or private sector.

Herman Robinson  
Executive Counsel  
1002#058

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Admission Renewal Procedure (LAC 46:I.1301)**

Under the authority of R.S. 37:144 and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners gives notice that rulemaking procedures have been initiated for an amendment to LAC 46:I.1301.E pertaining to the delinquent fee charged to an architect who does not timely renew his or her license. The board proposes to increase the delinquent fee for an architect

domiciled in Louisiana from \$75 to \$105, and the delinquent for an architect domiciled outside Louisiana from \$150 to \$180.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part I. Architects**

**Chapter 13. Administration**

**§1301. Renewal Procedure**

A. – D. ...

E. The failure to renew a license timely shall not deprive the architect of the right to renew thereafter. An individual architect domiciled in Louisiana who transmits his renewal form and fee to the board subsequent to December 31 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$105. An individual architect domiciled outside Louisiana who transmits his renewal form and fee to the board subsequent to December 31 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$180. The delinquent fee shall be in addition to the renewal fee set forth in §1301.C.

F. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:144-145.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 29:563 (April, 2003), amended LR 35:2754 (December 2009), LR 36:

**Family Impact Statement**

The proposed rule amendment of the Louisiana State Board of Architectural Examiners should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

**Public Comments**

Interested persons may submit written comments on this proposed rule to Ms. Mary "Teeny" Simmons, Executive director, Board of Architectural Examiners, 9625 Fenway Avenue, Suite B, Baton Rouge, LA 70809.

Mary "Teeny" Simmons  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Admission Renewal Procedure**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change will have no effect on implementation costs (savings) to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not impact revenue collections in FY 10. The Louisiana State Board of Architectural Examiners estimates that its annual revenues in FY 11 and FY 12 would increase by approximately \$6,630 per annum as a result of the proposed rule change if the same number of architects failed to timely renew their licenses as in FY 09; however, to the extent the increased delinquent fee results in fewer delinquent submittals, this impact would be mitigated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The only persons who will be affected by this proposed rule change are architects who fail to renew their architectural licenses timely. The existing rule provides that in-state architects who fail to renew their licenses timely shall pay a delinquent fee of \$75, and out-of-state architects who fail to renew their licenses timely shall pay a delinquent fee of \$150. The proposed rule will increase the delinquent fee to \$105 for in-state architects and \$180 for out-of-state architects.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

If an architect fails to renew his or her architectural license timely, the proposed rule provides that the delinquent fee currently assessed will increase by \$30. The amount of this increase is such that the proposed rule will have no effect on competition or employment. Further, an architect may avoid the delinquent fee in its entirety by simply renewing his or her license timely.

Mary "Teeny" Simmons  
Executive Director  
1002#060

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**  
**Office of the Governor**  
**Boxing and Wrestling Commission**

Boxing and Wrestling Standards (LAC 46:XI.Chapter 1)

The Louisiana State Boxing and Wrestling Commission does hereby exercise the provisions of the Administrative Procedure Act, R.S. 49:953(b) and 49:967(D) to adopt the following Rule. This proposed Rule is necessary to further promote the safety of contestants, other participants and spectators in that it supplements the existing §108.Medical Requirements to require participants in all sports under the jurisdiction of The Louisiana State Boxing and Wrestling Commission to provide copies of negative HIV, Hepatitis B and C test results directly to the Louisiana State Boxing and Wrestling Commission or an approved representative of the commission at least five days prior to any sanctioned event.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**  
**Part XI. Boxing and Wrestling**  
**Chapter 1. General Rules**  
**§108. Medical Requirements**

A. Each contestant participating in any sport under this commission's jurisdiction must furnish to the commission physician a certified medical certificate evidencing that the contestant has been tested for HIV, Hepatitis B and Hepatitis

C and said test results are negative. Said tests and certificates shall be dated not more than six months prior to the scheduled event and said certificate is to be presented at least five business days prior to any event to the event coordinator or other approved commission official with the only exception to be those allowed specifically by the coordinator on a case by case basis until such time that a national clearinghouse/database has been contracted by this commission for verification of these medical tests.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64, and R.S. 4:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 32:242 (February 2006), amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 34:1601 (August 2008), LR 35:53 (January 2009), LR 36:

**Family Impact Statement**

In accordance with Act #1183 of 1999, the State Boxing and Wrestling Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

**Public Comments**

All interested persons are invited to submit comments, views or positions, on these proposed rules, in writing to Alvin Topham, Chairman, Louisiana State Boxing & Wrestling Commission, 1125 Mobile Street, Lake Charles, LA 70605 or by facsimile (337) 475-4888.

PATRICK C. MCGINITY,  
ATTORNEY FOR THE COMMISSION

**FISCAL AND ECONOMIC IMPACT STATEMENT**  
**FOR ADMINISTRATIVE RULES**  
**RULE TITLE: Medical Requirements**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no impact on expenditures related to state or local governmental units other than the minimal cost to publish in the Louisiana Register.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no impact on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will not result in increased costs to any participants, promoters or spectators but will require medical tests and certificates to be presented at least five business days prior to any event to the event coordinator or other approved commission official. The only exception will be those allowed specifically by the coordinator on a case by case basis.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment as a result of this rule change.

Addie Fields  
Recording Secretary  
1002#054

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Commission on Law Enforcement and  
Administration of Criminal Justice**

Peace Officer Training (LAC 22:III.4703)

In accordance with the provision of R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, and R.S. 40:905 et seq., which is the Administrative Procedure Act, the Peace Officer Standards and Training Council hereby gives notice of its intent to promulgate rules and regulations relative to the training of peace officers.

**Title 22**

**CORRECTIONS, CRIMINAL JUSTICE AND LAW  
ENFORCEMENT**

**Part III. Commission on Law Enforcement and  
Administration of Criminal Justice**

**Subpart 4. Peace Officers**

**Chapter 47. Standards and Training**

**§4703. Basic Certification**

A. ...

1. Level 1 Certification for Basic Law Enforcement Peace Officers

a. The student will complete a basic training course with the minimum number of training hours specified by the council for full certification. Level 1 certification requires that the student meet the POST requirements for firearm certification.

b. - c. ...

2. Level 2 Certification for Basic Correctional Peace Officer

a. The student will complete a training course with the minimum number of training hours specified by the council and is limited to those peace officers whose duties are the care, custody, and control of inmates. The training course consists of corrections core curriculum plus a sufficient number of hours to obtain POST certification. POST Firearm certification for Level 2 students is required (effective March 26, 2001).

A.2.b. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:663 (April 1999), LR 27:49 (January 2001), LR 28:475 (March 2002), LR 31:2008 (August 2005), LR 35:1235 (July 2009), LR 36:

**Family Impact Statement**

An analysis of the proposed rule shows that it will have no impact on the family as described in R.S. 49:972, nor any impact on small business as defined by Act 820 of 2008.

**Public Comments**

Interested persons may submit written comments on this proposed rule no later than March 25, 2010, at 5 p.m. to Bob Wertz, Peace Officer Standards and Training Council, Louisiana Commission on Law Enforcement, 1885 Wooddale Boulevard, Room 1230, Baton Rouge, LA 70806.

Joseph M. Watson  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Peace Office Standards**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of the proposed rule will not have any impact on expenditures for state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not increase revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change removes a specified number of training hours required for basic certification and allows the POST Council to raise or lower the minimum number of hours as needed without promulgating rule changes when necessary.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of this proposed amendment.

Joseph M. Watson  
Executive Director  
1002#102

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Division of Administration  
Patient's Compensation Fund Oversight Board**

Oversight Board Administrative Role Clarifications  
(LAC 37:III.701-713)

The Patient's Compensation Fund Oversight Board, under authority of the Louisiana Medical Malpractice Act, R.S. 40:1299.41 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., advertises its intent to amend LAC 37:III, to clarify the Oversight Board's role in administering the Fund; to clarify the role of the Oversight Board's consulting actuary; to clarify and be consistent with statutory law the circumstances under which a reduction in the aggregate annual surcharges could be accomplished; to require the executive director to give notice of rates or rate changes via the Oversight Board's website; to clarify when interim or emergency applications for surcharge rates may be filed; to clarify and be consistent with statutory law that the late payment penalty will be set annually by the Oversight Board not to exceed twelve percent; to require payment of NSF charges; and to clarify time delays for certain health care providers to pay surcharges to continue PCF qualification.

**Title 37**

**INSURANCE**

**Part III. Patient's Compensation Fund Oversight Board  
Chapter 7. Surcharges**

**§701. PCF Consulting Actuary**

A. In accordance with the provisions of law applicable to contracting for personal, professional, or consulting services, the executive director shall retain a qualified, competent, and

independent consulting actuary to advise and consult the board on all aspects of the board's administration, operation, and defense of the fund which require application of the actuarial science and to perform and submit the annual actuarial study required by the Act and these rules predicate to the board's annual surcharge rate application filings, as specified hereinafter. An individual actuary contracted by the board, or a principal actuary assigned to the engagement and employed by a partnership, firm, or corporation contracted by the board, shall possess formal education and at least a baccalaureate degree in the actuarial sciences, shall be a full member of the Casualty Actuarial Society, and shall have had substantial prior experience in providing services as a consulting actuary to insurance companies underwriting professional health care liability insurance.

B. The board's contract with a consulting actuary shall provide that the consulting actuary shall be responsible for:

1. - 2. ...

3. performing actuarial analysis of claims experience data collected and maintained by the executive director with respect to the fund, commercial professional liability insurers doing business in this state, self-insured health care providers, together, as necessary or appropriate, with regional or national professional health care liability claims experience data, and development, in consideration of the fund's allocated and unallocated expenses, its organization, administration, and legal and regulatory constraints, of a surcharge rate structure, rated and classified according to the several classes or risks against which the board provides compensation, that shall reasonably ensure that the fund is sufficiently funded so as to be and remain financially and actuarially capable of providing the compensation for which it is organized;

4. developing, in conjunction with the executive director, surcharge rate applications and requests for surcharge rate changes in accordance with the consulting actuary's actuarial analyses, for submission to and filing with the Louisiana Department of Insurance (LDOI), as necessary;

5. as requested by the executive director, personal presentation of surcharge rate and rate change applications on behalf of the fund at meetings of the LDOI, with the staff of the LDOI, and with such other interested or affected persons, firm, organizations, and entities; and

6. generally advising and consulting with the executive director on all actuarial questions affecting the board's administration, operation, and defense of the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:174 (February 1992), amended LR 29:346 (March 2003), Office of the Governor, Division of Administration, Patient's Compensation Fund Oversight Board amended LR 36:

### **§703. Annual Actuarial Study**

A. An actuarial study of the fund and the surcharge rate structure necessary and appropriate to ensure that it is and remains financially and actuarially sound shall be performed annually by the board's consulting actuary on the basis of an actuarial analysis of all relevant claims experience data collected and maintained by the board.

B. In the performance of the board's annual actuarial study and the development of a financially sound and

appropriate surcharge rate structure for the fund, the board's consulting actuary and the executive director shall accord the greatest weight to the claims experience of the fund and of commercial professional health care liability insurance underwriters and self-insurance funds with respect to the risk underwritten by such insurers and self-insurance funds in this state and as particularly reflected in such insurers' then most recent premium rate filings with the LDOI or such self-insurance funds' current rate structure and supporting data, provided, however, that such data shall be viewed in light of national claims experience data and provided further that the board's consulting actuary may place reliance on national claims experience data when, in the opinion of such actuary, claims experience within the state of Louisiana as to any class of risks provides an insufficient basis for reliance thereon for purposes of actuarial analysis or in calculating indicated surcharge rates.

C. Without respect to the rate structure indicated by any annual actuarial study of the fund, no rate change application which, if approved and implemented, would or could result in a reduction of the aggregate annual surcharges collected by the fund, shall be filed by the board when the total balance of the fund is, or by effect of such rate change application could become, less than the amount provided for in R.S. 40:1299.44(A)(6)(b).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:175 (February 1992), amended LR 19:204 (February 1993), LR 24:1111 (June 1998), amended Office of the Governor, Division of Administration, Patient's Compensation Fund Oversight Board amended LR 36:

### **§705. Risk Rating**

A. Surcharge rates collected by the board shall be based on and classified according to the classes and categories of health care liability risks underwritten by the fund with respect to each class of health care practitioners and institutions eligible for enrollment with the fund. With regard to hospitals, surcharge rates collected by the board shall be based on the annual average number of occupied beds. Risk classifications and ratings adopted by the board shall be based on actuarial analysis of the claims experience of health care provider groups enrolled with the fund and equivalent data and practices of commercial insurance underwriters and self-insurance funds insuring such groups. Risk rating classifications for health care providers eligible for enrollment with the fund shall be based on Louisiana claims experience data, including the fund's own claims experience, unless the board's actuary affirmatively demonstrates that, as respects any class of provider, reasonably obtainable, competent, and credible Louisiana claims experience data provides an insufficient basis for such classifications under generally accepted insurance actuarial standards, in which case regional or national claims experience data and statistics relative to such classes of health care provider may be utilized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:175 (February 1992), amended LR 29:346 (March 2003), amended Office of the Governor, Division of Administration, Patient's Compensation Fund Oversight Board amended LR 36:

### **§707. Rate Applications, Filings; Notice of Rates**

A. The board's application for new surcharge rates or rate changes, if indicated by the annual actuarial study conducted pursuant to §703 and approved by the board, shall be filed with the LDOI by the executive director on behalf of the board.

B. Within 30 days of the date on which the LDOI approves surcharges rates or rate changes which may be implemented by the board, the executive director shall give notice of such rates or rate changes via the board's website and/or any other means at the discretion of the executive director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:175 (February 1992), amended LR 24:1112 (June 1998), amended Office of the Governor, Division of Administration, Patient's Compensation Fund Oversight Board amended LR 36:

### **§709. Interim, Emergency Rate Filings**

A. Interim or emergency applications for surcharge rates or rate changes, as allowed by law, may be filed by the board with the LDOI at any time when the board, in consultation with the PCF's consulting actuary, determines that a surcharge rate change is necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:176 (February 1992), amended Office of the Governor, Division of Administration, Patient's Compensation Fund Oversight Board amended LR 36:

### **§711. Payment of Surcharges: Insurers and Self-Insurance Trusts**

A. Applicable surcharges for enrollment and qualification with the fund shall be collected on behalf of the board by commercial professional health care liability insurance companies and approved self-insurance trusts from insured health care providers electing to enroll and qualify with the fund. Such surcharges shall be collected by such insurers and trusts at the same time and on the same basis as such insurers' and trust's collection of premiums or contributions from such insureds. Surcharges collected by such insurers and trusts on behalf of the board shall be due and payable and remitted to the board by such insurers and trusts within 45 days from the date on which such surcharges are collected from any insured health care provider.

B. Annual surcharges for initial PCF coverage for insured health care providers whose surcharges are collected by insurers and trusts for enrollment and qualification with the fund shall be due and payable to the collecting insurers and trusts on or before the date of initial PCF coverage. Annual surcharges for renewal coverage due the board by insured health care providers whose surcharges are collected by insurers and trusts for enrollment and qualification with the fund shall be due and payable to the collecting insurers and trusts on or before 30 days following the expiration of the prior enrollment period. Remittance of surcharges to the board by the insurers and trusts shall be made in such form and accompanied by records in such forms or on such forms as may be prescribed by the executive director so as to provide for proper accounting of remitted surcharges and the identity and class of health care providers on whose behalf such surcharges are remitted. Such insurers and funds

remitting surcharges to the board shall certify to the board, at the time of remitting such surcharge to the board, the date that the surcharges were collected by them from the health care providers. The payment of surcharges by an approved self-insurance trust that does not collect premiums or contributions from insureds will be governed by §713 hereof.

C. Failure of the commercial professional health care liability insurers, commercial insurance underwriters, and approved self-insurance trust funds to remit payment within 45 days of collecting such annual surcharge shall subject the commercial professional liability insurers, commercial insurance underwriters, and approved self-insurance trust funds to a penalty, the amount of which will be set by the board on an annual basis, not to exceed 12 percent of the annual surcharge, and all reasonable attorney fees. Upon the failure of the commercial professional health care liability insurers, commercial insurance underwriters and approved self-insurance trust funds to remit as provided in §711, the board may institute legal proceedings to collect the surcharge, together with penalties, legal interest, and all reasonable attorney fees.

D. If the instrument used to pay the surcharge is returned to the board by the payor institution and/or payment hereon is denied for any reason, the health care provider shall be notified thereof by the board. If the surcharge and any insufficient funds (NSF) charge incurred by the board is not paid in full by certified check, cashier's check, money order, or cash equivalent funds received by the board within 10 calendar days of the provider's receipt of said notice, then the provider's coverage with the fund shall be terminated as of the end of the previous enrollment period.

E. It is the purpose of §711 that insurers and approved self-insurance trust funds remit surcharges collected from their insured providers to the board timely. The timeliness of surcharge remittances to the board by insurers and approved self-insurance trust funds shall not affect the effective date of fund coverage. However, the failure of insured health care providers to timely remit applicable surcharges to insurers and approved self-insurance trust funds for renewal may result in lapses of coverage with the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:176 (February 1992), amended LR 20:432 (April 1994), LR 23:69 (January 1997), LR 29:346 (March 2003), amended Office of the Governor, Division of Administration, Patient's Compensation Fund Oversight Board amended LR 36:

### **§713. Payment of Surcharges: Self-Insureds**

A. ...

B. Annual surcharges for initial PCF coverage for self-insured health care providers for enrollment and qualification with the fund shall be due and payable to the board on or before the date of initial PCF coverage. Surcharges due the board by self-insured health care providers for enrollment with the fund for an enrollment year shall be due and payable to the board on or before 30 days following the expiration of the prior enrollment period. Remittance of surcharges to the board shall be made in such form and accompanied by records in such form or on such forms as may be prescribed by the executive director so as to provide for proper accounting of remitted surcharges and the

identity and class of health care provider remitting surcharges.

C. If the instrument used to pay the surcharge is returned to the board by the payor institution and/or payment hereon is denied for any reason, the health care provider shall be notified thereof by the board. If the surcharge and any insufficient funds (NSF) charge incurred by the board is not paid in full by certified check, cashier's check, money order, or cash equivalent funds received by the board within 10 calendar days of the provider's receipt of said notice, then the provider's coverage with the fund shall be terminated as of the end of the previous enrollment period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:176 (February 1992), amended LR 20:432 (April 1994), LR 23:69 (January 1997), amended Office of the Governor, Division of Administration, Patient's Compensation Fund Oversight Board amended LR 36:

### Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of these proposed rule amendments on the family has been considered. These proposed amendments have no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

### Public Comments

All interested persons are invited to submit written comments on the amended Rule. Such comments should be submitted no later than March 20, 2010 at 4:30 p.m. to Lorraine LeBlanc, Executive Director, Patient's Compensation Fund Oversight Board, 8225 Florida Boulevard, 2nd Floor (70806), Post Office Box 3718, Baton Rouge, LA 70821 and/or to David A. Woolridge, Jr., General Counsel, Patient's Compensation Fund Oversight Board, 8440 Jefferson Highway, Suite 301, Baton Rouge, Louisiana 70809.

Lorraine LeBlanc  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Oversight Board Administrative Role Clarifications

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the proposed rule amendments will not result in a savings to state or local governmental units as they only potentially impact the private sector of health care providers who desire to be qualified with the Patient's Compensation Fund (PCF or Fund). The proposed amendments: i) clarify the Oversight Board's role in administering the Fund; (ii) clarify the role of the Oversight Board's consulting actuary; (iii) clarify to be consistent with statutory law the circumstances under which a reduction in the aggregate annual surcharges could be accomplished; (iv) require the executive director to give notice of rates or rate changes via the Oversight Board's website; (v) clarify when interim or emergency applications for surcharge rates may be filed; (vi) clarify to be consistent with statutory law that the late payment penalty will be set annually by the Oversight Board

not to exceed twelve percent; (vii) require payment of NSF charges; and (viii) clarify time delays to pay surcharges to continue PCF qualification. It is estimated that the costs to the PCF to implement the proposed rule amendments, including copy charges, administrative overhead expenses and legal fees, will not exceed \$2,500.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections of state or local governmental units from implementation of the proposed rule amendments as they potentially only impact the private sector of healthcare providers who are currently PCF qualified or who desire to become PCF qualified.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is estimated that the proposed amendment allowing the Oversight Board to set the late payment penalty amount at no more than twelve percent should continue to result in a favorable economic benefit to those insurers and trust funds who make late payments (as the Oversight Board has consistently set the penalty amount to less than twelve percent). The proposed amendment requiring the payment of an insufficient funds (NSF) charge should have no economic impact on health care providers as this amendment simply codifies existing practice of the Oversight Board upon receipt of NSF checks. The proposed amendment to allow a thirty day grace period for self-insured health care providers to pay their renewal surcharge, as compared to no grace period currently, should result in a favorable economic benefit to those self-insured health care providers.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Oversight Board anticipates no effect on either competition or employment in the public sector as a result of adopting the proposed rule amendments.

Lorraine LeBlanc  
Executive Director  
1002#115

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Nursing

Editor's Note: This Notice of Intent, originally published in the January 20, 2010, issue of the *Louisiana Register* is being republished to correct a submission error.

#### Alternative to Disciplinary Proceedings Revisions (LAC 46:XLVII.3419)

The Louisiana State Board of Nursing proposes to amend LAC 46:XLVII.3419, Disciplinary Proceedings: Alternative to Disciplinary Proceedings in accordance with R.S. 37:918, R.S. 37:919 and R.S. 37:920 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The proposed amendment to LAC 46:XLVII.3419 clarifies the criteria for admission to the Recovery Nurse Program (RNP). This revision is being recommended due to the increasing number of applicants applying for admission to (RNP). This change will provide a consistent bar from nursing practice of anyone convicted of or pending any crime of violence or other crimes referenced in LAC 46:XLVII.3331.A, any crime that involves the distribution of

drugs, and/or any crime that demonstrated a lack of fitness to practice nursing.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part XLVII. Nurses: Practical Nurses and Registered Nurses**

**Subpart 2. Registered Nurses**

**Chapter 34. Disciplinary Proceedings; Alternative to Disciplinary Proceedings**

**§3419. Alternative to Disciplinary Proceedings**

A. - D.3.d. ...

e. has no criminal convictions or pending criminal charge pertaining to any crime or violence or other crime referenced in LAC 46:XLVII.3331.A, any crime that involves the distribution of drugs, and/or any crime that demonstrates a lack of fitness to practice nursing.

D.3.f. - F.1.b. ...

c. complete and submit to the board a comprehensive inpatient evaluation and treatment as recommended from a board recognized treatment facility. Admission shall be within 10 days unless approved by RNP or board's professional staff;

1.d. - 2.a. ...

b. complete a relapse evaluation as directed by RNP staff. Must follow all treatment recommendations. Admission shall be within 10 days unless prior approval by RNP;

c. sign RNP agreement for four years:

d. submit to the board a Fitness for Employment Release Form completed by a board approved addictionologist prior to approval by RNP to return to work.

3. - 3.b. ...

i. complete and submit to the board a comprehensive inpatient re-evaluation and treatment as recommended by a board approved addictionologist;

ii. sign and adhere to a disciplinary RNP agreement with documented evidence of continuous sobriety for a minimum of six months;

iii. submit to the board a release form completed by a board approved addictionologist at the time reinstatement is requested;

iv. if relapse/non-compliance is reported while under suspension of license, shall be non-compliantly released by RNP and shall not be eligible to re-enter RNP for a minimum of two years.

v. board hearing or consent order will be required prior to reinstatement;

vi. submit fine/costs as imposed.

F.4. - H.2. ...

3. The board may cause to be made non-confidential the records, files and information related to successful completion of an RNP program in the event that a former participant subsequently violates the NPA or rules of the board

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), amended LR 27:728 (May 2001), LR 31:1586 (July 2005), LR 36:

**Family Impact Statement**

In compliance with R.S. 49:953 and 974, the following Family Impact Statement of the proposed amendments to

rules is provided. There should be no adverse effect on the stability of the family; the authority and rights of parents regarding the education and supervision of their children; or the ability of the family or a local government to perform the function as contained in the proposed Rule amendments.

**Public Comments**

Interested persons may submit written comments on the proposed Rule until 5:00 p.m., March 10, 2010 to Barbara L. Morvant, Executive Director, 17373 Perkins Road, Baton Rouge, LA 70810.

Barbara L. Morvant, MN, RN  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT**  
**FOR ADMINISTRATIVE RULES**

**RULE TITLE: Alternative to Disciplinary Proceedings Revisions**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There is no anticipated increase or decrease in expenditures or savings due to these proposed revisions except for the cost of printing which is estimated at \$300.00 in FY 2009-2010.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no estimated effect on revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule will have no effect on competition and employment. Louisiana State Board of Nursing (board) created the recovering nurse program as an alternative to the disciplinary process. Current rules require that nurses participating in the recovery nurse program have no criminal convictions or pending criminal charges. The proposed rules clarify the criminal convictions or pending criminal charges that would exclude participation by recovering nurses. However, the proposed rules are unlikely to have a material impact on the supply of nurses in Louisiana.

Barbara Morvant  
Executive Director  
1002#089

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals**  
**Board of Nursing**

Editor's Note: This Notice of Intent, originally published in the January 20, 2010, issue of the *Louisiana Register*, is being republished to correct a submission error.

Fees for Fingerprint Imprint (LAC 46:XLVII.3341)

The Louisiana State Board of Nursing proposes to amend LAC 46:XLVII.3341, Fees for Registration and Licensure in accordance with R.S. 37:918, R.S. 37:919 and R.S. 37:920 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The proposed amendment to LAC 46:XLVII.3341 implements a fee to cover the processing fee for fingerprinting imprints that are completed at the Louisiana State Board of Nursing. This service is being provided by the Louisiana State of Nursing as an effort to streamline the volume of applicants needing fingerprinting services.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**Part XLVII. Nurses: Practical Nurses and Registered Nurses**

**Subpart 2. Registered Nurses**

**Chapter 33. General**

**Subchapter C. Registration and Registered Nurse Licensure**

**§3341. Fees for Registration and Licensure**

A. - B.2. ...

C. Fees for Fingerprint Imprint \$10.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918 and R.S. 37:927.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 8:417 (August 1982), amended by the Department of Health and Hospitals, Board of Nursing, LR 14:533 (August 1988), LR 22:981 (October 1996), repromulgated LR 24:1293 (July 1998), amended LR 26:84 (January 2000), LR 30:2829 (December 2004), LR:31:2027 (August 2005), LR 36:

**Family Impact Statement**

In compliance with R.S. 49:953 and 974, the following Family Impact Statement of the proposed amendments to rules is provided. There should be no adverse effect on the stability of the family; the authority and rights of parents regarding the education and supervision of their children; or the ability of the family or a local government to perform the function as contained in the proposed amendments.

**Public Comments**

Interested persons may submit written comments on the proposed Rule until 5:00 p.m., March 10, 2010 to Barbara L. Morvant, Executive Director, 17373 Perkins Road, Baton Rouge, LA 70810.

Barbara L. Morvant, MN, RN  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Fees for Fingerprint Imprint**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Expenditures at the Louisiana State Board of Nursing will increase by approximately \$23,000 in Fiscal Years 2009-10 for the salary of one half full-time-equivalent licensing analyst (\$12,100), operating expenses to process finger prints (\$1,000), equipment maintenance (\$9,600), and \$300 to publish these rules in the Louisiana Register. These costs are ongoing and costs related to the licensing analyst will increase slightly in Fiscal Years 2010-11 and 2011-12.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The estimated effect on revenue collections for the Louisiana State Board of Nursing is approximately \$25,000/annually in Fiscal Years 2009-10 through 2011-12. This revenue impact was based on the following numbers of licenses issued in Fiscal Year 2008-09:

Endorsement	1,118
Examination	2,415
Students Approved for Clinicals	3,681
Total	7,214 x 1/3 = 2,402
Multiplied by the proposed fingerprinting fee \$10.00 X	2,402 (rounded up)
For a total of	\$25,000 /annually (approximately)

The above total is the possible statewide figure; however, the Board only anticipates serving one- third of this population that will actually walk-in the Board of Nursing office in Baton Rouge.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rules require that nurses pay a \$10 fee for fingerprint imprints to the Louisiana State Board of Nursing to obtain or maintain their nursing license.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed \$10 fingerprint fee will not affect the number of applicants for nursing licenses or the supply of nurses in Louisiana.

Barbara Morvant  
Executive Director  
1002#091

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Nursing**

Editor's Note: This Notice of Intent, originally published in the January 20, 2010, issue of the *Louisiana Register*, is being republished to correct a submission error.

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

The Louisiana State Board of Nursing proposes to amend LAC 46:XLVII.3515, Faculty and Faculty Organization in accordance with R.S. 37:918, 37:919 and 37:920 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The proposed amendment to LAC 46:XLVII.3515 clarifies the qualifying criteria for hiring nurse faculty. This revision is being recommended due to the increasing number of academic options that have evolved leading to an advanced degree in nursing. For example, an individual can graduate from an ASN to a Masters Program or BSN to Doctorate. These rule revisions provide for individuals who earn a graduate degree in a non-traditional option to qualify for faculty appointment without having to ask for an exception.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**Part XLVII. Nurses: Practical Nurses and Registered Nurses**

**Subpart 2. Registered Nurses**

**Chapter 35. Nursing Education Programs  
§3515. Faculty and Faculty Organization**

A - B.1. ...

2. The program head of a baccalaureate program shall hold a minimum of a graduate degree in nursing, or its equivalent, and an earned doctorate, and shall have a

minimum of three years experience in the areas of nursing education and three years in clinical practice.

3. The program head of an associate degree or diploma program shall hold a minimum of a graduate degree in nursing and shall have a minimum of three years experience in the areas of nursing education and three years in clinical practice.

4. The nurse faculty shall hold a graduate degree in nursing.

5. - 6. ...

7. 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. baccalaureate in nursing prepared individuals who are not enrolled in a graduate program in nursing are limited to a maximum two calendar years in any consecutive five year period;

b. baccalaureate in nursing prepared individuals who are enrolled in a graduate program in nursing 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 four calendar years.

B.8. - J. ...

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), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1147 (September 1993), repromulgated LR 24:1293 (July 1998), amended LR 26:2789 (December 2000), repromulgated LR 27:851 (June 2001), amended LR 33:1123 (June 2007), LR 36:

#### **Family Impact Statement**

In compliance with R.S. 49:953 and 974, the following Family Impact Statement of the proposed amendments to rules is provided. There should be no adverse effect on the stability of the family; the authority and rights of parents regarding the education and supervision of their children; or the ability of the family or a local government to perform the function as contained in the proposed rule amendments.

#### **Public Comments**

Interested persons may submit written comments on the proposed Rule until 5:00 p.m., March 10, 2010 to Barbara L. Morvant, Executive Director, 17373 Perkins Road, Baton Rouge, LA 70810.

Barbara L. Morvant, MN, RN  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Faculty and Faculty Organization**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There is no anticipated increase or decrease in expenditures or savings due to these proposed revisions except for the cost of printing which is estimated at \$300.00 in FY 2009-2010

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no estimated effect on revenue collections.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed changes are being implemented to enable those individuals without a Master's Degree in Nursing but possessing a Master's Degree in other areas and a Doctorate in Nursing to qualify for faculty positions. Currently, such individuals have to request special permission of the Board of Nursing to be an exception to the rule. By implementing these changes, the rule increases the number of individuals qualified to serve as a nurse faculty.

Barbra Morvant  
Executive Director  
1002#090

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Health and Hospitals Board of Wholesale Drug Distributors**

#### **Required Information (LAC 46:XCI.303)**

The Louisiana Board of Wholesale Drug Distributors proposes to amend LAC 46:XCI.303 in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and R.S. 37:3467 et seq. of the Louisiana Board of Wholesale Drug Distributors Practice Act. These proposed Rule amendments will support the Board's ability to license entities and regulate the wholesale distribution of legend drugs and devices into and within the state of Louisiana in its effort to safeguard the life and health of its citizens and promote the public welfare. The proposed amendments to the Rule are set forth below.

#### **Title 46**

#### **PROFESSIONAL AND OCCUPATION STANDARDS**

#### **Part XCI. Wholesale Drug Distributors**

#### **Chapter 3. Wholesale Drug or Device Distributors**

#### **§303. Required Information**

A. - A.9. ...

B. Changes in any information with regard to, but not limited to, contact persons for the facility or physical location, the owners of the licensee including the percentage of interest owned, the person designated as the responsible party, the directors and officers of the licensee, or the regulatory contact person shall be submitted in writing to the board within 60 days after such changes become effective. Failure to do so may result in disciplinary action being taken against the licensee.

1. Any licensee changing their physical location is required to submit an application for location change at least 30 days prior to such change of location. Failure to do so may result in disciplinary action being taken against the licensee.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:382 (April 1992), amended LR 29:1480 (August 2003), LR 30:1481 (July 2004), LR 32:397 (March 2006), LR 35:1539 (August 2009), LR 36:

**Family Impact Statement**

The proposed Rule amendments have no known impact on family formation, stability, and autonomy as described in R.S. 49:972. The proposed amendments to the rule are set forth below.

**Public Comments**

Interested parties may submit written comments to John Liggio, Executive Director, Louisiana Board of Wholesale Drug Distributors, 12046 Justice Avenue, Suite C, Baton Rouge, LA 70816. Comments will be accepted through the close of business on March 23, 2010. If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedures Act, the hearing will be held on March 30, 2010, at 11:00 am at the office of the Louisiana Board of Wholesale Drug Distributors, 12046 Justice Avenue, Suite C, Baton Rouge, LA.

John Liggio  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Required Information**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
Estimated implementation costs to the state include those associated with publishing the rule amendment estimated at \$250 in FY 2010. Licensees will be informed of this rule change via the Board's regular newsletter or other direct mailings, which result in minimal costs to the Board. Local governmental units will not incur any costs as a result to this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no effect on revenue collections of state or local governmental units as there will not be any increase in fees resulting from the rule changes.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There are no costs and/or economic benefits to directly affected persons or non-governmental groups. The rule change codifies existing practices relative to information required by the Board.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No impact on competition and employment is anticipated as a result of the proposed rule change.

John Liggio  
Executive Director  
1002#116

Robet E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

Adult Residential Care Providers  
Minimum Licensing Standards  
Dementia Training Requirements (LAC 48:I.6867)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.6867 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2200.1-2200.5. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

In compliance with Act 571 of the 2008 Regular Session of the Louisiana Legislature, the department amended the provisions governing the minimum licensing standards for adult residential care providers (ARCP) to incorporate dementia training requirements (*Louisiana Register*, Volume 35, Number 8). The department now proposes to amend the August 20, 2009 Rule in order to clarify the provisions governing dementia training.

**Title 48**

**PUBLIC HEALTH-GENERAL**

**Part 1. General Administration**

**Subpart 3. Licensing and Certification**

**Chapter 68. Adult Residential Care Providers  
Licensing Standards**

**Subchapter F. Provider Responsibilities  
§6867. Staff Training**

A. - I.2.a.v. ...

NOTE: For the purposes of this Section, "regular basis" shall mean more than 10 full shifts in any one calendar year.

I.2.b. - I.3.b. ...

4. Staff delivering approved training will be considered as having received that portion of the training that they have delivered.

5. Any dementia-specific training received in a nursing or nursing assistant program approved by the Department of Health and Hospitals or the Department of Social Services may be used to fulfill the training hours required pursuant to this Section.

6. Adult residential care providers may offer a complete training curriculum themselves or they may contract with another organization, entity, or individual to provide the training.

7. The dementia-specific training curriculum must be approved by the department or its designee. To obtain training curriculum approval, the organization, entity, or individual must submit the following information to the department or its designee:

- a. a copy of the curriculum;
- b. the qualifications of the person(s) or entity that developed the training; and
- c. information on how the training will be delivered (i.e., web-based, classroom, etc.).
- d. - e. Repealed.

8. A provider, organization, entity, or individual must submit any significant content changes to an approved training curriculum to the department, or its designee, for review and approval.

a. A significant change occurs when there is:

i. any change of 50 percent or more to the training content;

ii. a change to the content regarding three or more required topic areas; or

iii. a change in the delivery method of the training (e.g., from classroom-based to web-based).

b. Continuing education undertaken by the provider does not require the department's approval.

9. If a provider, organization, entity, or individual, with an approved curriculum, ceases to provide training, the department must be notified in writing within 30 days of cessation of training. Prior to resuming the training program, the provider, organization, entity, or individual must reapply to the department for approval to resume the program.

10. An approved training curriculum remains effective for seven years from the date the approval is obtained from the department or its designee.

11. Disqualification of Training Programs and Sanctions

a. The department may disqualify a training curriculum offered by a provider, organization, entity, or individual that has demonstrated substantial noncompliance with training requirements including, but not limited to the:

i. qualifications of the person(s) or entity that developed the training;

ii. minimum qualifications of the person(s) or entity delivering the training; or

iii. training curriculum requirements.

12. Compliance with Training Requirements

a. The review of compliance with training requirements will include, at a minimum, a review of:

i. the documented use of an approved training curriculum; and

ii. the provider's adherence to established training requirements.

b. The department may impose applicable sanctions for failure to adhere to the training requirements outlined in this Section.

13. Training Exclusions and Timelines

a. Persons who are employed on a contractual basis are excluded from the dementia training requirements.

b. ARC providers must comply with these dementia training requirements by January 1, 2011.

i. Existing staff must be trained in accordance with these provisions by January 1, 2011.

ii. New staff must be trained in accordance with these provisions within 90 days from the date of hire.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:2166.1-2166.8 and R.S. 40:2200.1-2200.5.

HISTORY NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2599 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35: 1541 (August 2009), amended LR 36:

### Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 by assuring that ARCP staff have the training necessary to provide adequate care to residents diagnosed with dementia and related illnesses.

### Public Comments

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

### Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, March 31, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Adult Residential Care Providers Minimum Licensing Standards Dementia Training Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will not have a programmatic fiscal impact to the state other than the cost of promulgation for FY 09-10. It is anticipated that \$492 (SGF) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to amend the provisions governing the minimum licensing standards for adult residential care providers in order to clarify the dementia training requirements. It is anticipated that implementation of this proposed rule will not have economic cost or benefits for FY 09-10, FY 10-11 and FY 11-12.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jerry Phillips  
Medicaid Director  
1002#074

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

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

Facility Need Review  
Relocation of Nursing Facility Beds  
(LAC 48:I.12529)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.12529 in the Medical Assistance Program as authorized by R.S. 40:2116 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

In order to facilitate the adoption of new provisions governing adult residential care providers, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reorganized the provisions governing the facility need review process (*Louisiana Register*, Volume 34, Number 12). The department now proposes to amend the provisions governing the facility need review process in order to allow the department to approve a one-time partial relocation/transfer of a nursing facility's approved beds under certain circumstances.

### Title 48

### PUBLIC HEALTH—GENERAL

#### Part I. General Administration

#### Subpart 5. Health Planning

#### Chapter 125. Facility Need Review

#### Subchapter D. Relocation of Nursing Facility Beds

#### §12529. General Provisions

A. ...

B. Approved beds may be relocated in the same service area only under the following conditions.

1. Subject to the exceptions provided in Subparagraphs 2 and 6, all of a nursing facility's approved beds must be relocated to a single new location.

1.a. - 5. ...

6. The department may approve a one-time partial relocation/transfer of a nursing facility's approved beds (Medicaid bed approvals) to another operational nursing facility, provided that the following provisions are met.

a. The transferring nursing facility may relocate/transfer approved beds to another nursing facility pursuant to this subparagraph only once.

b. The transferring nursing facility may not relocate/transfer less than 10 approved beds to another nursing facility.

c. A transferring nursing facility may not relocate/transfer more than 25 percent of its approved beds to another nursing facility.

i. If the transferring nursing facility relocates/transfers more than 25 percent of its approved beds to another nursing facility, the approval of any beds not relocated to the receiving nursing facility shall be immediately revoked.

d. The approved beds relocated/transferred become approved beds of the receiving nursing facility, and the

transferring nursing facility relinquishes all rights in those approved beds, but may retain licensure.

e. The relocation of approved beds is subject to the receiving facility having licensed-only capacity in order to accommodate the relocation/transfer. Under no circumstances shall a receiving nursing facility license additional beds in order to accommodate the relocated, approved beds.

f. All relocated, approved beds are subject to state and federal bed change guidelines and procedures.

g. The provisions of this rule pertaining to the splitting of facility need review approvals shall sunset in 24 months from the date of the promulgation of the final Rule and shall have no effect henceforth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:1023 (May 2004), LR 32:845 (May 2006), LR 34:2619 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have positive impact on family functioning, stability or autonomy as described in R.S. 49:972 as it may allow more choices in nursing facility placement and allow recipients to be placed closer to their families' homes.

### Public Comments

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

### Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, March 31, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Facility Need Review Relocation of Nursing Facility Beds

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule may result in a negligible cost increase to the state in the form of nursing facility payments for FY 09-10 to the extent that the transfer may result in a payment increase. It is anticipated that \$328 (SGF) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to amend the provisions governing the facility need review process in order to allow the department to approve a one-time partial relocation/transfer of a nursing facility's approved beds under certain circumstances. It is anticipated that implementation of this proposed rule may increase expenditures in the Medicaid Program by a negligible amount for FY 09-10, FY 10-11 and FY 11-12 to the extent that the transfer may result in a payment increase.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule may impact competition as nursing facilities may be transferring some of their approved nursing facility beds to a competing facility.

Jerry Phillips  
Medicaid Director  
1002#075

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Nursing Facilities Admissions  
(LAC 50:II.501-511, 10146 and 10157)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services proposes to adopt LAC 50:II.501-511 and to repeal LAC 50:II.10146 and 10157 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R. S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule which repealed the Standards for Payment for Intermediate Care Facility I and II Services and Skilled Nursing Services (*Louisiana Register*, Volume 11, Number 9) in its entirety and adopted revised Standards for Payment for Nursing Facility Services (*Louisiana Register*, Volume 22, Number 1). The January 20, 1996 Rule was subsequently amended to adopt provisions governing medical eligibility determination requirements (*Louisiana Register*, Volume 23, Number 10). The Bureau of Health Services Financing and the Office of Aging and Adult Services promulgated an Emergency Rule to repeal the provisions contained in the January 20, 1996 and the October 20, 1997 Rules governing admission reviews, preadmission screening and medical eligibility determination requirements and to adopt revised provisions governing nursing facility admissions (*Louisiana Register*, Volume 35, Number 12). This proposed Rule is being promulgated to continue the provisions of the January 1, 2010 Emergency Rule.

**Title 50  
PUBLIC HEALTH—MEDICAL ASSISTANCE  
Part II. Nursing Facilities  
Subpart 1. General Provisions**

**Chapter 5. Admissions**

**§501. Preadmission Screening**

A. Preadmission screening shall be performed for all individuals seeking admission to a Medicaid-certified nursing facility, regardless of the source of payment for the nursing facility services or the individual's known diagnoses. The purpose of the preadmission screening and resident review (PASRR) process is to identify applicants or residents who have a diagnosis of serious mental illness or mental retardation and to determine whether these individuals require nursing facility services and/or specialized services for their mental condition.

1. An individual is considered to have a serious mental illness (MI) if the individual meets the requirements on diagnosis, level of impairment and duration of illness as described in federal regulations.

a. Diagnosis. The individual has a diagnosis of major mental disorder as categorized by the Diagnostic and Statistical Manual of Mental Disorders, 4th Edition (DSM IV) or its successor.

i. A mental disorder may include schizophrenia, mood, paranoid, panic, or other severe anxiety disorder, somatoform disorder, personality disorder, other psychotic disorder, or another mental disorder that may lead to a chronic disability.

ii. A primary diagnosis of dementia, including Alzheimer's disease or a related disorder, or a non-primary diagnosis of dementia would not be included as a mental disorder unless the primary diagnosis is a major mental disorder as previously defined.

b. Level of Impairment. Within the past three to six months, the mental disorder has resulted in functional limitations in major life activities that would be appropriate for the individual's developmental stage.

c. Duration of Illness. The individual's treatment history indicates that he/she:

i. received psychiatric services more intensive than outpatient treatment more than once in the past two years; or

ii. as a result of the disorder, experienced an episode of significant disruption to the normal living situation within the last two years that either required supportive services to maintain functioning at home (or in a residential treatment environment) or resulted in intervention by housing or law enforcement officials.

2. An individual is considered to have mental retardation (hereafter referred to as intellectual disability) if the individual meets the criteria as described in the *American Association on Intellectual and Developmental Disabilities' Manual on Intellectual Disability: Definition, Classification, and Systems of Supports*, 11th edition, or its successor.

a. Intellectual disability (ID) is a disability that originates before the age of 18 and is characterized by significant limitations in both intellectual functioning (reasoning, learning, problem solving) and adaptive behavior, which covers a range of everyday social and practical skills.

b. These provisions also apply to persons with related conditions as described in federal regulations.

B. A Medicaid-certified nursing facility shall not admit a person with a diagnosis of a serious mental illness or intellectual disability without a preadmission screening.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 36:

### §503. Medical Certification

A. Evaluative data for medical certification (level of care determination) must be submitted to the Office of Aging and Adult Services (OAAS) or its designee for all admissions to Medicaid-certified nursing facilities, regardless of payer source.

1. The following documents are required for all nursing facility admissions:

a. a Preadmission Screening and Resident Review (Level I PASRR) form completed by a physician licensed in Louisiana. The Level I PASRR form addresses the specific identifiers of MI or ID that indicate that a more in-depth evaluation is needed to determine the need for specialized services. The need for this in-depth assessment does not necessarily mean that the individual cannot be admitted to a nursing facility, only that the need for other services must be determined prior to admission; and

b. a Level of Care Eligibility Tool (LOCET) assessment performed by an appropriate professional.

NOTE: These documents must not be dated more than 30 days prior to the date of admission. The Level I PASRR form must be signed and dated on the date that it is completed by the physician.

2. If the individual is seeking nursing facility admission under a specialized level of care, a Notification of Admission, Status Change, or Discharge for Facility Care form (BHSF Form 148) indicating which specialized level of care is being sought must also be submitted to OAAS.

3. OAAS or its designee may require the submittal of additional documentation for an admission.

B. If the information on the Level I PASRR does not indicate that the individual may have a diagnosis of MI and/or ID and he/she meets nursing facility level of care, the OAAS may approve the individual for admission to the nursing facility.

1. Once approval has been obtained, the individual must be admitted to the facility within 30 days of the date of the approval notice. The nursing facility shall submit a completed BHSF Form 148 to the parish Medicaid Office and OAAS indicating the anticipated payment source for the nursing facility services.

C. If the information on the Level I PASRR indicates that the individual may have a diagnosis of MI and/or ID, the individual shall be referred to the Office of Mental Health or the Office for Citizens with Developmental Disabilities (the state's mental health and intellectual disability Level II authorities) for a Level II screening to determine level of care and the need for specialized services.

1. Medical certification is not guaranteed for an individual who has been referred for a Level II screening.

2. A Medicaid-certified nursing facility shall not admit an individual identified for a Level II screening until

the screening has been completed and a decision is made by the Level II authority.

D. Vendor Payment. Medicaid vendor payment shall not begin prior to the date that medical and financial eligibility is established, and shall only start once the individual is actually admitted to the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 36:

### §505. Categorical Advance Group Determinations

A. In order to assure timely and appropriate care for applicants, the Level II authority may make an advance group determination by category that takes into account that certain diagnoses, levels of severity of illness or need for a particular service clearly indicates the need for nursing facility admission or that the provision of specialized services is not normally needed. The applicable Level II authority may make an advance group determination that nursing facility care is needed for persons in the following categories.

1. Convalescent Care. If an applicant appears to be in need of Level II assessment but is hospitalized for a serious illness and needs time to convalesce before a valid Level II assessment can be performed, provisions may be made for temporary medical certification for nursing facility care. The maximum period of time that a Level II assessment may be delayed is 90 days. The period of convalescence allowed will be consistent with the diagnosis and medical condition of the individual.

2. Terminal Illness. Terminally ill applicants, who are not a danger to themselves or others, may be categorically approved for nursing facility admission. This categorical eligibility determination is valid for six months at a time, in accordance with the definition of terminal illness used for hospice purposes, and remains valid as long as the applicant's mental condition does not create a barrier to receiving the necessary nursing facility services.

3. Severe Physical Illness. Severely ill applicants, who are not a danger to themselves or others and whose medical condition prevents them from engaging in specialized services, may be categorically approved for nursing facility admission. The attending physician shall determine that the applicant is unable to benefit from specialized services due to the severe level of physical impairment. This categorical determination also remains valid for six months to allow for an individualized assessment of the resident's needs. Severe physical conditions considered in this category include, but are not limited to:

- a. coma;
- b. ventilator dependence;
- c. functioning at a brain stem level;
- d. chronic obstructive pulmonary disease;
- e. Parkinson's disease;
- f. Huntington's disease;
- g. amyotrophic lateral sclerosis; and
- h. congestive heart failure.

4. Provisional Admissions

a. An applicant who is not a danger to himself or others, but who exhibits symptoms of delirium, may be categorically approved for nursing facility admission pending further assessment when the delirium clears and an

accurate diagnosis can be made. This categorical determination may be valid for a period not to exceed 30 days.

b. An applicant who is in an emergency situation and requires protective services may be categorically approved for nursing facility admission pending further assessment. This categorical determination may be valid for a period not to exceed seven days.

5. Respite Care. An applicant who qualifies for nursing facility care and is not a danger to self or others, but resides at home with care from a family member or other caregiver, may be categorically approved for admission in order to provide respite to the in-home caregiver. Respite provides relief to the caregiver when that individual is unable to provide care for a short period of time.

6. Dementia/ID. This category applies to applicants who are intellectually disabled or have indications of intellectual disability, but also exhibit symptoms associated with dementia. These individuals require supervision in a structured environment and a planned program of activities. This categorical determination may remain valid for a period not to exceed one year or until such time that the Level II authority makes a determination that an alternative placement is more appropriate.

B. Although an advanced group determination may be made at admission, the applicable Level II authority must still make a determination regarding the need for specialized services (based on an individual evaluation) for continuation of stay.

C. In each case that specialized services are determined not to be necessary, it remains the responsibility of the nursing facility to notify the appropriate agency if the resident's mental condition changes and becomes a barrier to utilizing nursing facility services, or the resident becomes a danger to himself or others.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 36:

#### **§507. Exempted Hospital Discharges**

A. An individual who is being discharged from a hospital and is seeking nursing facility admission may be exempt from preadmission screening if all of the following criteria are met:

1. the individual is being admitted to a nursing facility (NF) directly from a hospital after receiving acute inpatient care;
2. the individual requires NF services for the condition for which he or she received care in the hospital; and
3. his/her attending physician has certified before the admission to the facility that he or she is likely to require less than 30 days of nursing facility services.

B. If after admission it becomes apparent that a longer stay is required, the nursing facility must refer the individual to the appropriate Level II authority for assessment within 30 days of the admission date.

1. Approval for the admission will continue to the fortieth calendar day from the date of admission pending the Level II determination.

C. Exempted hospital discharges are only applicable for persons with MI and/or ID. This exempted discharge does not apply to any other program or for transfers between nursing facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 36:

#### **§509. Changes in Level of Care and Status**

A. The nursing facility shall notify the parish Medicaid office via the BHSF Form 148 of the following changes in a resident's circumstances:

1. changes in the level of care;
2. transfers to another nursing facility;
3. changes in payer source;
4. hospital/home leave and returns; or
5. discharges home, death or any other breaks in facility care.

B. The nursing facility must inform the appropriate Level II authority if an individual with a diagnosis of MI and/or ID is subject to readmission or interfacility transfer and there has been a substantial change in the individual's condition. Readmissions and interfacility transfers are subject to annual resident reviews rather than preadmission screening.

1. An individual is considered to be a readmission if he/she was readmitted to a facility from a hospital to which he/she was transferred for the purpose of receiving care.

2. Interfacility transfer occurs when an individual is transferred from one NF to another NF, with or without an intervening hospital stay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and Office of Aging and Adult Services, LR 36:

#### **§511. Denials and Appeals Process**

A. If an individual is determined not to need nursing facility services and is denied admission, the individual has a right to appeal the decision through the department's established appeal procedures.

1. A denial notice will be sent to the individual and he/she may use that letter to request a fair hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and Office of Aging and Adult Services, LR 36:

### **Subpart 3. Standards for Payment**

#### **Chapter 101. Nursing Facilities**

#### **Subchapter F. Vendor Payments**

#### **§10146. Medical Eligibility Determination Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR.23:1317 (October 1997), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 36:

**Subchapter H. Admission Review and Pre-admission Screening**

**§10157. General Provisions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 36:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

**Public Comments**

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

**Public Hearing**

A public hearing on this proposed Rule is scheduled for Wednesday, March 31, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

Alan Levine  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Nursing Facilities Admissions**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will not have a programmatic fiscal impact to the state other than the cost of promulgation for FY 09-10. It is anticipated that \$1,230 (\$615 SGF and \$615 FED) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will have no effect on federal revenue collections other than the federal share for promulgation. It is anticipated that \$615 will be collected in FY 09-10 for the federal share of the expense for promulgation of this proposed rule and the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This rule, which continues the provisions of the January 1, 2010 emergency rule, proposes to repeal the provisions contained in the January 20, 1996 and the October 20, 1997 rules governing admission reviews, preadmission screening and medical eligibility determination requirements, and to adopt revised provisions governing nursing facility admissions in order to comply with federal regulations which require pre-admission screening before admission rather than after admission to the nursing facility. It is anticipated that implementation of this proposed rule will not have economic cost or benefits for FY 09-10, FY 10-11 and FY 11-12.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule has no known effect on competition and employment.

Jerry Phillips  
Medicaid Director  
1002#076

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

**Nursing Facility—Minimum Licensing Standards  
Dementia Training Requirements  
(LAC 48:I.9727)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.9727 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2200.1-2200.5. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

In compliance with Act 571 of the 2008 Regular Session of the Louisiana Legislature, the department amended the provisions governing the minimum licensing standards for nursing facilities to incorporate dementia training requirements (*Louisiana Register*, Volume 35, Number 8). The department now proposes to amend the provisions of the August 20, 2009 Rule in order to clarify the provisions governing dementia training.

**Title 48**

**PUBLIC HEALTH—GENERAL**

**Part I. General Administration**

**Subpart 3. Licensing**

**Chapter 97. Nursing Facility**

**Subchapter A. General Provisions**

**§9727. Staff Orientation, Training and Education**

A. - G.2.a.v. ...

Note: For purposes of this section, "regular basis" shall mean more than 10 full shifts in any one calendar year.

G.2.b. - 3.c. ...

4. Staff delivering approved training will be considered as having received that portion of the training that they have delivered.

5. Nothing herein shall be construed to increase the number of training hours already required by regulations promulgated by the department.

6. Any dementia-specific training received in a nursing assistant program approved by the Department of Health and Hospitals or the Department of Social Services may be used to fulfill the training hours required pursuant to this Section.

7. Nursing facility providers may offer an approved complete training curriculum themselves or may contract with another organization, entity, or individual to provide the training.

a. - e. Repealed.

8. The dementia-specific training curriculum must be approved by the department or its designee. To obtain training curriculum approval, the organization, entity, or individual must submit the following information to the department or its designee:

- a. a copy of the curriculum;
- b. qualifications of the person(s) or entity that developed the training; and
- c. information on how the training will be delivered (i.e., web-based, classroom, etc.)

9. A provider, organization, entity, or individual must submit any significant content changes to an approved training curriculum to the department, or its designee, for review and approval.

- a. A significant change occurs when there is:
  - i. any change of 50 percent or more to the training content;
  - ii. a change to the content regarding three or more required topic areas; or
  - iii. a change in the delivery method of the training (e.g., from classroom-based to web-based).

b. Continuing education undertaken by the provider does not require the department's approval.

10. If a provider, organization, entity or individual with an approved curriculum ceases to provide training, the department must be notified in writing within 30 days of cessation of training. Prior to resuming the training program, the provider, organization, entity or individual must reapply to the department for approval to resume the program.

a. - a.ii. Repealed.

11. An approved training curriculum remains effective for seven years from the date the approval is obtained from the department or its designee.

a. - b. Repealed.

12. Disqualification of Training Programs and Sanctions.

a. The department may disqualify a training curriculum offered by a provider, organization, entity or individual that has demonstrated substantial noncompliance with training requirements, including, but not limited to the:

- i. qualifications of the person(s) or entity that developed the training;
- ii. the minimum qualifications of the person(s) or entity delivering the training; or
- iii. training curriculum requirements.

13. Compliance with Training Requirements.

a. The review of compliance with training requirements will include, at a minimum, a review of:

- i. the documented use of an approved training curriculum; and
- ii. the provider's adherence to established training requirements.

b. The department may impose applicable sanctions for failure to adhere to the training requirements outlined in this Section.

14. Training Exclusions and Timelines

a. Persons who are employed on a contractual basis are excluded from the dementia training requirements.

b. Nursing facilities must comply with these dementia training requirements by January 1, 2011.

i. Existing staff must be trained in accordance with these provisions by January 1, 2011.

ii. New staff must be trained in accordance with these provisions within 90 days from the date of hire.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4 and R.S. 40:2200.1-2200.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 24:48 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1542 (August 2009), amended LR 36:

#### Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 by assuring that nursing facility staff have the training necessary to provide adequate care to residents diagnosed with dementia and related illnesses.

#### Public Comments

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, March 31, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Nursing Facility—Minimum Licensing Standards—Dementia Training Requirements

##### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 09-10. It is anticipated that \$656 (SGF) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule.

##### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to amend the provisions governing the minimum licensing standards for nursing facilities to clarify the dementia training requirements. It is anticipated that implementation of this proposed rule will not have economic cost or benefits for FY 09-10, FY 10-11 and FY 11-12.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jerry Phillips  
Medicaid Director  
1002#077

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of Public Health**

Disease Reporting Instructions;  
Perinatal HIV Exposure Reporting  
(LAC 51:II.Chapter 1)

Pursuant to the authority granted under R.S. 40:5, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health hereby gives notice of its intent to amend Part II, Chapter 1 of the Public Health Sanitary Code (LAC 51:II.Chapter 1), providing for the control of diseases and disease reporting requirements.

The proposed rule change serves to update the disease reporting instructions in line with current practice; to add two conditions to the list of reportable diseases/conditions (HIV infection in pregnancy and perinatal exposure to HIV) in order to support efforts to monitor and prevent mother-to-child transmission of HIV; to clarify the responsibility for disease reporting by facilities in the absence of a health care professional as listed in the current rule; and to further specify the purposes for which the state health officer may need to obtain laboratory specimens when investigating cases of communicable disease.

**Title 51**

**PUBLIC HEALTH—SANITARY CODE**

**Part II. The Control of Diseases**

**Chapter 1. Disease Reporting Requirements**

**§101. Definitions**

**[formally paragraph 2:001]**

A. ...

\*\*\*

*Case of Perinatal Exposure to Human Immunodeficiency Virus (HIV)*—any instance of a live birth to a woman in whom HIV infection was present prior to the birth (indicated by maternal or neonatal HIV testing). Laboratory test results for perinatal exposure to HIV include results of HIV-related tests for any child 0 to 6 years of age, regardless of test result.

\*\*\*

**AUTHORITY NOTE:** The first source of authority for promulgation of the sanitary code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance

with the specific provisions of R.S. 40:4(A)(2) and R.S. 40:5(1)(2) and (10).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1212 (June 2002), amended LR 32:1050 (June 2006), LR 34:2173 (October 2008), LR 36:

**§105. Reportable Diseases and Conditions  
[formerly paragraph 2:003]**

A. - A.1. ...

**2. Class B Diseases or Conditions which Shall Require Reporting within One Business Day**

a. This class includes diseases of public health concern needing timely response because of potential for epidemic spread. The following Class B diseases shall be reported to the Office of Public Health by the end of the next business day after the existence of a case, a suspected case, or a positive laboratory result is known:

- i. Arthropod-Borne Neuroinvasive Disease and other infections (including West Nile, St. Louis, California, Eastern Equine, Western Equine and others);
- ii. Aseptic meningitis;
- iii. Chancroid<sup>1</sup>;
- iv. Escherichia coli, Shiga-toxin producing (STEC), including E. coli O157:H7;
- v. Hantavirus Pulmonary Syndrome;
- vi. Hemolytic-Uremic Syndrome;
- vii. Hepatitis A (acute illness);
- viii. Hepatitis B (acute illness and carriage in pregnancy);
- ix. Hepatitis B (perinatal infection);
- x. Hepatitis E;
- xi. Herpes (neonatal);
- xii. Human Immunodeficiency Virus [(HIV), infection in pregnancy]<sup>2</sup>;
- xiii. Human Immunodeficiency Virus [(HIV), perinatal exposure]<sup>2</sup>;
- xiv. Legionellosis;
- xv. Malaria;
- xvi. Mumps;
- xvii. Pertussis;
- xviii. Salmonellosis;
- xix. Shigellosis;
- xx. Syphilis<sup>1</sup>;
- xxi. Tetanus;
- xxii. Tuberculosis<sup>3</sup>;
- xxiii. Typhoid Fever.

**3. Class C Diseases or Conditions which Shall Require Reporting within Five Business Days**

a. This class shall include the diseases of significant public health concern. The following diseases shall be reported to the Office of Public Health by the end of the workweek after the existence of a case, suspected case, or a positive laboratory result is known:

- i. Acquired Immune Deficiency Syndrome (AIDS)<sup>2</sup>
- ii. Blastomycosis;
- iii. Campylobacteriosis;
- iv. Chlamydial infection<sup>1</sup>;
- v. Coccidioidomycosis;
- vi. Cryptococcosis;
- vii. Cryptosporidiosis;
- viii. Cyclosporiasis;
- ix. Dengue;

- x. Ehrlichiosis;
  - xi. Enterococcus, Vancomycin Resistant [(VRE), invasive disease];
  - xii. Giardia;
  - xiii. Gonorrhea<sup>1</sup>;
  - xiv. Hansen Disease (leprosy);
  - xv. Hepatitis B (carriage, other than in pregnancy);
  - xvi. Hepatitis C (acute illness);
  - xvii. Hepatitis C (past or present infection);
  - xviii. Human Immunodeficiency Virus [(HIV) infection, other than as in Class B]<sup>2</sup>;
  - xix. Listeria;
  - xx. Lyme Disease;
  - xxi. Lymphogranuloma venereum<sup>1</sup>;
  - xxii. Psittacosis;
  - xxiii. Rocky Mountain Spotted Fever (RMSF);
  - xxiv. Staphylococcal Toxic Shock Syndrome;
  - xxv. Staphylococcus aureus, Methicillin/Oxacillin Resistant [(MRSA), invasive infection];
  - xxvi. Streptococcal disease, Group A (invasive disease);
  - xxvii. Streptococcal disease, Group B (invasive disease);
  - xxviii. Streptococcal Toxic Shock Syndrome;
  - xxix. Streptococcus pneumoniae, Penicillin Resistant [(DRSP), invasive infection];
  - xxx. Streptococcus pneumoniae (invasive infection in children <5 years of age);
  - xxxi. Transmissible Spongiform Encephalopathies;
  - xxxii. Trichinosis;
  - xxxiii. Varicella (chickenpox);
  - xxxiv. Vibrio infections (other than cholera).
4. Class D Special Reportable Diseases or Conditions Shall Require Reporting within Five Business Days
- a. This class shall include the diseases of significant public health concern. The following diseases/conditions shall be reported to the Office of Public Health by the end of the workweek after the existence of a case, suspected case, or a positive laboratory result is known:
- i. Cancer;
  - ii. Monoxide exposure and / or poisoning;
  - iii. Complications of abortion;
  - iv. Congenital hypothyroidism<sup>4</sup>;
  - v. Galactosemia<sup>4</sup>;
  - vi. Heavy metal (arsenic, cadmium, mercury) exposure and/or poisoning (All Ages)<sup>5</sup>;
  - vii. Hemophilia<sup>4</sup>;
  - viii. Lead exposure and/or poisoning (children)<sup>4</sup>; (adults)<sup>5</sup>;
  - viii. Pesticide-related illness or injury (all ages)<sup>5</sup>;
  - ix. Phenylketonuria<sup>4</sup>;
  - x. Reye's Syndrome;
  - xi. Severe traumatic head injury;
  - xii. Severe under nutrition (severe anemia, failure to thrive);
  - xiii. Sickle cell disease (newborns)<sup>4</sup>;
  - xiv. Spinal cord injury;
  - xv. Sudden infant death syndrome (SIDS).

B. Case reports not requiring special reporting instructions (see below) can be reported by mail or facsimile on Confidential Disease Report forms, or by phone. (ssCall 800-256-2748 for forms and instructions.)

1. <sup>1</sup>Report on STD-43 form. Report cases of syphilis with active lesions by telephone, within one business day, to 504-219-4429.

2. <sup>2</sup>Report to the Louisiana HIV/AIDS Program: Visit [www.hiv.dhh.louisiana.gov](http://www.hiv.dhh.louisiana.gov) or call 504-568-7474 for regional contact information.

3. <sup>3</sup>Report on CDC72.5 (f.5.2431) card.

4. <sup>4</sup>Report to the Louisiana Genetic Diseases Program and Louisiana Childhood Lead Poisoning Prevention Programs: [www.genetics.dhh.louisiana.gov](http://www.genetics.dhh.louisiana.gov) or call 504-219-4413 or 800-242-3112.

5. <sup>5</sup>Report to the Section of Environmental Epidemiology and Toxicology: [www.seet.dhh.louisiana.gov](http://www.seet.dhh.louisiana.gov) or call 888-293-7020.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1212 (June 2002), amended LR 32:1050 (June 2006), LR 34:2173 (October 2008), LR 36:

#### **§107. Physicians Reporting Duties [formerly paragraph 2:004]**

A. It is hereby made the duty of every physician practicing medicine in the state of Louisiana to report to the state health officer (as per §105.B) any case or suspected case of reportable disease or condition which he or she is attending, or has examined, or for which such physician has prescribed. The report shall be made promptly at the time the physician first visits, examines or prescribes for the patient, and such report shall state the name, age, sex, race, usual residence, place where the patient is to be found, the nature of the disease or condition and the date of onset.

B. ...

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1213 (June 2002), amended LR 36:

#### **§109. Reports by All Health Care Providers and by Other Facilities, Programs, and Entities [formerly paragraph 2:006]**

A. It shall be the duty of every osteopath, coroner, medical examiner, dentist, homeopath, infection control practitioner, laboratory director, medical records director, nurse, nurse midwife, nurse practitioner, pharmacist, physician assistant, podiatrist, poison control center, social worker, veterinarian, and any other health care professional to report a positive laboratory result or a confirmed or suspected case of any reportable disease or condition as specified in §105 in which he or she has examined or evaluated, or for which he or she is attending or has knowledge. In the absence of a health care professional responsible for reporting as per the above or §107, it shall be the duty of the director, chief administrative officer, or other-in-charge of any facility, program, or other entity that requires or conducts testing for reportable diseases or conditions, to report a positive laboratory result or a confirmed or suspected case of any reportable disease or condition as specified in §105.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1213 (June 2002), amended LR 32:1051 (June 2006), LR 36:



## NOTICE OF INTENT

### Department of Health and Hospitals Office of Public Health

#### Preparation and Handling of Seafood for Market (LAC 51:IX. 327, 329 and 331)

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., that the state health officer acting through the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:4(A)(1)(a) and R.S. 40:5, intends to amend and revise LAC Title 51 (Public Health – Sanitary Code), Part IX (Marine and Fresh Water Animal Food Products), by effecting substantive changes as outlined below. The proposed change will result in code provisions which are consistent with the National Shellfish Sanitation Program (NSSP) 2007 Model Ordinance. The NSSP is the federal/state cooperative program recognized by the U.S. Food and Drug Administration (FDA) and the Interstate Shellfish Sanitation Conference (ISSC) for the sanitary control of shellfish produced and sold for human consumption.

#### Title 51

#### PUBLIC HEALTH—SANITARY CODE

#### Part IX. Marine and Fresh Water Animal Food Products

#### Chapter 3. Preparation and Handling of Seafood for Market

#### §327. Refrigeration of Shell-Stock Oysters, Clams and Mussels [formerly paragraph 9:052]

A. ...

B. All shellstock harvested for raw consumption shall be placed under temperature control in accordance with the requirements specified under Subsection A of Section 329 of this Part. Any shellstock harvested which exceeds the time-temperature matrix requirements of Subsection A of Section 329 of this Part shall not be provided to or served to anyone for the purpose of raw consumption, but shall only be provided to a certified dealer for the express purposes of shucking or post-harvest processing only.

C. – D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1), R.S. 40:5(2)(3)(5)(7)(15), and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1308 (June 2002), amended LR 31:2896 (November 2005), LR 34:2175 (October 2008), LR 36:

#### §329. Refrigeration Requirements for Shell-Stock Harvested for Raw Consumption during the Months January through December [formerly paragraph 9:052-1]

A. Time to refrigeration requirements for shell-stock harvested for raw consumption during the months January through December shall be based on the average monthly growing water temperatures based on the *Vibrio vulnificus* control plan developed by the Office of Public Health Molluscan Shellfish Program according to the following schedule.

1. Water temperature: <65°F—Shell-stock shall be placed under mechanical refrigeration at an air temperature not to exceed 45°F within 36 hours from the time harvesting

begins. Internal oyster meat temperature of 55°F must be achieved in 10 hours from when oysters are placed in mechanical refrigeration.

2. Water temperature: 65°F to 74°F—Shell-stock shall be placed under mechanical refrigeration at an air temperature not to exceed 45°F within 8 hours from the time harvesting begins. Internal oyster meat temperature of 55°F must be achieved in 10 hours from when oysters are placed in mechanical refrigeration.

3. Water temperature: >74°F—Shell-stock shall be placed under mechanical refrigeration at an air temperature not to exceed 45°F within 1 hour from the time harvesting begins. Internal oyster meat temperature of 55°F must be achieved within 6 hours from when oysters are placed in mechanical refrigeration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1), R.S. 40:5(2)(3)(5)(7)(15), and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1308 (June 2002), amended LR 31:2896 (November 2005), LR 34:2175 (October 2008), LR 36:

#### §331. Refrigeration Requirements for Shell-Stock Harvested for Shucking or Post-Harvest Processing by a Certified Dealer during the months January through December [formerly paragraph 9:052-2]

A. ...

1. All shell-stock shall be placed under mechanical refrigeration at an air temperature not to exceed 45° no later than 12 midnight each day, except for the months of December, January, and February.

2. Dealer/harvester tags utilized to identify shell-stock harvested for shucking or post-harvest processing by a certified dealer must be identified with the green tag which states: "FOR SHUCKING BY A CERTIFIED DEALER OR POST-HARVEST PROCESSING ONLY".

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1), R.S. 40:5(2)(3)(5)(7)(15), and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1309 (June 2002), amended LR 31:2896 (November 2005), LR 34:2175 (October 2008), LR 35:1239 (July 2009), LR 36:

#### Family Impact Statement

1. The effect on the stability of the family. There will be no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. There will be no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. There will be no effect on the functioning of the family.

4. The effect on the family earnings and family budget. There will be no effect on family earnings or budget.

5. The effect on the behavior and personal responsibility of children. There will be no effect on the behavior and personal responsibility of children.

6. The ability of the family or local government to perform the function as contained in the proposed rule. There will be no effect on the ability of the family or a local government to perform the function as contained in the proposed rule.

## Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons may submit written comments no later than 4:00 pm on March 29, 2010 to David Guilbeau, Commercial Seafood Program Administrator, Office of Public Health, 628 N. Fourth Street, P.O. Box 4489, Baton Rouge, LA 70821.

Alan Levine  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Preparation and Handling of Seafood for Market**

### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule amends the Part IX of the Louisiana State Sanitary Code (LAC 51) Sections 327, 329, and 331. These proposed rule changes will result in code provisions, which are consistent with the National Shellfish Sanitation Program (NSSP) Model Ordinance. The NSSP is the federal/state cooperative program recognized by the U.S. Food and Drug Administration (FDA) and the Interstate Shellfish Sanitation Conference (ISSC) for the sanitary control of shellfish produced and sold for human consumption.

The first proposed rule change in Section 327 would add additional language, which will allow oysters to be Post-Harvest Processed when shell-stock exceeds the Time-Temperature Matrix.

The second proposed rule in Section 329 changes the time to refrigerate shell-stock harvested for raw consumption during the months January through December. These changes are based on the average monthly growing water temperatures developed by the Molluscan Shellfish Program.

The third proposed rule change adds additional language such as Post-Harvest Processing to the definition in Section 331. Additional changes in this section address shell-stock harvested for the months December thru March as being exempt from the landing of oysters by midnight. Editorial changes in this section are due to the development of a new dealer/harvester tag which mandates that oysters harvested outside the time-temperature matrix be tagged "for shucking or post-harvest processing only".

The proposed change will result in any estimated cost of \$489 (SGF) in FY 2009-10 to publish the notice of intent and the final rule in the *Louisiana Register*. This is a one-time cost that is routinely included in this agency's budget.

### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no effects on revenue collections of state or local governmental units anticipated as a result of promulgation of this regulation.

### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule could potentially result in some minimum loss in revenues to shellfish harvesters if the product is not refrigerated within the Time-Temperature Matrix developed by the Molluscan Shellfish Program because the product cannot be sold on the half-shell/raw market. The product must be Post-Harvest Processed or shucked, which will slightly decrease the value of the product. The amount of revenue loss cannot be determined because market rates vary and the number of individuals that would be impacted is unknown.

### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment anticipated as a result of promulgation of this regulation.

M. Rony Francois, M.D., MSPH, Ph.D.     Robert E. Hosse  
Assistant Secretary                             Staff Director  
1002#083     Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Insurance Office of the Commissioner

Regulation 99—Certificates of Insurance  
(LAC 37:XIII.Chapter 139)

Under the authority of the Louisiana Insurance Code, R.S. 22:1, et seq. and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Department of Insurance (LDOI) gives notice that rulemaking procedures have been initiated to promulgate Regulation 99. Adoption of the proposed regulation is authorized by Acts 2009, No. 335 of the Regular Session of the Louisiana Legislature.

Act 335 mandates that any insurer or insurance producer issuing a certificate of insurance shall be authorized to use only the standard ACORD or ISO Form "Certificate of Insurance" or other form filed with and approved by the Commissioner of Insurance.

#### Title 37

#### INSURANCE

#### Part XIII. Regulations

#### Chapter 139. Regulation Number 99—Certificates of Insurance

#### §13901. Authority

A. Regulation 99 is issued pursuant to the authority vested in the Commissioner of Insurance pursuant to the provisions of R.S. 49:953 et seq., of the Administrative Procedure Act; R.S. 22:11 and R.S. 22:881.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 to enforce the provisions of R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:

#### §13903. Purpose

A. The purpose of Regulation 99 is to implement the provisions of Acts 2009, No. 335 of the Regular Session of the Louisiana Legislature, which provides that any insurer or insurance producer issuing certificates of insurance shall be authorized to use only the standard ACORD or ISO Form "Certificate of Insurance" or other form filed with and approved by the Commissioner of Insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 to enforce the provisions of R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:

#### §13905. Scope and Applicability

A. Regulation 99 applies to authorized property and casualty insurers.

B. Regulation 99 applies to approved unauthorized insurers, i.e., surplus lines insurers.

C. Regulation 99 applies to insurance producers as defined in R.S. 22:1542(6).

D. Regulation 99 does not apply to ocean marine and foreign trade insurance.

E. Regulation 99 does not apply to any federal, state or local governing authority that has in place its own requirements and/or standards regarding certificates of insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 to enforce the provisions of R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:

#### **§13907. Definitions**

A. As used in Regulation 99, these terms shall have the following meaning ascribed herein unless the context clearly indicates otherwise.

*Certificate of Insurance*—shall have the same meaning as set forth in R.S. 22:881.1.A(1).

*Commissioner*—the Commissioner of Insurance for the State of Louisiana.

*Department*—the Louisiana Department of Insurance.

*Insurance Producer*—shall have the same meaning as set forth in R.S. 22:1542(6)

*Insurer*—shall have the same meaning as set forth in R.S. 22:46(10).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 to enforce the provisions of R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:

#### **§13909. ACORD and ISO Forms, Additional Information**

A. Any insurer or insurance producer acting on behalf of the insurer issuing a certificate of insurance shall be authorized to use only the standard ACORD or ISO Form "Certificate of Insurance" or other form filed with and approved by the Commissioner of Insurance.

1. The insurer or insurance producer issuing a certificate of insurance must affix his signature, electronic or otherwise, to the standard ACORD or ISO Form "Certificate of Insurance" or other approved form prior to the issuance of the certificate of insurance to either the insured or a third party.

2. The information contained in either the standard ACORD or ISO Form "Certificate of Insurance" shall not affirmatively or negatively amend, extend or alter the coverage provided by the referenced insurance policy nor shall the information convey any contractual rights to the certificate holder.

3. The practice of altering, supplementing or removing language from the standard ACORD or ISO Form "Certificate of Insurance" is specifically prohibited.

B. Any insurer or insurance producer acting on behalf of an insurer issuing a certificate of insurance may attach additional information regarding the referenced insurance policy, if specifically requested by a interested person, to the standard ACORD or ISO Form "Certificate of Insurance" or other approved form in accordance with the following requirements:

1. The insurer or insurance producer issuing a certificate of insurance may affix his signature to the additional information attached to the standard ACORD or ISO Form "Certificate of Insurance" or other approved form.

2. Any additional information attached to either the standard ACORD or ISO Form "Certificate of Insurance" or other approved form must contain on the first page and/or

signature page the following or substantially similar language:

This additional information neither affirmatively nor negatively amends, extends or alters the coverage afforded by the referenced insurance policy(ies).

3. Any additional information attached to either the standard ACORD or ISO Form "Certificate of Insurance" shall not affirmatively or negatively amend, extend or alter the coverage provided by the referenced insurance policy. The additional information shall also not convey any contractual rights to the certificate holder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 to enforce the provisions of R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:

#### **§13911. Filing requirements for Forms other than the ACORD or ISO**

A. Any insurer or insurance producer acting on behalf of the insurer may make a filing pursuant to R.S. 22:881.1(C) and Regulation 99 for approval to use a certificate of insurance form other than the standard ACORD or ISO Form "Certificate of Insurance."

B. Any certificate of insurance form submitted to the Commissioner for approval pursuant to R.S. 22:881.1(C) must contain, on the first page and/or signature page, the following or substantially similar language:

This certificate of insurance neither affirmatively nor negatively amends, extends or alters the coverage afforded by Policy Number \_\_\_\_\_ issued by \_\_\_\_\_.

C. The practice of altering, supplementing or removing language from a certificate of insurance form that has been filed with and approved by the Commissioner is specifically prohibited.

D. Any certificate of insurance form submitted by or on behalf of an insurer to the Commissioner for approval pursuant to R.S. 22:881.1(C) shall be filed in accordance with the form filing requirements of R.S. 22:861 and Regulation 78.

E. Any order of the Commissioner disapproving any certificate of insurance form shall state, in writing, the grounds for such disapproval.

F. No certificate of insurance form shall be issued or delivered unless the commissioner has granted prior written approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 to enforce the provisions of R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:

#### **§13913. Penalties for Failure to Comply**

A. Failure to comply with Regulation 99 by any insurer or insurance producer subject to its provisions may result in the imposition of such criminal, civil and administrative penalties as allowed by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 to enforce the provisions of R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:

#### **§13915. Severability**

A. If any Section or provision of Regulation 99 or the application to any person or circumstance is held invalid, such invalidity or determination shall not affect other Sections or provisions or the application of Regulation 99 to any persons or circumstances that can be given effect without the invalid Section or provision or application, and for these purposes the Sections and provisions of Regulation

99 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 to enforce the provisions of R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:

#### **§13917. Effective Date**

A. Regulation 99 shall become effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 to enforce the provisions of R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:

#### **Family Impact Statement**

Pursuant to R.S. 49:953.A(1)(a)(viii) the commissioner for the LDOI states that there will be no adverse impact on family formation, family stability, and family autonomy, as set forth in R.S. 49:972 from the promulgation of Regulation 99.

#### **Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

#### **Public Comments**

Interested persons who wish to make comments may do so at the public hearing or by writing to Walter L. Corey, LDOI Staff Attorney, 1702 N. Third Street, Baton Rouge, LA 70802. Written comments will be accepted until 5:30 p.m. on March 30, 2010.

#### **Public Hearing**

A public hearing on this proposed regulation will be held on Tuesday, March 30, 2010 at 10 a.m. in the Plaza Hearing Room of the Louisiana Department of Insurance Poydras Building, 1702 N. Third Street, Baton Rouge, LA.

James J. Donelon  
Commissioner

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Regulation 99—Certificates of Insurance**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The Louisiana Department of Insurance (DOI) does not anticipate any significant implementation costs (savings) as result of the proposed regulation. Regulation 99, which is being implemented pursuant to Act 335 of the 2009 Regular Legislative Session, mandates that any insurer or insurance producer issuing a certificate of insurance shall be authorized to use only the standard Association for Cooperative Operations Research and Development (ACORD) or Insurance Services Office, Inc. (ISO) form "Certificate of Insurance" or other form filed with and approved by the Commissioner of Insurance. To the extent a business decides to create its own certificate of insurance or an insurer decides to utilize a different certificate of insurance form other than the ones provided by ACORD or ISO, the DOI could incur minimal costs associated with form

approval. Any expenditure associated with form approval will be absorbed with existing budgetary resources.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed Regulation 99 will have no significant impact on state or local governmental revenues. However, to the extent a business decides to create its own certificate of insurance or an insurer decides to utilize a different certificate of insurance form other than the ones provided by ACORD or ISO, the DOI could generate minimal revenues as the filing fee for form approval is \$25.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed Regulation 99 could impact directly affected persons or non-governmental groups by a minimal amount due to the cost to insurers or insurance producers for the cost of purchasing the ACORD or ISO forms. The current annual membership cost to gain access to various forms offered by ACORD or ISO is \$20.00. However, the majority of insurers and insurance producers likely have memberships. Thus, the cost is insignificant and may already be included within the administrative cost of the insurers or insurance producers. The amended regulation will help prevent any misrepresentation on certificate of insurance forms.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Implementation of proposed Regulation 99 should have no impact upon competition and employment in the state.

Shirley D. Bowler  
Deputy Commissioner  
1002#059

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Justice Office of the Attorney General**

Certificates of Public Advantage  
(LAC 48:XXV.Chapter 5)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and as authorized by R.S. 40:2254.1 et seq., the Office of the Attorney General proposes to adopt the following Chapter to govern the issuance of certificates of public advantage. The purpose of this proposed rule is to set forth procedures for the review and authorization of the issuance of certificates of public advantage pursuant to R.S. 40:2254.1 through 2254.12.

#### **Title 48**

#### **PUBLIC HEALTH—GENERAL**

#### **Part XXV. Mergers, Acquisitions, and Re-Organization Chapter 5. Certificates of Public Advantage §501. Purpose**

A. These rules are adopted in accordance with the public interest of controlling health care costs and improving the quality of and access to health care. In that regard, the state has a responsibility to protect the public interest through direct supervision and control over the implementation of cooperative agreements, mergers, joint ventures, and consolidations among health care facilities for which certificates of public advantage are granted pursuant to the provisions of R.S. 40:2254.1 through 2254.12.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 36:

### §503. Definitions

A. As used within the rules:

*Affiliate*—any or all of the following: corporation; partnership; sole proprietorship; joint venture; trust; natural person; or any other entity, whether existing for commercial or noncommercial purposes, however organized, in which any person or entity owning, directly or indirectly or beneficially, 3 percent of the health care facility owns directly, or indirectly, or beneficially, 50 percent or more of the affiliates.

*Attachment*—each document or object sent or provided with any document or object, and includes each document or object sent with it, whether it be a letter, memorandum, contract, document or other writing or object.

*Certificate of Public Advantage* or “*Certificate*”—a written certificate issued by the department as evidence of the department's intention that the implementation of a cooperative agreement, when actively supervised by the department, receives state action immunity from prosecution by the state or by any district attorney in the state as a violation of state or federal antitrust laws.

*Certified Mail*—uninsured first class mail whose delivery is recorded by having the addressee sign for it.

*Comment*—a written document offering explanation, illustration, criticism, or personal opinion.

*Cooperative Agreement* or “*Agreement*”—a written agreement between two or more health care facilities for the sharing, allocation, or referral of any one or more of the following:

- a. patients;
- b. personnel;
- c. instructional programs;
- d. emergency medical services;
- e. support services and facilities;
- f. medical, diagnostic, or laboratory facilities or procedures; or
- g. other services customarily offered by health care facilities.

*Days*—consecutive calendar days.

*Department*—the Louisiana Department of Justice, Office of the Attorney General.

*Director*—the director of the Civil Division.

*Documents* or *Document*—all writings or any other record of any kind, including originals and each and every nonidentical copy (if different from the original for any reason). Document(s) includes, but is not limited to:

- a. correspondence, memoranda, notes, diaries, calendars, statistics, letters, telegrams, minutes, contracts, reports, studies, checks, statements, receipts, returns, summaries, pamphlets, books, and interoffice and intra office communications;
- b. notations (of any sort) of conversations, telephone calls, meetings, and other communications;
- c. bulletins, printed matter, computer printouts, computer generated output, teletypes, telefax, facsimiles, invoices, worksheets, drafts, alterations, modifications, changes, and amendments of any kind;

d. photographs, charts, maps, graphs, sketches, microfiche, microfilm, videotapes, video recordings, and motion pictures; and

e. any electronic or mechanical records or tapes, cassette, diskettes, audio recordings, computer hard drives and other means of storing information.

*Expert*—one who is knowledgeable in a specialized field, that knowledge being obtained from either education or personal experience. For example, any economist, accountant, financial advisor, investment banker, broker, valuation specialist, or other person who is consulted, relied upon, retained, or used by the health care facility.

*Financial Statement*—

a. any compilation or statement (audited, unaudited, or draft) of the health care facility's financial position. Financial statements (regardless of precise terminology) include, but are not limited to:

- i. tax returns;
- ii. balance sheets;
- iii. statements of income and expenses;
- iv. statements of profit and loss;
- v. statements of stockholders' equity; and
- vi. statements of changes in financial position.

b. each and every financial statement should include each and every related footnote of the respective financial statement.

*Foundation*—a permanent fund established and maintained by contributions for charitable, educational, religious, or benevolent purposes.

*Health Care Facility*—any facility or institution, whether public or private, that offers diagnosis, treatment, and inpatient or ambulatory care to two or more unrelated persons.

*Objection*—a written document offered in opposition to the approval of an application which states the reason, grounds, or cause for expressing opposition.

*Person*—any natural person, public or private corporation (whether or not organized for profit), governmental entity, partnership, association, cooperative, joint venture, sole proprietorship, or other legal entity. With respect to the health care facility, the term person also includes any natural person acting formally or informally as an employee, officer, director, agent, attorney, or other representative of the health care facility.

*Persons on Record*—persons submitting written documentation to the director, by certified mail, stating objections, comments, or requests for notification of actions by the department involving a particular application. Persons on record status must be renewed by written request, sent by certified mail to the director, prior to December 31 of each calendar year.

*Transaction* or *Proposed Transaction* or *Agreement*—the proposed or executed cooperative, merger, joint venture, or consolidation agreement which resulted in the submission of the notice to the attorney general pursuant to R.S. 40:2254.1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 36:

### **§505. Notice**

A. Health care facilities that are parties to a transaction shall give the attorney general at least 30 days written notice prior to the anticipated closing of the intended transaction. Depending on the parties or the transaction, the Attorney General, at his sole discretion, may allow a shorter notice period.

B. The written notice shall include all of the following information:

1. the names, addresses and telephone numbers of the parties to the intended transaction;
2. the names, addresses and telephone numbers of the attorneys or other persons who represent the parties in connection with the intended transaction;
3. a general description of the intended transaction and a description of the scope of the cooperation, merger, joint venture, or consolidation contemplated by the agreement;
4. a general description of the assets involved in the intended transaction and the intended use of the assets after the closing of the intended transaction, including any change in the ownership of tangible or intangible assets;
5. a general summary of all collateral transactions that relate to the intended transaction, including the names, addresses and telephone numbers of the parties involved in the collateral transactions; and
6. the anticipated completion date of the intended transaction.

C. Giving notice shall comply with the following format.

1. The notice shall be in writing on numbered pages and printed on paper measuring 8 ½ inches by 11 inches. The margins shall not be less than 1 inch on all sides. Unless otherwise required, the notice shall be printed on white paper.

2. Notice shall be sent to the director by certified mail. The director shall receive notice at least 30 days prior to the proposed transaction.

3. Notice shall not be given by facsimile machine.

4. Any notice that does not comply with these rules shall not be accepted and will be returned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 36:

### **§507. Filing of Applications and Additional Documents**

#### **A. Filing of Applications**

1. Applications shall be filed by delivering an original and three copies to the director.

2. The filing date of a conforming application shall be the date the department determines the application to be a completed application.

3. No application shall be filed by facsimile machine.

4. Applications filed with the department become property of the state.

5. Applications shall be accompanied with the filing fee as determined by §309 in accordance with R.S. 40:2254.12.

6. The application must include the contents of application.

7. The application shall be submitted to the attorney general on the forms provided and include the information requested therein.

8. The department may at any time request any other supplemental or additional documentation, disclosures, information, etc., as it deems necessary to the evaluation. The applicant shall provide the information not later than 10 days after the date of the request.

9. The application must be in the following format:

a. applications shall be submitted to the attorney general on the forms provided and in accordance with the instructions therein.

b. trade secret information should be printed on goldenrod colored paper to assist in identifying material that may be considered exempt from the Louisiana Public Records Act.

c. applications that do not comply with these rules shall not be accepted and will be returned to the applicant.

#### **B. Filing of Additional Documents**

1. The format required for filing of additional documents shall be in accord with §307.A.9.

2. Documents relating to an application shall be filed by delivering an original and three copies to the director.

3. Additional documents to an application may be accepted by facsimile machine provided that the original and three copies thereof are received by the director no later than seven days after transmission of the facsimile.

C. Forms

**LOUISIANA ATTORNEY GENERAL'S  
Request for Information Form for Certain  
Cooperative Endeavor Agreements, Joint Ventures, Mergers  
and Consolidations among Health Care Facilities**

**INSTRUCTIONS AND DEFINITIONS**

1. All responses to the Request for Information Form must be typed or clearly printed in black ink. You must use only the official forms.

2. All documents and appendices must be provided in compliance with the following:

(a) One set of original documents and three (3) separate sets of legible and collated copies of all documents must be submitted.

(b) With respect to the submission of appendices, each appendix shall be submitted in a separate legal size folder clearly marked with the appendix number along with the name of the entity or entities submitting the information and the date of the Attorney General's Request for Information, set forth in Instruction #9. *For example, Company X, Appendix A, July 1, 1996 or Company X and Company Y, Appendix A, July 1, 1996;* and

(c) Each document must be consecutively numbered and labeled along with an abbreviation for the entity or entities. *For example, the first document of a submission by Company X, would be labeled CX0001 and the first document of a joint submission of Company X and Company Y would be labeled CXY0001.* These initials and numbers should appear in the lower right-hand corner of each document.

3. All amendments or late-filed documents or responses must be clearly labeled to indicate which Request or appendix folder the document should be placed in upon receipt by the State. Such documents must be submitted in compliance with all other instructions herein.

4. Unless otherwise indicated, documents to be produced pursuant to this Request for Information Form include each and every document prepared, sent, dated, received, in effect, or which otherwise came into existence during the last three (3) years through the date of the production of documents pursuant to this Request. Responses to the Request must be supplemented, corrected, and updated until the close of the transaction. The Attorney General, at his discretion, may require the production of additional documents.

5. Unless otherwise approved by the Department, for each Request calling for the production of documents, produce each and every responsive document in each entity's care, possession, custody, or control, without regard to the physical location of those documents.

6. If an entity possesses no documents responsive to a paragraph of this Request, that entity must state this fact, specifying the paragraph(s) or subparagraph(s) concerned, in the response. If an entity must submit documents at a later date than that set forth in Instruction #9, the following procedure is required: the entity must state this fact, specify the paragraph(s) or subparagraph(s) concerned, identify the document(s) to be produced, and state the expected date of production.

7. If an entity asserts a privilege in response to a Request, that entity must state the privilege, the basis of the privilege, and identify the documents and Request to which the privilege attaches.

8. Responses to Requests not requiring the production of documents should be typed or clearly printed in black on the Request for Information Form. If additional space is required, you should attach additional 8 ½" x 11" size pages, clearly noting at the top of the page to which Request the additional information is responsive and the identity of the entity providing the information. *For example: Company X, Continuation to Request #3.*

9. All responses to this Request for Information shall be sent by United States Mail, hand delivered, or a nationally recognized express delivery service to the following individual.

Director, Civil Division  
State of Louisiana  
Department of Justice  
Civil Division  
1885 North Third Street, 6<sup>th</sup> Floor  
Baton Rouge, Louisiana 70802  
Post Office Box 94005  
Baton Rouge, Louisiana 70804-9005

10. The Request for Information Form is not complete or valid without completed Certification and Verification Affidavits for each entity executed under oath in the presence of a notary and attached to the Request for Information Form.

11. Copies may be submitted in lieu of originals as long as the entity indicate(s) that the documents are copies, the location of the originals, and the reason for the substitution of copies. All originals must be returned as set forth in the Certification and Verification Affidavits. Additionally, the entity must sign the Certification of Verification Affidavit(s), agreeing that the documents are authentic for the purposes of Louisiana law.

12. All questions regarding these forms, the scope of any Request, and instruction, or any definitions shall be directed to the Assistant Attorney General listed in Instruction #9.

13. This Request for Information Packet should include all of the following forms:

Form Instructions and Definitions  
Form Request for Information Form  
Form Certification and Verification Affidavit

**If your packet is missing any of the above listed forms, please contact the Assistant Attorney General listed in Instruction #9 immediately. Your response to the Request for Information Form is not complete until the Attorney General's Office has received all of the above listed forms, fully completed.**

14. Each entity that is a party to the Agreement must complete the entire Request for Information Packet.

**LOUISIANA ATTORNEY GENERAL'S APPLICATION**

**REQUEST FOR INFORMATION FORM**

**For Certain**

**COOPERATIVE ENDEAVOR AGREEMENTS, JOINT VENTURES, MERGERS AND  
CONSOLIDATIONS AMONG HEALTH CARE FACILITIES**

**PLEASE CAREFULLY REVIEW THE INSTRUCTIONS AND  
DEFINITIONS PRIOR TO COMPLETING THIS FORM**

**Note: If the information is not supplied under any of the following items, provide an explanation of why the item is not applicable to the transaction or the parties.**

1. **Name of each Party:** Identify each entity which is a party to the cooperative endeavor agreement, joint venture, merger, or consolidation (hereinafter referred to collectively as "Agreement") in accordance with 40:2254.1, et seq., including the address of the principal business office of each party. Include in your response the identity of any (a) parent, (b) subsidiary, and/or (c) affiliate of each entity.

2. **Contact Person for each Party:** Provide the full legal name, title, address, telephone and facsimile number for the persons authorized to receive notices and communications with respect to the application.

3. **Directors and Officers:** Identify by full legal name and title each and every director and officer of each entity.

4. **Corporate Documents:** Attach as Appendix A, all corporate documents relating to each entity filing this Request. Include corporate documents of all parents, subsidiaries, or affiliates. For the purpose of this Request, "corporate documents" means the charter or articles of incorporation, bylaws, and any and all amendments to each corporate document.

5. **Description of Proposed Agreement:** Attach as Appendix B a detailed description of the proposed agreement, including:

(a) A list of any services or products that are the subject of the proposed agreement or transaction;

(b) A description of any consideration passing to any person under the agreement or transaction, including the amount, nature, source, and recipient;

(c) A description of each party's contribution of capital, equipment, labor, services, or other value to the transaction, if any;

(d) Identification of any other services or products that are reasonably likely to be affected by the proposed agreement or transaction;

(e) A description of the geographic territory involved in the proposed agreement or transaction;

(f) If the geographic territory described in item (e) is different from the territory in which the applicants have engaged in the type of business at issue over the last five years, a description of how and why the geographic territory differs;

(g) Identification of all products or services that a substantial share of consumers would consider substitutes for any service or product that is the subject of the proposed agreement or transaction;

(h) Identification of whether any services or products of the proposed agreement or transaction are currently being offered, capable of being offered, utilized, or capable of being utilized by other providers or purchasers in the geographic territory described in item (e);

(i) Identification of the steps necessary, under current market and regulatory conditions, for other parties to enter the territory described in item (e) and compete with the applicants;

(j) A detailed explanation of the projected effects, including expected volume, change in price, and increased revenue, of the agreement or transaction on each party's current businesses, both generally as well as the aspects of the business directly involved in the proposed agreement or transaction;

(k) Each entity's estimate of their respective present market shares and that of others affected by the proposed agreement or transaction, and projected market shares after implementation of the proposed agreement or transaction;

(l) Identification of business plans, reports, studies, or other documents that discuss each entity's projected performance in the market, business strategies, competitive analyses and financial projections, including any documents prepared in anticipation of the cooperative agreement, merger or consolidation, as well as those prepared prior to contemplation of the transaction;

(m) A description of each entity's performance goals, including quantitative standards for achieving the objectives of:

(1) lower health care costs; or

(2) higher quality health care or greater access to health care in Louisiana without any undue increase in health care costs.

(n) A description of how the anticipated efficiencies, cost savings and other benefits from the transaction will be passed on to the consumers of health care services;

(o) A description of the net efficiencies likely to result from the transaction, including an analysis of anticipated cost savings resulting from the transaction and the increased costs associated with the transaction;

(p) A statement of whether competition among health care providers or health care facilities will be reduced as a result of the proposed agreement or transaction; whether there will be adverse impact on quality, availability, or cost of health care; whether the projected levels of cost, access to health care, or quality of health care could be achieved in the existing market without the proposed agreement or transaction; and, for each of the above, an explanation of why or why not;

(q) A description of why the anticipated cost savings, efficiencies and other benefits from the transaction are not likely to result from existing competitive forces in the market; and

(r) If information is not supplied under any of the above items, an explanation of why the item is not applicable to the transaction or to the parties.

6. **Description of Negotiations of the Agreement:** Attach as Appendix C a detailed description of all discussions and negotiations between each entity resulting in the proposed Agreement. To the extent practicable, this response should include, but not be limited to, a summary outline in date sequence of any and all meetings held with the following parties with respect to the proposed transaction:

(a) With each entity's financial advisors or investment bankers related to the proposed Agreement (including, but not limited to, management, committees of the board of directors or meetings of the full board);

(b) With prospective networkers, merging partners of each entity, together with a brief summary of the results of such meetings; and

(c) With other parties deemed significant to the transaction (including, but not limited to, outside experts or other consultants).

7. **Closing Date:** What is the expected date of closing of the proposed Agreement? Attach as Appendix D a copy of any proposed Agreement.

8. **Governmental Filings:** Attach as Appendix E all filings with respect to the proposed Agreement, including all amendments, appendices, and attachments, and each report or document provided to each federal, state, or local governmental entity regarding the proposed Agreement. Include copies of forms to be provided to each such entity, the answer to information or questions on such forms, and each attachment submitted in connection therewith.

9. **Meetings with Governmental Officials:** Attach as Appendix F summaries of all meetings with federal, state, or local authorities regarding any filings or documents referenced in Request #8. Also, include each and every document which memorializes or discusses any and all meetings or other communications with the United States Department of Justice, Federal Trade Commission, or any other state, federal or local governmental entity in connection with the proposed transaction.

10. **Prior Agreements:** Identify all prior Agreements between the parties within the last three (3) years, including the following information for each:

(a) Date of Agreement;

(b) City/State;

(c) Brief Description.

11. **Letters of Intent:** Attach as Appendix G any and all drafts and final versions of any and all letters of intent, confidentiality agreements, or other documents initiating negotiations, contact, or discussion between the parties to the Agreement.

12. **Contracts or Purchase Agreements:** If any assets are passed to any Party under the Agreement, Attach as Appendix H any and all drafts and final versions of asset purchase agreements, contracts or agreements to transfer assets. Your response must also include any attachments, amendments, schedules, or appendices to such agreements.

13. **Fairness Opinions:** If any assets are passed to any Party under the Agreement, Attach as Appendix I any and all fairness opinions analyzing the proposed Agreement along with any supplemental analysis prepared by any entity or its experts. Include in your response the name of the company and the person(s) who prepared the opinion, their business telephone numbers and addresses, the agreement or engagement letter with such company or person, and background information regarding the company or person's qualifications.

14. **Meeting Minutes and Other Information:** Attach as Appendix J the following documents with respect each meeting during which the proposed Agreement was discussed, whether regular, special, or otherwise, of the board of directors or board of trustees for each entity.

(a) Announcements and the persons to whom the announcements were sent;

(b) Agenda;

(c) Minutes and/or resolutions of the board of directors or board of trustees for each entity which reflect or discuss the proposed Agreement, including those regarding the final vote;

(d) Each written report or document provided to the board or board members, including, but not limited to, each committee report and each expert's report;

(e) Each proposal or document referencing or regarding possible or actual Agreement;

(f) Each presentation to the board or any committee to the board; and

(g) Each attachment to (a) through (f).

15. **Valuation Information:** Attach as Appendix K each appraisal (with each attachment), evaluation (with each attachment), and similar document (with each attachment) concerning the financial performance of each party to the transaction for the preceding five years, their assets, their properties, their worth as a going concern, or their market value. This Request shall include, but not be limited to, any appraisals of the common stock of any entity, any appraisals involving property held by any entity.

16. **Information Regarding Other Offers:** Attach as Appendix L each appraisal (with each attachment), evaluation (with each attachment), and similar document (with each attachment) concerning any negotiation, or proposal either initiated or received by any entity regarding the proposed Agreement, and the dollar value of such proposed Agreement.

17. **Mission Statement:** Attach as Appendix M any and all mission statements of each entity.

18. **Press Releases and Related Information:** Attach as Appendix N any and all press releases, newspaper articles, radio transcripts, audiotapes and videotapes of any television commercials or reports regarding the proposed transaction and any other offers identified in Request # 16.

19. **Financial Records:** Attach as Appendix O all of the following for the last six (6) fiscal years for each entity, unless otherwise indicated:

- (a) Audited and unaudited financial statements. Audits are sometimes presented in abbreviated form or in fuller form, with detailed supplements. Provide the most detailed form of your audit that is available.
- (b) Consolidating statements (balance sheets and income statements for each fiscal year);
- (c) Year-to-date internal financial statements for the most recent month-end available during the current year. Be sure that the statements are comparative (with the same period of the previous fiscal year), otherwise provide last year's internal financial statements for the corresponding period as well;
- (d) If separate audited financial statements are prepared for any of your affiliates, or any parent or, please provide those audits, together with comparative year-to-date financial statements for each such member, affiliate, parent or subsidiary;
- (e) Projected capital expenditure requirements for the next three (3) years;
- (f) Each balance sheet, profit and loss statement, statement of change in financial position of each entity or company it controls, operates, manages, or is affiliated with and also the same information for the acquirer and any entity which you reasonably believe it owns, operates, manages, or controls;
- (g) A detailed schedule of operating expenses, unless already provided with the audits;
- (h) An analysis (aging) of accounts receivable by major category, of receivables as of the most recent month-end available, indicating the amounts ultimately considered collectable;
- (i) Management compensation (salary, bonus, other benefits) for the five (5) officers receiving the greatest amount of compensation;
- (j) Identify any material off-balance sheet assets or liabilities (i.e., any assets or liabilities not reflected on the most recent audited financial statements) and provide documentation concerning such assets or liabilities. Examples of such items would include a significant under-or over-funding in the pension plan or a current litigation judgment not reflected in the most recent audit;
- (k) Identify any material contingent assets or liabilities, and the conditions that must occur for any such contingent assets to be realized or for any such contingent liabilities to be incurred; and
- (l) Identify all accounting firms, including the name, address, and telephone number of the accountant(s) primarily responsible for accounting and auditing of the entities for the last six (6) years.
- (m) If information is not supplied under any of the above items, explain why the information is not applicable to the transaction or parties.

20. **Conflict of Interest, Self-Interest, and Self-Dealing Issues:**

- (a) Attach as Appendix P an affidavit for each officer and director of each entity.
- (b) Attach as Appendix Q any and all documents reflecting any possible conflict of interest, self-interest, or self-dealing of any board member, officer, or director in connection with the proposed Agreement. Such documents shall include evidence of any disclosures or other curative measures taken by the board and any documents suggesting or referencing financial or employment incentives or inducements offered to any board member, director or officer.

21. **Persons Involved in Decision Making of Planning:** Attach as Appendix R a list of the full legal names, titles, addresses, and telephone numbers of each and every officer, director, representative, manager, executive, expert or other persons having substantial input, at any phase of decision making or planning, into the decision or plan for the proposed Agreement.

22. **Market Studies:** Attach as Appendix S each market study (and attachments) done for or by each entity, or otherwise received by each entity. Include an analysis of an entity's market share from the perspectives which are normally tracked by the entity's board.

23. **Registered Agents for Service or Process:** Identify the registered agent for service of process, including his or her complete address, for each entity.

**CERTIFICATION AND VERIFICATION AFFIDAVIT**

To be completed by President or Chief Executive Officer

This Request for Information Form, together with any and all appendices and attachments thereto, was prepared and assembled under my supervision in accordance with the instructions and definitions issued by the Attorney General. Subject to the recognition that, where so indicated, reasonable estimates have been made because books and records do not provide the required data, the information is, to the best of my knowledge, true, correct, and complete. If copies were submitted in lieu of originals, the documents submitted are true and exact copies. I understand that my obligation to provide information pursuant to this Request shall be continuing in nature and shall forthwith notify the Attorney General, in writing, of any representations that have been made or that might have been made in accordance with this Request which need to be updated, corrected or modified. The copies also are authentic for the purposes of Louisiana law. If copies were submitted, I also agree to retain the originals under my care, custody, and control, and I will not destroy or alter the originals without express written consent of the Attorney General or his appointed designee.

I certify, upon personal knowledge, that the attached form has been completed with true and accurate information, **under penalty or perjury.**

STATE of \_\_\_\_\_

To be completed by Affiant:

Parish/County \_\_\_\_\_

Name \_\_\_\_\_

Affiant's  
Signature: \_\_\_\_\_

Title \_\_\_\_\_

Date: \_\_\_\_\_

Address: \_\_\_\_\_

Sworn and subscribed before me this \_\_\_\_\_  
day of 20 \_\_\_\_\_

Telephone No. \_\_\_\_\_

Facsimile No. \_\_\_\_\_

Notary Public \_\_\_\_\_

My Commission expires:  
\_\_\_\_\_  
\_\_\_\_\_

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 36:

**§509. Fees**

**A. Remittance of Fees**

1. In accordance with R.S. 40:2254.12, fees shall be remitted with the application and reports as required by R.S. 40:2254.11. Fees shall be reasonably related to the costs incurred by the department in considering the application, evaluating reports, and performing other necessary administrative duties.

2. Fees shall be remitted only by certified check, cashier's check, or bank money order, and made payable to the department.

3. The application fee shall be \$50,000 and shall be due with the application. If the actual cost incurred by the department is greater, the applicant shall pay any additional amounts due as instructed by the department.

4. The fee due with the filing of the report as required by R.S. 40:2254.11 shall be \$15,000. If the actual cost incurred by the department is greater, the parties involved shall pay any additional amounts due as instructed by the department.

B. If it becomes necessary for the department to file suit to enforce any provision of applicable law, these rules, or

any of the terms of an approved application, then applicants/parties shall be responsible for all costs associated with any such litigation, including, but not limited to all court costs and attorneys fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 36:

**§511. Notification of Pending Application and Public Hearing**

**A. In accordance with R.S. 40:2254.4:**

1. within five working days of receipt of a completed application, the department shall notify all persons of record by first class United States mail of the filing of such application, and publish in the official journal of the parish where the health care facilities are located notice of the filing. The notice shall state the following:

- a. that an application has been received;
- b. the names of the parties to the agreement;
- c. a description of the contents of the agreement;

and

- d. the date by which a person may submit comments about the application to the attorney general.

**B. In accordance with R.S. 40:2254.4:**

1. the attorney general shall during the course of review of the application hold a public hearing in which any

person may file written comments and exhibits, or may appear and make a statement;

2. the hearing shall be held no later than 30 days after receipt of a completed application. At least 10 working days prior to the scheduled public hearing, the department shall publish in the official journal of the parish where the hospital is located the location, date and time of the public hearing to be held in Baton Rouge, Louisiana;

3. at the public hearing, all interested persons shall be allowed to present testimony, facts, or evidence related to the application and shall be permitted to ask questions. The department shall also receive comments regarding the transaction from any interested person; and

4. if requested by the department, persons required to appear and testify under oath, shall include, but not be limited to:

a. any expert or consultant retained by the applicant who was directly or indirectly involved in the preparation of any analysis of the proposed transaction;

b. any independent expert or consultant retained by the department to review the proposed transaction regarding his or her finding and analysis; and

c. parties to the agreement, officers, and members of the governing boards of the facilities involved;

5. the department may require additional information or testimony from other persons, including but not limited to, members of the medical staff, nursing staff, contract employees, architects, engineers, other employees, or contractors of the facilities involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 36:

### **§513. Application Review**

A. In accordance with R.S. 40:2254.4:

1. the attorney general shall, within 15 days after the date an application is received, determine if the application is complete for the purposes of review. If the department determines that an application is unclear, incomplete, or contains an insufficient basis upon which to provide a decision, the application shall be returned to the applicant;

2. if the attorney general determines that an application is incomplete, he shall notify the applicant within 15 days after the date the application was received, stating the reasons for his determination of incompleteness with reference to the particular questions for which a deficiency is noted;

3. if an application is returned to the applicant and the applicant will be resubmitting the application for further review, the filing fee shall remain deposited; and

4. if an application is returned and the applicant elects not to resubmit an amended application, the department shall return the filing fee submitted with the application less costs associated with the review process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 36:

### **§515. Action by Department**

A. The attorney general shall review the completed application. Within 90 days after receipt of a completed application or within one 90 day extension, the attorney general shall either:

1. approve the application, with or without specific modifications and issue a certificate; or

2. disapprove the application for a certificate.

B. Any approval shall be conditioned upon the periodic submission of specific data relating to cost, access, and quality, and to the extent feasible, identify objective standards of cost, access, and quality by which the success of the arrangement will be measured.

1. The department's decision shall be in writing and be based upon findings of fact and conclusions of law supporting the decision.

2. The department may condition approval on a modification of all or part of the proposed arrangement.

3. A copy of the department's decision shall be sent, by certified mail, to the applicant. All persons on record shall be provided notice of the decision.

4. If the department does not issue a decision within 90 days after the receipt of a completed application or within one 90 day extension, the application shall be considered denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 36:

### **§516. Reconsideration**

A. If the department denies an application and refuses to issue a certificate, a party to the agreement may request that the department reconsider its decision. The department shall then reconsider its decision in accordance with the provisions of R.S. 40:2254.5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 36:

### **§517. Reports and Ongoing Supervision of Certificates**

A. In accordance with R.S. 40:2254.11, the parties to the agreement shall submit information and supporting data on an annual basis regarding the current status of the agreement, including information relative to the continued benefits, any disadvantages of the agreement, and sufficient information to evaluate whether any terms and conditions imposed by the department have been met or otherwise satisfied. Reports shall be due on or before the annual anniversary date of the approval. Parties are under a continuing obligation to provide the department with any change to the information contained in the application subsequent to the issuance of a certificate of public advantage. Such information shall be provided to the department in a timely fashion or within a reasonable time that such information is known to the parties. The attorney general may subpoena information and documents reasonably necessary to assure compliance.

B. The information and supporting data that must be submitted to the department shall include, but not be limited to, the following:

1. an update of all the information required in the application;

2. any change in the geographic territory that is served by the health care equipment, facilities, personnel, or services which are subject of the agreement;

3. a detailed explanation of the actual effects of the agreement on each party, including any change in volume, market share, prices, and revenues;

4. a detailed explanation of how the agreement has affected the cost, access, and quality of services provided by each party; and

5. any additional information requested by the department.

C. Requested data shall be in the following format.

1. The page shall be numbered and printed on paper measuring 8 1/2 by 11 inches. The margins shall not be less than 1 inch on all sides. Unless otherwise required, all data shall be printed on white paper.

2. Trade secret information shall be designated and printed on goldenrod colored paper to assist in identifying material that may be considered exempt under the Louisiana Public Records Act.

D. The department may, at any time, require the submission of additional data or alter the time schedule for submission of information. The parties shall be notified by certified mail of any requirement for the submission of additional information or alteration of the time for submission of materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 36:

#### **§519. Revocation**

A. If at any time, the attorney general receives information indicating that agreement is not is not resulting in lower health care costs or greater access to or quality of health care than would occur in absence of the agreement as provided for in R.S. 40:2254.6, the attorney general shall hold a hearing upon 120 days notice to the affected parties. Any action for certificate revocation shall be conducted in accordance with the provisions of RS. 40:2254.6.

B. Notwithstanding any other provision of this part any amendment or alteration to an approved cooperative, merger, or consolidation agreement and any material change in the operations or conduct of any party to a cooperative, merger, joint venture, or consolidation shall be considered a new agreement and shall not take effect or occur until the attorney general has approved the amendment, alteration, or change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 36:

#### **Family Impact Statement**

1. What effect will this Rule have on the stability of the family? This proposed Rule will not affect the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule will not affect the functioning of the family.

4. What effect will this have on family earnings and family budget? This Rule will not affect the family earnings or family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, the action proposed is strictly a state enforcement function.

#### **Public Comments**

Any person may submit data, views or positions, orally or in writing, to the Louisiana Department of Justice, Office of the Attorney General by writing to P.O. Box 94005, Baton Rouge, LA 70804-9005, or by telephoning at 225-326-6083 and facsimile 225-326-6096.

Interested persons may submit written comments until 4:30 p.m., March 12, 2010, to Michael Vallan, Office of the Attorney General, P.O. Box 94005, Baton Rouge, LA 70804-9005.

James D. Caldwell  
Attorney General

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Certificates of Public Advantage**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is estimated to cost the state \$50,000 to implement the proposed rule.

There is no estimated cost to local governmental units.

The rule proposed for adoption sets forth procedures for the review and analysis of applications for certificates of public advantage, as well as procedures for the issuance and continued monitoring of certificates of public advantage.

La. Rev. Stat. 40:2254.1 through 2254.12 authorizes the issuance of certificates of public advantage to those health care facilities who wish to enter into agreements that call for the sharing, allocation, or referral of patients, personnel, instructional programs, emergency medical services, support services and facilities, medical, diagnostic, or laboratory facilities or procedures; or other services customarily offered by health care facilities.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The Office of the Attorney General will collect a \$50,000 fee with each application for a certificate of public advantage application.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Those health care facilities seeking a certificate of public advantage must submit a \$50,000 fee with their application.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition and employment that will directly result from the implementation of the proposed rules.

Michael J. Vallan  
Asst. Attorney General  
1002#087

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Natural Resources Office of Conservation

Exploration and Production Site Groundwater Evaluation  
and Remediation—Statewide Order No. 29-B  
(LAC 43:XIX.Chapter 8)

The Louisiana Office of Conservation, in an effort to afford all interested parties ample opportunity to review and comment on the herein proposed amendment, including the referenced SERP manual, a copy of which can be obtained either on line at: <http://dnr.louisiana.gov/cons/DNR-SERP-Manual.pdf> or by contacting John Adams at the Office of Conservation as stated below, does hereby re-notice the proposed amendment to LAC 43:XIX.Subpart 1.Chapter 8 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the State of Louisiana. The proposed amendment adds a Chapter 8 which shall apply to and provide procedures for the evaluation or remediation of groundwater conditions and potential sources that may have contributed to those conditions at oil and gas exploration and production sites pursuant to compliance with the requirements of Chapters 3, 4, 5 or 6 of LAC 43:XIX.Subpart 1 (Statewide Order No. 29-B). The amendments to the above existing rules are intended to codify practices already being implemented under the authority of the Commissioner of Conservation.

#### Title 43

#### NATURAL RESOURCES

#### Part XIX. Office of Conservation—General Operations

#### Subpart 1. Statewide Order No. 29-B

#### Chapter 8. Exploration and Production Site Groundwater Evaluation and Remediation

#### §801. Authority

A. These rules and regulations are promulgated by the Commissioner of Conservation pursuant to the Administrative Procedure Act as contemplated in R.S. 30:4 et seq.

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 36:

#### §803. Definitions

A. The words defined herein shall have the following meanings when used in these rules. All other words so used and not herein defined shall have their usual meanings unless specifically defined in Title 30 of the Louisiana Revised Statutes of 1950.

*Commissioner*—the Commissioner of Conservation of the State of Louisiana.

*Commercial Facility*—a legally permitted E&P Waste storage, treatment and/or disposal facility which receives, treats, reclaims, stores, and/or disposes of E&P Waste for a fee or other consideration.

*Constituent*—Constituent of Concern.

*Constituent of Concern*—the parameters listed under the requirements of LAC 43:XIX.Subpart 1 applicable to the specific site conditions under review.

*DEQ*—the Louisiana Department of Environmental Quality.

*DNR*—the Louisiana Department of Natural Resources.

*EPA*—the United States Environmental Protection Agency.

*Evaluation or Remediation*—includes, but is not limited to, investigation, testing, monitoring, containment, prevention, or abatement.

*Exploration and Production Waste (E&P Waste)*—drilling wastes, salt water, and other wastes associated with the exploration, development, or production of crude oil or natural gas wells and which is not regulated by the provisions of, and, therefore, exempt from the Louisiana Hazardous Waste Regulations and the Federal Resource Conservation and Recovery Act, as amended.

*Groundwater Background Concentration*—As required by and set forth in LAC 43:XIX.303.C for parameters listed under LAC 43:XIX.311.C; or as required by and set forth in LAC 43:XIX.541 or 539.E.2 for parameters listed under LAC 43:XIX.549.E.2. As required by and set forth in LAC 43:XIX.421.A for parameters listed under LAC 43:XIX.311.C.

*MO-3*—Management Option 3 as defined in RECAP 1.1.4.

*NFA*—No further action is deemed necessary at this time.

*Oilfield Site or Exploration and Production (E&P) Site*—any tract of land or any portion thereof on which oil or gas exploration, development, or production activities have occurred, including wells, equipment, tanks, flow lines or impoundments used for the purposes of the drilling, workover, production, primary separation, disposal, transportation or storage of E&P wastes, crude oil and natural gas processing, transportation or storage of a common production stream of crude oil, natural gas, coal seam natural gas, or geothermal energy prior to a custody transfer or a sales point. In general, this definition would apply to all exploration and production operations located on the same lease, unit or field.

*Onsite*—for purposes of this Section, on the same lease or contiguous property owned by the lessor, or within the confines of a drilling unit established for a specific well or group of wells.

*RECAP*—the DEQ Risk Evaluation/Corrective Action Program.

*SERP Manual*—the DNR Site Evaluation and Remediation Procedures manual.

*Submitter*—any individual or entity providing a site evaluation or remediation plan for agency review.

*Transfer Station*—an E&P Waste receiving and storage facility, located offsite, but operated at an approved location in conjunction with a permitted commercial facility, which is used for temporary storage of manifested E&P Waste for a period of 30 days or less.

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 36:

#### §805. Applicability

A. This Chapter shall apply to and provide procedures for the evaluation or remediation of groundwater conditions

at exploration and production sites pursuant to compliance with the requirements of Chapters 3, 4, 5 or 6 of LAC 43:XIX.Subpart 1 (Statewide Order No. 29-B) as an exception to Statewide Order No. 29-B groundwater background concentration requirements to address present or past uncontrolled constituent releases to the environment.

B. Agency approval of any evaluation or remediation plan and subsequent issuance of a NFA letter shall satisfy the conditions set forth in LAC 43:XIX.319.A, 431.A or 569.A for an exception to the applicable requirements.

C. For matters not subject to ACT 312 of 2006 or LAC 43:XIX.Subpart 1.Chapter 6, this Chapter shall apply to the evaluation or remediation of groundwater conditions where; a) the groundwater impact originates from an E&P Waste source, and b) the E&P Waste source impacting groundwater is located onsite or within the permitted boundaries of a commercial facility or transfer station. If either of these two conditions not exist, the matter shall be referred to the appropriate regulatory agency.

D. For sites subject to ACT 312 of 2006 or LAC 43:XIX.Subpart 1.Chapter 6, this Chapter shall only apply to the evaluation or remediation of groundwater conditions where groundwater impact originates from an E&P Waste source.

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 36:

#### **§807. General Requirements**

A. All documentation submitted to the agency pursuant to these regulations shall adequately demonstrate compliance with the conditions set forth in the "Louisiana Department of Natural Resources Exploration and Production Site Evaluation and Remediation Procedures Manual (SERP Manual)" authorized by the Commissioner and effective upon final promulgation of this Chapter.

B. Where applicable and practicable, the SERP Manual shall include site evaluation and remediation protocol and procedures established in conformance with the DEQ Risk Evaluation/Corrective Action Program (RECAP) document.

C. The SERP Manual shall at a minimum provide for procedures to:

1. perform comprehensive site assessments;
2. sample, test and evaluate soils and groundwater;
3. establish background groundwater or soil conditions;
4. fully delineate the horizontal and vertical extent of impacts to soil or groundwater;
5. develop and implement remediation plans;
6. issue NFAs;
7. properly notify landowners;
8. properly file courthouse conveyance records;
9. address chlorides and other applicable Statewide Order 29-B salt parameters;
10. allow composite sampling for screening purposes only; and
11. specifically address hydrocarbon, metals and other constituents found in E&P Waste.

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 36:

#### **§809. Agency Review and Approval**

A. All site evaluation or remediation plans or final results submitted pursuant to MO-3 assessments, or addressing air, surface water, water bottoms (sediments) or non-Statewide Order No. 29-B parameters shall be forwarded to DEQ for review and comment. Only said plans or final results reviewed and reported in writing by DEQ as acceptable shall be approved by the Office of Conservation. All other site evaluation or remediation plans or final results meeting the requirements of this Chapter may be approved by the Commissioner or his designee without the written consent of DEQ, unless otherwise determined by the Commissioner that written consent of DEQ is warranted.

B. Upon acceptance of site evaluation or remediation documentation adequately demonstrating compliance with these rules and that no further action will be necessary, the agency shall issue a letter stating that "no further action is deemed necessary at this time (NFA)."

C. These regulations and SERP Manual procedures do not preclude emergency response or interim measures necessary to protect human health and the environment or to prevent significant migration of constituents of concern. These regulations and SERP Manual procedures do not authorize any injury to private or public property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations, and do not authorize the migration of constituents of concern offsite to adjacent property. It is the responsibility of the Submitter to ensure that risks to human health and the environment are addressed and that decisions concerning management of the release site are protective of human health and the environment.

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 36:

#### **Family Impact Statement**

In accordance with RS 49:972, the following statements are submitted after consideration of the impact of the proposed Rule on family as defined therein.

1. The proposed Rule amendment will have no effect on the stability of the family.
2. The proposed Rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.
3. The proposed Rule amendment will have no effect on the functioning of the family.
4. The proposed Rule amendment will have no effect on family earnings and family budget.
5. The proposed Rule amendment will have no effect on the behavior and personal responsibility of children.
6. Family or local government are not required to perform any function contained in the proposed Rule amendment.

#### **Public Hearing**

The Commissioner of Conservation will conduct a public hearing at 9 a.m., April 5, 2010, in the LaBelle Room located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

#### **Public Comments**

A copy of the above referenced SERP manual can be obtained either online at: <http://dnr.louisiana.gov/cons/DNR->

SERP-Manual.pdf or by contacting John Adams as stated below. All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at the public hearing in accordance with R.S. 49:953. Written comments will be accepted until 4:30 p.m., April 12, 2010, at Office of Conservation, Environmental Division, P.O. Box 94275, Baton Rouge, LA, 70804-9275; or Office of Conservation, Environmental Division, 617 North Third St., Room 817, Baton Rouge, LA 70802. Reference Docket No. ENV 2010-01 on all correspondence. For inquiries about this Rule amendment contact John Adams at the above addresses or by phone at 225-342-7889. No preamble was prepared in association with this proposed rule amendment.

James H. Welsh  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Exploration and Production Site  
Groundwater Evaluation and  
Remediation—Statewide Order No. 29-B**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
No additional implementation costs (savings) to State or Local governmental units are anticipated to implement the proposed rule amendment.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no anticipated effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
No additional costs, workload adjustments, or additional paperwork will be incurred by persons or non-governmental groups as a result of implementation of the proposed rule amendment. Likewise, there are no anticipated economic benefits to persons or non-governmental groups from the implementation of the proposed rule amendment.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on small businesses.

James H. Welsh  
Commissioner  
1002#105

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT  
Department of Natural Resources  
Office of Conservation**

**Manifest System—Statewide Order No. 29-B  
(LAC 43:XIX.545)**

The Louisiana Office of Conservation proposes to amend LAC 43:XIX.545 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the State of Louisiana. The proposed amendment would allow commercial facilities to accept E and P Waste when Part II of the "E and P Waste Shipping Control Ticket" is incomplete or improperly completed, so long as the

remainder of the manifest is properly completed. Furthermore, the proposed amendment requires a commercial facility to forward to the Office of Conservation, within 24 hours of receipt, any manifests regarding accepted E and P Waste shipments which did not have a completed Part II of the "E and P Waste Shipping Control Ticket".

**Title 43**

**NATURAL RESOURCES**

**Part XIX. Office of Conservation—General Operations  
Subpart 1. Statewide Order No. 29-B**

**Chapter 5. Off-Site Storage, Treatment and/or  
Disposal of Exploration and Production  
Waste Generated from Drilling and  
Production of Oil and Gas Wells**

**§545. Manifest System**

A. In order to adequately monitor the movement and disposal of E and P Waste, every shipment of E and P Waste transported to a commercial facility or transfer station shall be accompanied by a manifest entitled "E and P Waste Shipping Control Ticket." It is expressly forbidden to transport or accept E and P Waste without a properly completed manifest form, with the following exception: commercial facilities and transfer stations shall be allowed to accept E and P Waste when the Public Service Commission Permit Code Box found in Part II of the E and P Waste Shipping Control Ticket is either empty or improperly completed, so long as the remainder of the manifest, including the remainder of Part II, is properly completed.

B. - K. ...

L. A commercial facility or transfer station shall forward, by facsimile, a copy of any manifest accepted with an empty or improperly completed Public Service Permit Code Box to the Office of Conservation within 24 hours of its receipt. The commercial facility or transfer station shall mail the manifest to the Office of Conservation, immediately following its delivery via facsimile.

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 27:1911 (November 2001), amended LR 36:

**Family Impact Statement**

In accordance with RS 49:972, the following statements are submitted after consideration of the impact of the proposed Rule amendments at LAC 43: XIX.545 on family as defined therein.

1. The proposed Rule amendment will have no effect on the stability of the family.
2. The proposed Rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.
3. The proposed Rule amendment will have no effect on the functioning of the family.
4. The proposed Rule amendment will have no effect on family earnings and family budget.
5. The proposed Rule amendment will have no effect on the behavior and personal responsibility of children.
6. Family or local government is not required to perform any function contained in the proposed Rule amendment.

**Public Hearing**

The Commissioner of Conservation will conduct a public hearing at 9 a.m., April 1, 2010, in the LaBelle Room located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

**Public Comments**

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at the public hearing in accordance with R.S. 49:953. Written comments will be accepted until 4:30 p.m., April 8, 2010, at Office of Conservation, Environmental Division, P.O. Box 94275, Baton Rouge, LA, 70804-9275; or Office of Conservation, Environmental Division, 617 North Third St., Room 817, Baton Rouge, LA 70802. Reference Docket No. ENV 2010-02 on all correspondence. All inquiries should be directed to John Adams at the above addresses or by phone to 225-342-7889. No preamble was prepared.

James H. Welsh  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Manifest System  
Statewide Order No. 29-B**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
No additional implementation costs (savings) to State or Local governmental units are anticipated to implement the proposed rule amendment.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no anticipated effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There will be no effect on competition and employment.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on small businesses.

James H. Welsh  
Commissioner  
1002#093

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Corrections Services**

**Regulation of Air Traffic (LAC 22:I.105)**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the contents of Section 105 Regulation of Air Traffic.

**Title 22  
CORRECTIONS, CRIMINAL JUSTICE  
AND LAW ENFORCEMENT  
Part I. Corrections**

**Chapter 1. Secretary's Office  
§105. Regulation of Air Traffic.**

- A. Purpose. To state the secretary's policy regarding air traffic at correctional institutions.
- B. Applicability—deputy secretary, chief of operations, regional wardens and wardens. Each warden is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.
- C. Policy. It is the secretary's policy that all incoming and outgoing aircraft to and from the institutions be monitored.
- D. General Procedures
  - 1. Individuals who have reason to come to the institutions via aircraft must request permission and receive authorization in advance, by telephone or in writing, to land at the institution - specifically to land on the airstrip at the Louisiana State Penitentiary or Dixon Correctional Institute.
  - 2. Requests shall be directed to the warden's office during regular business hours, Monday through Friday. Calls received after hours or on weekends or holidays shall be handled by the duty officer.
  - 3. The individual requesting permission to land must provide the following information:
    - a. reason for coming to the institution;
    - b. date and expected time of arrival;
    - c. number and names of persons aboard aircraft; and
    - d. type of aircraft, color and registration number.
  - 4. The warden's office shall notify the control center of approved air traffic. The control center shall notify the designated prison tower officer(s) or other appropriate officers of the incoming air traffic, the expected time of arrival and description of the aircraft. The tower officer shall, in turn, inform the control center when the aircraft arrives. The control center shall then dispatch security to meet the incoming aircraft and to verify the identification of the occupants and provide ground transportation when necessary.
  - 5. A log shall be maintained by security of all aircraft that lands or departs from an institution. This log shall contain the date, time of arrival, type of aircraft, color, registration number and the names of passengers.
  - 6. Low flying aircraft attempting to land anywhere within the vicinity of any institution shall be reported to the control center immediately. The control center shall notify security and other appropriate personnel as designated by the warden.
  - 7. Each warden is responsible for developing written procedures for handling unauthorized and/or emergency landing situations and for securing offenders in the immediate area.

8. Private aircraft may be stored on state property with the warden's approval. If approved, the owner shall maintain liability insurance on the aircraft at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Correction Services, LR 31:1097 (May 2005), amended LR 36:

#### Family Impact Statement

Amendment to the current Rule has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

#### Public Comments

Written comments may be addressed to Melissa Callahan, Deputy Assistant Secretary, Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on March 11, 2010.

James M. Le Blanc  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Regulation of Air Traffic

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on state or local government expenditures. This is merely a technical amendment to an existing regulation regarding air traffic at correctional institutions.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on the Revenue Collections of state or local governmental units as a result of this technical amendment.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of this technical amendment.

Thomas C. Bickham, III  
Undersecretary  
1002#062

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

#### NOTICE OF INTENT

#### Department of Public Safety and Corrections Gaming Control Board

Accounting Regulations  
(LAC 42:VII.2707, 2715, and 2723; IX.2707, 2715, 2717, and 2723; and XIII.2707, 2717, and 2723)

The Louisiana Gaming Control Board hereby gives notice that it intends to amend LAC 42:VII, IX and XIII.2707 and 2723; VII and IX.2715; and IX and XIII.2717.

## Title 42 LOUISIANA GAMING

### Part VII. Pari-Mutuel Live Racing Facility Slot Machine Gaming

#### Chapter 27. Accounting Regulations

##### §2707. Record Retention

A. ...

B. Each Type A licensee shall conduct a complete system data backup to an off-site location a minimum of once a month. For purposes of this rule, the off-site storage facility is specified in the Type A licensee's internal controls. A complete system data backup includes, but is not limited to:

1. all automated slot data information;
2. all automated cage and credit information; and
3. all automated revenue reports.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:746 (April 2000), amended LR 34:2647 (December 2008), LR 36:

##### §2715. Internal Control; General

A. - N. ...

O. - Q. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:748 (April 2000), amended LR 26:2305 (October 2000), LR 34:2647 (December 2008), LR 36:

##### §2723. Internal Controls; Slots

A. Any reference to slot machines or slots in this Section includes all electronic gaming devices. Provisions within this Section only applicable to requirements for use of coins or tokens shall not apply to coinless and tokenless devices.

B. - Q.9. ...

10. The currency acceptor count shall be performed in the soft count room. At least one surveillance or internal audit employee shall monitor the currency acceptor count process on at least one randomly selected day per calendar week and shall be recorded by surveillance. Surveillance shall record on the surveillance log any exceptions or variations to established procedures observed during the count. If at any time surveillance observes the visibility of count team's hands or other activity is consistently obstructed, surveillance shall immediately notify count room employees.

Q.11. - W.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:751 (April 2000) amended LR 26:2305 (October 2000), LR 31:1603 (July 2005), LR 34:2648 (December 2008), LR 35:2198 (October 2009), LR 35:2815 (December 2009), LR 36:

### Part IX. Landbased Casio Gaming

#### Subpart 1. Economic Development and Gaming Corporation

#### Chapter 27. Accounting Regulations

##### §2707. Record Retention

A. ...

B. The casino operator or casino manager shall conduct complete system data backups to an off-site location a minimum of once a month. For purposes of this rule, the off-site storage facility is specified in the casino operator or casino manager's internal controls. A complete system data backup includes, but is not limited to:

B.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1925 (October 1999), amended LR 34:2654 (December 2008), LR 35:2816 (December 2009), LR 36:

#### **§2715. Internal Control; General**

A. - N. ...

O. Repealed.

P. ...

Q. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1925 (October 1999), amended LR 34:2655 (December 2008), LR 35:2816 (December 2009), LR 36:

#### **§2717. Internal Controls; Table Games**

A. - J.4. ...

K. Table Games Count Procedures. The counting of table game drop boxes shall be performed by a soft count team with a minimum of three persons. Count tables shall be transparent to enhance monitoring. Surveillance shall be notified when the count process begins and the count process shall be monitored in its entirety and recorded by surveillance. At least one surveillance or internal audit employee shall monitor the table count process on at least two randomly selected days per calendar month. Surveillance shall record on the surveillance log any exceptions or variations to established procedures observed during the count. Surveillance shall notify count team members immediately if surveillance observes the visibility of hands or other activity is consistently obstructed in any manner. Testing and verification of the accuracy of the currency counter shall be conducted and documented quarterly. This test shall be witnessed by someone independent of the count team members.

K.1. - P.3.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1930 (October 1999), amended LR 34:2656 (December 2008), LR 36:

#### **§2723. Internal Controls; Slots**

A. Any reference to slot machines or slots in this Section includes all electronic gaming devices. Provisions within this Section only applicable to requirements for use of coins or tokens shall not apply to coinless and tokenless devices.

B. - Q.9. ...

10. The currency acceptor count shall be performed in the soft count room and shall be recorded by surveillance. If at any time surveillance observes the visibility of the count team's hands or other activity is consistently obstructed, surveillance shall immediately notify count room employees. At least one surveillance or internal audit employee shall monitor the currency acceptor count process on at least one randomly selected day per calendar week. Surveillance shall

record on the surveillance log any exceptions or variations to established procedures observed during the count.

Q.11. - W.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1936 (October 1999), amended LR 26:2306 (October 2000), LR 31:1605 (July 2005), LR 34:2657 (December 2008), LR 35:2198 (October 2009), LR 35:2816 (December 2009), LR 36:

### **Part XIII. Riverboat Gaming**

#### **Subpart 2. State Police Riverboat Gaming Division**

#### **Chapter 27. Accounting Regulations**

#### **§2707. Record Retention**

A. ...

B. Each licensee shall conduct a complete system data backup to an off-site location a minimum of once a month. For purposes of this rule, the off-site storage facility is specified in the licensee's internal controls. A complete system data backup includes, but is not limited to:

B.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1878 (October 1999), repromulgated LR 25:2233 (November 1999), amended LR 34:2665 (December 2008), LR 36:

#### **§2717. Internal Controls; Table Games**

A. - J.4. ...

K. Table Games Count Procedures. The counting of table game drop boxes shall be performed by a soft count team with a minimum of three persons. Count tables shall be transparent to enhance monitoring. Surveillance shall be notified when the count process begins and the count process shall be monitored in its entirety and recorded by surveillance. At least one surveillance or internal audit employee shall monitor the count process on at least two randomly selected days per calendar month. Surveillance shall record on the surveillance log any exceptions or variations to established procedures observed during the count. Surveillance shall notify count team members immediately if surveillance observes the visibility of hands or other activity is consistently obstructed in any manner. Testing and verification of the accuracy of the currency counter shall be conducted and documented quarterly. This test shall be witnessed by someone independent of the count team members.

K.1. - P.3.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1882 (October 1999), repromulgated LR 25:2237 (November 1999), amended LR 34:2666 (December 2008), LR 36:

#### **§2723. Internal Controls; Slots**

A. Any reference to slot machines or slots in this Section includes all electronic gaming devices. Provisions within this Section only applicable to requirements for use of coins or tokens shall not apply to coinless and tokenless devices.

B. - Q.9. ...

10. The currency acceptor count shall be performed in the soft count room and shall be recorded by surveillance. If at any time surveillance observes the visibility of the count team's hands or other activity is consistently obstructed, surveillance shall immediately notify count room employees. At least one surveillance or internal audit employee shall monitor the currency acceptor count process on at least one randomly selected day per calendar week. Surveillance shall record on the surveillance log any exceptions or variations to established procedures observed during the count.

Q.11. - W.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1887 (October 1999), repromulgated LR 25:2243 (November 1999), amended LR 26:2306 (October 2000), LR 31:1607 (July 2005), LR 34:2667 (December 2008), LR 35:2198 (October 2009), LR 35:2816 (December 2009), LR 36:

#### Family Impact Statement

Pursuant to the provisions of La. R.S. 49:953 A., the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:VII, IX, and XIII.2707 and 2723; VII and IX.2715; and IX and XIII.2717.

It is accordingly concluded that amending LAC 42:VII, IX, and XIII.2707 and 2723; VII and IX.2715; and IX and XIII.2717 would appear to have no impact on the following:

1. The effect on stability of the family.
2. The effect on the authority and rights of parents regarding the education and supervision of their children.
3. The effect on the functioning of the family.
4. The effect on family earnings and family budget.
5. The effect on the behavior and personal responsibility of children.
6. The ability of the family or a local government to perform the function as contained in the proposed rule.

#### Small Business Statement

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small business if LAC 42:VII, IX, and XIII.2707 and 2723; VII and IX.2715; and IX and XIII.2717 are amended as they will not apply to small businesses.

#### Public Comments

All interested persons may contact Jonathon Wagner, Attorney General's Gaming Division, telephone (225) 326-6500, and may submit comments relative to these proposed rules, through March 10, 2010, to 1885 North 3rd Street, Suite 500, Baton Rouge, LA 70802.

Dane K. Morgan  
Chairman

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Accounting Regulations

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed administrative rule changes will have no implementation costs to state or local governmental units. The

proposed amendments: (1) clarify what data casinos are required to backup to an off-site facility, (2) repeal rules not applicable to the accounting regulations for the Pari-Mutuel Live Racing Facility Slot Machine Gaming and Landbased Casino Gaming sections, (3) correct an inadvertent exclusion of coinless and tokenless devices from §2723, and (4) reduce the number of days a surveillance or audit employee shall monitor gaming drop box counts.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed administrative rule change will have no impact on revenue collections for state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed administrative rule change will not have any cost to industry associated with its implementation.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed administrative rule change will have no effect on competition or employment.

Dane K. Morgan  
Chairman  
1002#001

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Public Safety and Corrections Office of the Fire Marshal Code Enforcement and Building Safety

#### Industrialized Buildings (LAC 55:V.Chapter 27)

In accordance with the provisions of R.S. 40:1730.51 through 1730.66, relative to the authority of the Office of State Fire Marshal to promulgate and enforce rules, the Office of State Fire Marshal hereby proposes to adopt the following Rule regarding the regulation of industrialized buildings.

#### Title 55

#### PUBLIC SAFETY

#### Part V. Fire Protection

#### Chapter 27. Industrialized Buildings

#### §2701. Definitions

A. For the purpose of this chapter, the following words, unless the context does not permit, shall have the meanings indicated.

*Agency*—an individual or entity, which may be a private sector entity, a state department or a local government determined by the State Fire Marshal to be qualified pursuant to this chapter to inspect the construction of industrialized building units, systems, or the component parts thereof together with the pre-approved plans, specifications, and quality control procedures to ensure that such units, systems, or component parts are in full compliance with the codes and standards herein adopted and to assign and attach the decal of the State Fire Marshal to such units complying with those standards.

*Building Code*—the Louisiana State Uniform Construction Code provided for in R.S. 40:1730.21 et seq.

*Building Official*—the officer or other designated authority or their duly authorized representative charged

with the administration of the applicable technical codes in the subject jurisdiction.

*Closed Construction*—a building, component, assembly, subassembly, or system manufactured in such a manner that all portions cannot be readily inspected at the installation site without disassembly or destruction thereof.

*Component*—see modular component.

*Construction Site Building*—a commercial structure that is not open to the public and is used for any purpose at a commercial site by a person constructing a building, road, bridge, utility, or other infrastructure or improvement to real property.

*Council*—the Louisiana State Uniform Construction Code Council.

*Data Plate*—a plate which is permanently mounted on an industrialized building or component which contains design information as noted in §2713.I herein.

*Dealer*—any person, corporation or business which has been registered to engage in leasing, selling or distribution of industrialized buildings for placement in the state of Louisiana.

*Decal*—the approved form of label issued by the Office of State Fire Marshal to be permanently affixed to the building or module indicating that it has been constructed to meet or exceed the code requirements and in compliance with the provisions of this part.

*Enforcement Agency*—an agency of state or local government with authority to make inspections of buildings and to enforce the codes which establish standards for design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures or facilities.

*Equipment*—all equipment, material, appliances, devices, fixtures, fittings or accessories installed in, or used in, the manufacture and assembly of an industrialized building.

*Facility*—the physical location of a manufacturing plant where buildings or components are constructed, or the physical location of a dealer where buildings or components are stored.

*Industrialized Building*—a commercial structure that is erected or installed using one or more modules or one or more modular components that are constructed at a location other than the commercial site; is designed to be used as a commercial building when the module or the modular component is transported to the commercial site and erected or installed; includes the structure's plumbing, heating, air conditioning, and electrical systems; includes a permanent commercial structure and a commercial structure designed to be transported from one commercial site to another commercial site. An *industrialized building* does not include a commercial structure that exceeds three stories or forty-nine feet in height as measured from the finished grade to the peak of the roof.

*Installation*—the assembly of an industrialized building component or system on site and the process of affixing an industrialized building component or system to land, a foundation, or an existing building, or service connections which are part thereof.

*Labeled*—affixed with a decal or data plate.

*Manufacture*—the process of making, modifying, fabricating, constructing, forming or assembling or reassembling a product from raw, unfinished, semifinished, or finished materials.

*Manufacturer*—any person who, or entity which, has been registered to produce or modify industrialized buildings for placement in the state of Louisiana.

*Model*—a specific design of industrialized buildings which is based on size, room arrangement, method of construction, location, arrangement or size of plumbing, mechanical or electrical equipment and systems therein in accordance with plans submitted to the Office of State Fire Marshal.

*Modification*—any change to an industrialized building which affects the structural, electrical, thermal, mechanical, plumbing systems, life safety, means of egress, material flammability/flare spread or accessibility of the building to persons with disabilities.

*Modular Component*—a structural part of a building constructed at a location other than the commercial site in a manner that prevents the construction from being adequately inspected for building code compliance at the commercial site without damage or removal and reconstruction of a part of the building.

*Modular Section*—see *module*.

*Module*—a three dimensional section of industrialized building designed and approved to be transported as a single section independent of other sections, with or without other modules or modular components, that prevents the construction from being adequately inspected for building code compliance without damage or removal and reconstruction of a part of the building.

*Occupancy Classification*—the purpose for which a building, or part thereof, is used or intended to be used as defined in the codes and standards adopted herein.

*Open Construction*—any industrialized building, building component, assembly or system manufactured in such a manner that all parts or processes of manufacture can be readily inspected at the installation site without disassembly, damage to or destruction thereof.

*Quality Control Manual*—a manual which contains all aspects of quality control procedures to be utilized by an entity or individual performing a function regulated hereby.

*Standard Design*—any building system, model, series or component intended for duplication or repetitive manufacture.

*State Fire Marshal*—the Louisiana Office of State Fire Marshal Code Enforcement and Building Safety.

*Third-Party*—an individual or individuals registered with the Council as a code enforcement officer in accordance with R.S. 40:1730.34 through 1730.38 and LAC 55:VI:7.

*Traveler*—a form utilized in a manufacturing facility in conjunction with the manufacturer's quality control program to indicate that all quality control inspections are conducted during the manufacturing process and that all inspections indicate compliance with the approved plans.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal

Code Enforcement and Building Safety, LR 35:2467 (November 2009), amended LR 36:

### **§2703. Administration and State Fire Marshal**

#### **Authority**

A. Forms. A manufacturer's application for registration, a dealer's application for registration, a plan review application, a decal request form, and a decal disposition report per §2727 herein shall be submitted on forms provided by the state fire marshal.

B. Registration. The state fire marshal shall register manufacturers and dealers in accordance with this chapter. All registrations and approvals granted by the state fire marshal pursuant to §2705 and §2707 herein are subject to revocation for failure to adhere to these rules, as provided for in §2729 herein.

C. Third-Parties. Third-parties shall be properly registered with the council for the type of project he or she will inspect.

1. Monitoring. The state fire marshal, through his employees or his designated performance auditors, shall monitor the performance of manufacturers, dealers, and third-parties.

2. Auditing. Each registered manufacturer shall be subject to a performance audit at a minimum of once every three years. Unannounced visits to manufacturing facilities may be utilized unless impractical. Information obtained through monitoring shall remain confidential to the extent permitted by law. Manufacturers shall provide the auditor access to records, facilities and personnel as requested by the auditor. The auditor shall collect information through interviews, examination of documents and observation of activity to determine whether the manufacturer complies with the applicable codes and standards. Any determination of nonconformance with any applicable provision shall be reported to the manufacturer. The report shall identify the facts that support the finding of nonconformity and recommend corrective action. The state fire marshal shall determine the appropriate corrective action subject to the requirements of §2729 herein.

3. Oversight. The manufacturer shall be responsible for correcting code violations. The State Fire Marshal shall make an independent determination regarding the existence of a violation. The state fire marshal may allow a third-party to investigate complaints and notify the state fire marshal regarding the existence of a code violation and disposition thereof.

4. Permits. In accordance with the requirements set forth in R.S. 40:1730.63(A) and 1730.65.C(3). The state fire marshal shall provide by rule for the placement of decals or insignia on each transportable modular section or modular component to indicate compliance with the building code. A parish or municipal building official is authorized to require, in accordance with these rules, that all modules or modular components bear an approved decal. As such, no governmental subdivision in the state of Louisiana shall issue any building permit for installation of an industrialized building unless the building contains a valid decal issued in accordance with §2723 herein.

5. Occupancy. In accordance with the requirements set forth in R.S. 40:1730.56(A) and (B), industrialized buildings constructed after January 1, 2007 shall meet or exceed the requirements of the building code and the state fire marshal

in accordance with R.S. 40:1574 through 1593. Occupancy of any structure found in violation of the law and these rules will not be granted by the state fire marshal as provided for in LAC 55:V:307-309 until compliance can be verified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:2469 (November 2009), amended LR 36:

### **§2705. Manufacturer Registration**

A. General. All individuals or entities manufacturing buildings or components intended for installation in Louisiana shall be registered with the state fire marshal. In the event that a manufacturer has more than one facility producing industrialized buildings, the manufacturer shall obtain registration for each such facility individually.

B. Initial Registration Requirements. A manufacturer shall submit the following to the state fire marshal for registration:

1. a completed application for registration and a copy of a current valid contract with a third-party for inspection services;

2. description of manufacturing facility including at a minimum the size of shed(s) for weather protection of building materials and buildings under construction or repair, the size of yard at the facility for storing buildings, a site plan of the facility and a location map of the facility;

3. a quality assurance control manual in accordance with §2721;

4. appropriate fees in accordance with §2737.

C. Multiple Facilities. The manufacturer shall register each of its facility locations separately. A quality assurance control manual shall be kept at each location.

D. Renewal. The manufacturer shall renew its registration every 12 months and shall update the information required by §2705.B and submit to the state fire marshal. If the manufacturer does not complete the renewal information by the registration expiration date, registration becomes expired. The manufacturer must meet the qualifications in effect upon the date of renewal to have its registration renewed.

E. Change of Ownership. When the ownership of a manufacturer changes, the new owner shall within 21 days:

1. Inform the state fire marshal in writing of such change of ownership with an effective date.

2. Submit a completed manufacturer's application to the State Fire Marshal in accordance with §2705.

F. Change of Name and Address. In the event of a change in the name or mailing address of any manufacturer or inspection agency, the state fire marshal shall be notified in writing within ten days.

G. Change or Additions to a Facility. In the event of a change or an addition to a facility, the manufacturer shall revise and resubmit all items as required by §2705.B to the state fire marshal prior to production of any buildings, modules, or components intended for sale in Louisiana.

H. Change of Manufacturer's Third-Party Inspection Agency

1. The manufacturer shall immediately inform the state fire marshal in writing of any change of third-party provider. No manufacturing shall be performed and no decals shall be placed on any industrialized building,

module, or modular component until an approved third-party has been retained.

2. The manufacturer shall submit to the state fire marshal a copy of the service agreement with the new third-party agency reflecting the effective date.

3. The new third-party agency shall review the quality control manual of the manufacturer, perform an initial plant certification inspection, and provide a plant certification report to the state fire marshal in accordance with §2735 of this part.

I. Termination of State Registration. In the event that a manufacturer chooses to discontinue business in Louisiana, the state fire marshal shall be notified in writing at least 30 days prior to the effective date. Such notice shall serve as a resignation of the registration and any subsequent resumption of business activities will require a new submittal in accordance with §2735.B of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:2469 (November 2009), amended LR 36:

#### **§2707. Dealer Registration**

A. All individuals or entities engaged in leasing or selling industrialized buildings or components for installation in Louisiana shall be registered with the State Fire Marshal.

B. Initial Registration Requirements. A dealer shall submit the following to the state fire marshal for registration:

1. a completed application for registration;
2. identification of principals which shall at a minimum include the positions of partners if the dealer is a partnership or its officers, directors, controlling owners and registered agent if the dealer is a corporation;
3. description of dealer's facility including at a minimum the size of shed(s) for weather protection of building materials and buildings under repair, the size of yard at the facility for storing buildings, a site plan of the facility and a location plan of the facility;
4. appropriate fees in accordance with §2737.

C. The dealer shall submit a separate application for each separate facility location.

D. Renewal. The dealer shall renew its registration every 12 months and shall update the information provided in §2735 of this part and submit to the state fire marshal. If the dealer does not complete the renewal information by the registration expiration date, registration becomes expired. The dealer must meet the qualifications in effect upon the date of renewal to have its registration renewed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:2470 (November 2009), amended LR 36:

#### **§2709. Reserved**

#### **§2711. Reserved**

#### **§2713. Design and Component Review**

A. General. A plan approval of each building and modular component design shall be contingent upon compliance with the requirements of the state fire marshal, these rules, and the codes and standards referenced in R.S.

40:1730.56. The applicant shall submit plans and information as required by §2713.B for all new construction of buildings and renovations to existing buildings for approval by the office of state fire marshal in accordance with R.S. 40:1730.59 and R.S. 40:1730.66. The office of state fire marshal, upon review of the plans, may request any additional information necessary to evaluate the plans submitted and shall notify the applicant of any apparent errors or omissions. Manufacturing, modifications, or alterations shall not commence until a full submittal to the state fire marshal has been made in accordance with this Section and a complete plan review has been performed by either an approved third-party or the state fire marshal. Plan approvals are valid for 180 days from the date of the review, or until notification that the applicable standards referenced in R.S. 40:1730.56 are to be updated, modified, or changed, whichever is later.

#### **B. Third-Party Plan Review**

1. All building code plan reviews performed by a third-party must be documented in writing to the state fire marshal. The plan review report, as a minimum, shall contain the following information:

- a. name of registered third-party inspector and council issued registration number;
- b. name of manufacturer and state fire marshal issued registration number;
- c. date of plan review;
- d. the identification number, plan number, or serial number of the building or component reviewed;
- e. a list of all applicable codes and editions reviewed for compliance;
- f. a statement indicating that information contained in the design plan submittal (pursuant to §2713.C) has been reviewed for compliance with the applicable codes;
- g. a final report indicating any nonconformities observed and corrective actions required, when applicable.

2. A copy of the reviewed and approved plans shall be submitted with the plan review report to the state fire marshal for oversight along with any additional information required with the design plan submittal pursuant to §2713.C. Manufacturing may commence upon approval from the registered third-party; however, any additional deficiencies detected by the state fire marshal during the design plan submittal review shall be corrected. Decals shall not be affixed to the building or component until oversight has been performed by the state fire marshal.

C. Design Plan Submittal. Complete sets of design plans and specifications shall be prepared and sealed by an architect or engineer licensed to practice in the state of Louisiana when required by Louisiana law or by the state fire marshal. Plans shall be drawn to scale and shall be legible for reproduction purposes. Supporting calculations and any required test results shall also be provided for each building design to be reviewed. Information required with each design plan submittal shall be as indicated on the "industrialized buildings plan review checklist" as provided by the state fire marshal. A computerized version in an acceptable electronic format shall also be provided for each standard design. The required information for each design shall be submitted with an industrialized building plan review application, a decal request form as provided by the state fire marshal, and the appropriate fees as indicated in

§2737 herein. The state fire marshal shall review the applicant's submittal and, if deficiencies are detected during the review, shall issue a plan review letter identifying the deficiencies. A revised submittal indicating corrections to these deficiencies shall be resubmitted to the state fire marshal within 21 days of the date of the letter for further review. Once the submittal has been determined to have no deficiencies, the state fire marshal shall affix a stamp to each page of the plans and the specifications cover pages reviewed. The submittal package shall be returned with a review letter indicating the limitations of the review along with the requested decals. If corrections to deficiencies are not received within 21 days of the date of the letter, the project will be found to be "not in compliance". Plan review fees for submittals found "not in compliance" are not refundable.

D. Modular Component and Modular Section Review. The applicant shall submit to the state fire marshal for review a modular component or modular section which may include any or all elements for use as part of a building, such as structural, mechanical, plumbing, electrical components and/or fire protection systems. Submission shall include all applicable documents and data as indicated in the "design plan submittal" above, providing complete information necessary for evaluation of the component's performance and capabilities for its intended use.

E. Fire Protection Systems Review. Life safety and property protection systems must be submitted to the state fire marshal for review by a life safety and property protection contractor licensed by the state fire marshal pursuant to §2719 herein.

F. Equivalent Methods of Compliance. In accordance with R.S. 40:1730.61, any proposed equivalent or alternative materials or methods of compliance with the referenced codes and standards, except for the Louisiana State Plumbing Code, that are not expressly prescribed therein shall be submitted to the state fire marshal for review. Justification for the request and supporting data shall be submitted with a "proposed equivalency to code – request for appeal" application provided by the state fire marshal and the appropriate review fee. If the state fire marshal determines, from an engineering performance standpoint, that sufficient evidence has been provided to substantiate that the proposed alternative is at least the equivalent of that prescribed by the referenced codes and standards, the state fire marshal may approve the use of such material or method. Such approval shall not be construed as an amendment to the technical codes and standards and shall only apply to the specific scope of work identified by a state fire marshal issued project number.

G. Scope of Plan Review. The scope of an industrialized building, modular component, or modular section plan review is limited to aspects of construction performed at the place of manufacture. The "industrialized building" plan review letter shall not be used to obtain a permit for site installation.

H. Site-Specific Plan Review Submittal. Industrialized buildings manufactured and decaled pursuant to §2723 herein, purchased and ready for site-specific installation, shall be submitted to the state fire marshal by the owner or his authorized agent for review and approval in accordance with R.S. 40:1730.66 and R.S. 40:1574, prior to obtaining a

building permit from the applicable jurisdiction. The industrialized building decal number shall be provided by the owner upon submittal to the state fire marshal for this site-specific review.

I. Manufacturer's Modular Data Plate. The manufacturer shall install on all industrialized (modular) buildings and components, prior to leaving the manufacturing plant, a data plate which shall be permanently mounted on or about the electrical panel, if provided, or as documented on approved plans, and which shall contain, but not be limited to, the following design information when applicable.

1. manufacturer;
2. manufacturer registration number;
3. date of manufacture;
4. date of alteration, if any;
5. number of modules (decal and data plate must be installed on each module);
6. construction type;
7. occupancy use classification;
8. serial number;
9. fire marshal plan review number(s);
10. maximum floor load(s) (pounds per square foot, first floor and upper floors), live load and concentrated load;
11. roof load; live load and snow load;
12. wind velocity rating;
13. "r" value of floor, wall, and roof;
14. approved for flood zone usage (yes/no);
15. applicable codes and editions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:2470 (November 2009), amended LR 36:

#### **§2715. Modifications or Alterations to Decaled Buildings**

A. Any unauthorized modification, alteration, or conversion made to an industrialized building, modular component, or modular section previously approved by the state fire marshal shall void the decal of approval. The decal affixed to the building shall be removed in accordance with §2729 herein.

B. Pursuant to R.S. 40:1730.56(B), a change in the use of an industrialized building shall be subject to the requirements established for renovations. As such, the provisions of this section shall apply to such buildings. The provisions of this section shall not apply to a change in use of an industrialized building which is not accessible by the public.

C. Minor modifications to approved designs during the manufacturing process shall be submitted to the state fire marshal for further review and approval prior to decal placement. Major modifications shall be resubmitted for review with information as required by §2713 herein. The classification of scopes of work as minor or major modifications shall be subject to the discretion of the state fire marshal.

D. Modifications to existing industrialized buildings bearing a decal that are made other than at the initial manufacturing site shall be approved by the state fire marshal.

1. The manufacturer or dealer must provide the state fire marshal with a set of the original approved plans of the building, revised plans reflecting the proposed modifications, a decal request form, and any additional information as required in §2713 herein. No work shall begin until the plans have been approved by the state fire marshal.

2. The state fire marshal, a third-party, or the building official for the jurisdiction in which the building is located shall be retained by the manufacturer or dealer in order to provide complete inspections during every stage of construction. Once the agency has tested and/or evaluated each system in the building and certifies to the Office of State Fire Marshal that the building is in compliance with the applicable codes, the Office of State Fire Marshal will authorize placement of an additional decal to be affixed to the building beside the original decal.

3. Pursuant to R.S. 40:1730.58(C), where the cost of the modification or alteration exceeds 50 percent of the value of the modules or modular components, the entire building shall be made to comply with the current adopted edition of the codes. Where the cost of the modification or alteration is less than 50 percent of the value of the modules or modular components, only portions of the building affected by the modification shall be required to comply with the current adopted edition of the codes.

4. A building bearing an approved decal for the recertification shall be deemed to comply with the requirements of all state adopted codes and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 36:

#### **§2717. Industrialized Buildings Constructed Prior to January 1, 2007**

A. Pursuant to R.S. 40:1730.56(B), industrialized buildings constructed prior to January 1, 2007 shall meet or exceed the requirements established by the parish or municipality in which the building is to be located at the time of construction of the industrialized building. If the parish or municipality has not established requirements, compliance with the wind and flood provisions as adopted by the Louisiana State Uniform Construction Code Council shall be required as a minimum standard. Pursuant to R.S. 40:1730.64(D), the state fire marshal may approve previously manufactured industrialized buildings when the state fire marshal determines that the adopted standards of other states are reasonably consistent with those of the building code in effect at the time of unit manufacture. The previously manufactured industrialized building shall be required to bear a data plate indicating the codes in effect at the time of unit manufacture and any other state labels that are applicable. As such, manufacturers or dealers may apply to the state fire marshal for decal placement on buildings that were constructed prior to January 1, 2007.

B. The following shall be required to be submitted to the state fire marshal for review when decals are requested:

1. a complete design plan submittal as indicated in §2713 herein;

2. documentation indicating the date of manufacture, serial number of the building, and the applicable codes and editions to which the building was manufactured;

3. documentation indicating approval under an industrialized building program of another state, if applicable;

4. data plate information;

5. the original third-party plan review letter and inspection reports documenting compliance with the codes indicated.

C. The State Fire Marshal shall review the documentation and issue a letter indicating the findings.

1. If found to comply with, as a minimum, the adopted wind and flood provisions, a unique identifiable decal as described in §2723.K herein will be issued to be affixed to the building.

2. If deficiencies are discovered during the review, the procedures indicated in §2713.C herein shall apply.

3. Any required corrections shall be inspected at the place of manufacture in accordance with §2735 herein, or shall be completely inspected by the state fire marshal, a third-party, or the building official for the jurisdiction in which the building is located during every stage of modification.

4. A decal disposition report shall be submitted to the state fire marshal per §2723 herein.

5. Where modifications are required, all inspection reports shall be submitted to the state fire marshal with the disposition report.

D. Site-specific installation of buildings constructed prior to January 1, 2007 that bear a decal are subject to verification by the building official for the jurisdiction in which the building is to be located that the building meets or exceeds the requirements established by the jurisdiction at the time of construction of the industrialized building, in accordance with R.S. 40:1730.56(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:2472 (November 2009), amended LR 36:

#### **§2719. Manufacture and Installation of Life Safety and Property Protection Systems**

A. All life safety and property protection systems, including but not limited to, fire sprinkler, fire alarm, fire suppression, electronic locking, closed circuit television, and security systems, must be integrated, installed, certified and serviced by a life safety and property protection contractor properly licensed by the state fire marshal pursuant to R.S. 40:1664.1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:2473 (November 2009), amended LR 36:

#### **§2721. Manufacturer's Quality Control Manual**

A. The manufacturer shall maintain, at each site of manufacture of industrialized buildings, a quality control manual. The manufacturer's quality control manual shall at a minimum contain the following information.

1. Organizational Element
  - a. Introduction of the Manufacturer. A brief history which shall, at a minimum, include the length of time that the manufacturer has been in the industrialized buildings industry, where it is incorporated, whether it is a division of any parent organization, the identity of products it manufactures, and the location of the facility.
  - b. Identification of principals and the positions of partners if the manufacturer is a partnership or its officers, directors, controlling owners and registered agent if the manufacturer is a corporation.
  - c. An organizational chart showing responsible management and supervisory positions by title. A job description for each of the positions shall be provided.
  - d. Brief qualifications of all personnel in management and supervisory positions including the quality control manager.
  - e. Administrative procedure for revision of quality control procedure and quality control manual.
  - f. Procedure for retaining permanent records of plans, travelers, inspection reports, serial numbers of buildings, decals used, first destination of labeled buildings or components.
  - g. Method and frequency for training of quality control and production personnel.
2. Design and specification control:
  - a. procedures for revisions to plans;
  - b. recording system of drawings and specifications.
3. Material control:
  - a. inspection procedure of materials, equipment and supplies when received;
  - b. method of storing and protection of building materials and equipment against damage;
  - c. provision for disposal of rejected materials, equipment and supplies;
  - d. forms used.
4. Production control:
  - a. a description of manufacturing process—method and sequence of construction;
  - b. check lists of material specifications and workmanship inspections performed at each stage of production by supervisors, corrective actions taken, use of traveler;
  - c. frequency of quality control inspections;
  - d. list of tests to be performed, testing equipment, results and technical data acceptable;
  - e. procedures for timely preventive and remedial measures;
  - f. assignment of authority to accept or reject work;
  - g. provision for disposition of rejected items;
  - h. forms used.
5. Finished product control and identification of products:
  - a. procedure for handling and storage of finished buildings/modules and components;
  - b. preparation for shipping, transportation, and delivery;
  - c. serial numbering system of buildings or components and location of the serial number not readily removable;
  - d. location of manufacturer's data plate. Information to contain in the data plate;

- e. location of Louisiana state decal;
- f. forms used.

6. A copy of the initial plant certification report in accordance with §2735 herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:2474 (November 2009), amended LR 36:

**§2723. Decal Application and Issuance**

A. Each industrialized building, modular section and modular component approved by the state fire marshal shall be affixed with a Louisiana state fire marshal industrialized building decal after favorable plan review and inspection in accordance with §2713 and §2735 herein. The decal shall indicate acceptance of construction approved by the design plan review and inspected at a place other than at the site of installation.

B.1. The manufacturer or dealer shall file with the state fire marshal a decal disposition report no later than the tenth day of the following month for the preceding month's activity, until all decals in the possession of the manufacturer or dealer have been affixed and are accounted for. The disposition report shall be filed on a form provided by the state fire marshal and shall contain, as a minimum, the following information:

- a. the state fire marshal issued decal number for each unit manufactured or modified;
- b. the state fire marshal issued plan review number for the building or component;
- c. the identification number or serial number of the building or component;
- d. the date(s) of inspection; and
- e. the date of decal placement.

2. Inspection reports as required by §2715, §2717, or §2735 herein shall accompany each disposition report.

C. The control of the decals shall remain with the Office of state fire marshal and will be revoked by the state fire marshal in the event of violation of the conditions of approval. All such voided decals shall be returned to the Office of State Fire Marshal.

D. Decals shall be obtained utilizing a request form provided by the state fire marshal. One request form shall accompany each industrialized building plan review application required with each design submitted for review in accordance with §2713 herein and shall indicate the number of modules intended to be manufactured for the design submitted.

E. Upon design plan submittal approval, decals shall be provided as requested to the manufacturer or dealer. Additional decals may be ordered at any time after the initial plan review and approval has been completed. The plan review project number issued by the state fire marshal for a specific design shall be indicated on the decal(s) issued.

F. The third-party, the manufacturer's quality assurance person, or the state fire marshal shall affix the decals to the corresponding approved buildings only after inspection in accordance with §2715, §2717, or §2735 herein and determination that the building or component is in compliance with the approved design plan submittal and state fire marshal requirements.

G. Assigned decals are not transferable from one building to another or from one manufacturer or dealer to another manufacturer or dealer. Decals issued with each design plan submittal approval shall only be placed on the corresponding approved building or component. Decals not used within three years of issuance shall be returned to the state fire marshal.

H. After a decal has been affixed to a building or component, alterations may be made only in accordance with §2715 herein.

I. Decals shall not be affixed to an industrialized building, modular section or modular component which has deficiencies or does not conform to the approved plans. Violation of this section shall be subject to the penalties and fines indicated in §2729 herein.

J. Construction Site Building. Pursuant to R.S. 40:1730.63(B), buildings that are manufactured only for use as temporary construction site buildings shall be exempt from these decal provisions.

K. Industrialized Buildings Constructed Prior to January 1, 2007. Decals issued pursuant to §2717 herein shall have a unique color, shape, or markings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:2474 (November 2009), amended LR 36:

#### **§2725. Transportation and Installation**

A. Manufacturer shall provide a transportation and installation booklet with each new building and component package. It shall include:

1. precautions and instructions for transportation of buildings and modules;
2. installation instructions;
3. notice that a site-specific plan review submittal is required to be submitted to the state fire marshal in accordance with §2713(H) of this part prior to obtaining a building permit from the applicable jurisdiction.
4. Notice that inspections by the state fire marshal are required prior to occupancy.

B. Dealer shall ensure that the transportation and installation booklet is provided with each building and component package.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 36:

#### **§2727. Reserved.**

#### **§2729. Removal of Decals, Penalties and Fines Imposed**

A. The state fire marshal, upon notice that a building, module, or modular component bearing a decal is in violation, shall furnish the building manufacturer or dealer in possession of the decal with a written notice of such violations.

1. The manufacturer or dealer shall respond within 21 days of such notice with a plan of correction. If modifications are required to bring the building or component into compliance, the provisions of §2715 herein shall apply.

2. The state fire marshal or his authorized agent, the manufacturer, or the dealer shall remove the decal from the

building, module, or modular component found to be in violation within 21 days of the notice and shall return the decal to the state fire marshal.

3. Decals for previously issued units of the same design also determined to be in violation shall be deemed void and shall also be returned to the state fire marshal.

4. Applications for decals for new units by a manufacturer previously determined to be in violation will be denied until the plan of correction has been approved and compliance has been verified.

5. A fine not to exceed two hundred dollars per day for each day over 21 days may be levied until such decals have been returned to the state fire marshal, pursuant to 40:1563.4.

B. Any manufacturer, dealer, or third-party found to repetitively violate these rules, applicable laws or codes of the state of Louisiana shall be grounds for revoking registration of the manufacturer or dealer and recommendation to revoke registration of the responsible third-party. Three written notices of violations issued within a three year period to a manufacturer, dealer, or third-party shall be considered repetitive.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:2474 (November 2009), amended LR 36:

#### **§2731. Reserved.**

#### **§2733. Reserved.**

#### **§2735. Inspections; Inspection Reports**

A. Responsibilities of third-party inspectors. Each third-party inspector retained by a registered manufacturer shall discharge the following responsibilities:

1. performing an initial plant certification inspection.
2. monitoring of the quality assurance procedures at the site of manufacture.
3. verifying that industrialized buildings, modules and modular components have been manufactured pursuant to state fire marshal approved building system documentation and in accordance with the approved quality assurance procedures.
4. authorizing the attachment of decals to such industrialized buildings, modules and modular components.
5. preparation of all reports as may be required by this Chapter.

4. authorizing the attachment of decals to such industrialized buildings, modules and modular components.

5. preparation of all reports as may be required by this Chapter.

B. Initial Plant Certification Inspection.

1. No decal shall be affixed to any industrialized building, module or modular component until the third-party inspector has completed an initial plant certification inspection of the manufacturer's facility, unless in accordance with §2735.F herein.

2. The initial plant certification inspection shall consist of a complete evaluation of the manufacturer's adherence to its quality assurance procedures and capability of producing an industrialized building, module or modular component, in accordance with the approved building system.

3. The third-party shall become familiar with every aspect of the manufacturer's approved building system and quality assurance procedures.

4. The third-party shall make a complete inspection of the manufacture of at least one industrialized building and

any module or modular component pertaining to that particular building throughout all of the operation in the facility. If the first building inspected or any component pertaining to that particular unit fails to conform to the standards, additional buildings and component shall be similarly inspected until the inspector is satisfied that the manufacturer is complying with the approved building system and the building code.

C. Plant Certification Report. If, on the basis of the initial plant certification inspection, the third-party determines that the manufacturer is in compliance with its approved quality assurance procedures, the third-party shall prepare and forward to the state fire marshal a certification report. The certification report shall include:

1. the name, address, and state fire marshal registration number of the manufacturing facility;
2. the name(s) of the third-party inspector(s) that approved the manufacturer's building system and quality assurance procedures, and the dates of approval;
3. the name(s) of the third-party inspector(s) that performed the initial plant certification inspection;
4. the serial numbers and the state fire marshal project number(s) assigned to the industrialized buildings, modules or modular components inspected;
5. a full report of all inspections conducted, any nonconformity observed, and corrective actions taken;
6. the date of certification.

D.1. Inspection Reports. Third-party inspectors shall inspect construction throughout the manufacturing process and shall document their findings in writing to the state fire marshal. The inspection report, as a minimum, shall contain the following information:

- a. name of registered third-party inspector and council issued registration number;
- b. name of manufacturer and state fire marshal issued registration number;
- c. date of inspection;
- d. the state fire marshal issued plan review number of each building or component inspected;
- e. the identification number or serial number of each building or component inspected;
- f. a full report of all inspections conducted, any nonconformity observed, and corrective actions taken.
- g. a statement indicating that the construction is in accordance with the stamped set of state fire marshal approved plans;
- h. a statement indicating that the actual inspection was performed at the manufacturer's facility as registered with the state fire marshal.

2. The inspecting agency shall keep a copy of all inspection reports for a minimum of five years.

E. Frequency of Inspections

1. After initial plant certification, the third-party inspector shall inspect:

- a. each industrialized building, module, or modular component in at least one stage of construction;
- b. every stage of construction during the course of each inspection visit to a manufacturing facility.

2. The third-party shall conduct unannounced inspections at the manufacturing site to review any aspects of the manufacturing process.

3. Nothing in this paragraph shall preclude a third-party from conducting inspections at a greater frequency than the minimum prescribed herein if, in the inspector's professional judgment, such action is necessary to discharge its responsibilities properly.

F. The state fire marshal may temporarily waive compliance with the quality assurance manual at the request of the manufacturer. Upon the grant of such waiver, the manufacturer shall have each industrialized building and any module or modular component which it produces completely inspected during every stage of construction by a third-party inspector.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:2475 (November 2009), amended LR 36:

**§2737. Fees**

A. In accordance with R.S. 40:1730.67, a manufacturer or dealer of industrialized buildings who conducts business in the state of Louisiana shall pay to the office of state fire marshal, code enforcement and building safety service fees based on the following schedule:

1. Manufacturer registration—\$350 per year, per each location.
2. Dealer registration—\$250 per year, per each location.
3. Plan Review

a. The fee for review of plans and specifications of new and renovated industrialized buildings, modules and modular components by the Office of State Fire Marshal shall be in accordance with the following schedule. The fee applies to the primary occupancy class of the building, but includes square footage for the total building, even where composed of separate occupancy classes, incidental uses or accessory uses. For each standard design, a separate fee will be applied to each primary occupancy class utilizing that design. Review fees for fire protection and all other systems are separate and shall be as indicated on the plan review fee computation schedules as provided by the state fire marshal.

Occupancy	Square Footage	Review Fee
ASSEMBLY Groups A-1, A-2, A-3, A-4, A-5	0 - 2500	= \$335.00
	2,501 - 4,500	= \$505.00
	4,501 - 10,000	= \$1,220.00
	10,001 - 50,000	= \$1,806.00
	50,001 - 100,000	= \$2,365.00
	100,001 and over	= \$2,515.00 + .01/sqft over 100,000sqft
EDUCATIONAL or DAYCARE Groups E, I-4	0 - 5,000	= \$335.00
	5,001 - 10,000	= \$505.00
	10,001 - 30,000	= \$740.00
	30,001 - 80,000	= \$1,330.00
	80,001 - 150,000	= \$1,920.00
	150,001 and over	= \$2,020.00 + .01/sqft over 150,000sqft
HEALTH CARE, INSTITUTIONAL , or DETENTION (Includes Limited Care/Assisted Living facilities) Groups I-2, I-3	0-2,000	= \$485.00
	2,001-5,000	= \$715.00
	5,001-10,000	= \$970.00
	10,001-20,000	= \$1,320.00
	20,001-30,000	= \$1,420.00
	30,001-50,000	= \$2,400.00
	50,001-100,000	= \$2,990.00
	100,001 and over	= \$3,190.00 + .02/sqft over 100,000sqft

Occupancy	Square Footage	Review Fee
HOTELS, DORMITORIES, APARTMENTS, LODGING or ROOMING HOUSES, RESIDENTIAL BOARD AND CARE FACILITIES Groups R-1, R-2, R-3, R-4, I-1	0-2,500	= \$335.00
	2,501-10,000	= \$505.00
	10,001-30,000	= \$1,220.00
	30,001-80,000	= \$1,810.00
	80,001-150,000	= \$2,400.00
BUSINESS or MERCANTILE Groups M, B	0-3,000	= \$335.00
	3,001-10,000	= \$505.00
	10,001-30,000	= \$695.00
	30,001-50,000	= \$1,035.00
	50,001-150,000	= \$1,330.00
INDUSTRIAL or STORAGE Groups F-1, F-2, S-1, S-2, U	0-10,000	= \$335.00
	10,001-20,000	= \$505.00
	20,001-50,000	= \$695.00
	50,001-100,000	= \$865.00
	100,001 and over	= \$945.00 + .01/sqft over 100,000sqft
HIGH HAZARD Groups H-1, H-2, H-3, H-4, H-5	0-2,000	= \$495.00
	2,001 and over	= \$495.00 + .30/sqft over 2,000sqft

4. Code Equivalency review—\$100 per review.
5. Inspections—\$40 per hour, including travel time.
6. Decal or insignia issuance:
  - a. Modules—\$ 00.07 per square foot of floor area, with a minimum fee of \$25.00.
  - b. Modular Components—\$ 00.02 per square foot of surface area, with a minimum fee of \$00.60.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 36:

**§2739. Reserved.**

#### Family Impact Statement

The proposed Rule will not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children.
6. Local governmental entities are not able to perform this function, as the action proposed is strictly a state enforcement function.

#### Small Business Impact Statement

The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The

agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### Interested Persons

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted no later than March 10, 2010, at 4:30 p.m. to Joe Delaune, Office of State Fire Marshal, Plan Review Section, 8181 Independence Blvd., Baton Rouge, LA 70806. In the event that the required number of written comments is received, a public hearing is tentatively scheduled for March 19, 2010 at 10:00AM at 8181 Independence Blvd., Baton Rouge, LA 70806. Please call in advance to confirm the time and place of meeting.

Jill Boudreaux  
Undersecretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Industrialized Buildings

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs to the state or local governmental units associated with the proposed rules. The proposed rules provide for changes in the plan review process for industrialized buildings. The rules also provide for establishment of a fee structure for manufacturers and dealers; for plan review of buildings; for code equivalency reviews; for inspection of buildings, modules and components; and for issuance of decals by the state fire marshal's office.

A savings to local governmental units is expected without any loss to their revenue. Approved industrialized buildings that are installed within a local jurisdiction will have been evaluated and inspected for compliance with the building code thus reducing the man hours spent by the local official during plan review and inspection. A reduction of permit fees charged by local jurisdictions is not mandated by the law or by these proposed rule modifications.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules are anticipated to increase state revenues \$163,300 annually based upon current registrations and construction activity. The proposed fee structure is anticipated to generate the following amounts:

- 100 registrations of manufacturers @ \$350 fee - \$35,000;
- 30 registrations of dealers @ \$250 fee - \$7,500;
- 10 industrialized buildings code equivalency reviews @ \$100 - \$1,000;
- 40 inspections of manufacturing facilities at 48 hours each @ \$40/hour - \$76,800;
- 800 decals issued for buildings having an average floor area of 750 sq ft @ \$0.07/sq ft. - \$42,000;
- 200 decals issued for components having an average surface area of 250 sq ft @ \$0.02/sq ft. - \$1,000.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Industrialized building manufacturers and dealers will incur the cost of registration, plan review, code equivalency review, inspection, and decals ordered.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment upon registered manufacturers and dealers associated with this proposed rule.

Jill P. Boudreaux  
Undersecretary  
1002#117

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Revenue  
Policy Services Division**

**Sales and Use Tax Exemptions  
(LAC 61:I.4401)**

Under the authority of R.S. 47:301(16)(p), R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4401.D.3 by repealing the definition of the term newspaper. Newspapers were formerly exempted from sales taxes pursuant to R.S. 47:305(D)(1)(e) and R.S. 47:337.9(C)(10). However, Act 480 of the 2007 Regular Session repealed both R.S. 47:305(D)(1)(e) and R.S. 47:337.9(C)(10) and replaced the exemption with a sales tax exclusion for newspapers. Under Act 480, newspapers became excluded from the definition of tangible personal property. The definition of the term newspaper contained in LAC 61:I.4401.D.3 has been rendered obsolete by the repeal of R.S. 47:305(D)(1)(e) and R.S. 47:337.9(C)(10). Therefore the definition of newspaper found in LAC 61:I.4401.D.3 should be repealed.

**Title 61**

**REVENUE AND TAXATION**

**Part I. Taxes Collected and Administered by the  
Secretary of Revenue**

**Chapter 44. Sales and Use Tax Exemptions**

**§4401. Various Exemptions from Tax**

A. - D.2. ...

3. Repealed.

D.4. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 29:1520 (August 2003), LR 30:2864 (December 2004), LR 36:

**Family Impact Statement**

This proposed repeal of the Rule, LAC 61:I.4401.D.3 should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. The implementation of the proposed repeal of this Rule will have no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budgets;

5. the behavior and personal responsibility of children;

6. the ability of the family or a local government to perform this function.

**Public Comments**

Interested persons may submit data, views, or arguments, in writing to Emily Toler, Attorney, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098, or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Friday, March 26, 2010. A public hearing will be held on March 29, 2010 at 10 a.m. in the River Conference Room on the Seventh Floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802-5428.

Cynthia Bridges  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Sales and Use Tax Exemptions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed repeal of this regulation will have no impact on state or local governmental units' cost. Act 480 of the 2007 Regular Session repealed both R.S. 47:305(D)(1)(e) and R.S. 47:337.9(C)(10), which provided the sales tax exemption for newspapers. Therefore, the definition of newspaper associated with LAC 61:I.4401.D.3 has been rendered obsolete and should be repealed. Act 480 created a state and local sales tax exclusion for newspapers pursuant to R.S. 47:301(16)(p) by excluding newspapers from the definition of tangible personal property. However, the Notice of Intent focuses strictly on the proposed repeal of the exemption in LAC 61:I.4401.D.3.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local government as a result of the proposed repeal of the regulation. Revised Statute 47:305(D)(1)(e) and R.S. 47:337.9(C)(10) were repealed by Act 480 of the 2007 Regular Session. The provisions of Act 480 became effective on July 1, 2008.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of the proposed repeal of this regulation will have no effect on the costs incurred by affected persons or nongovernmental groups, as the law became effective on July 1, 2008. LAC 61:I.4401.D.3's companion statutes, R.S. 47:305(D)(1)(e) and R.S. 47:337.9(C)(10) were repealed by Act 480 of the 2007 Regular Session. These statutes have been replaced by an exclusion from the definition of tangible personal property pursuant to R.S. 47:301(16)(p). However, the Notice of Intent focuses strictly on the proposed repeal of the exemption in LAC 61:I.4401.D.3.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed repeal of regulation will have no effect on competition or employment.

Cynthia Bridges  
Secretary  
1002#111

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Transportation and Development Professional Engineering and Land Surveying Board

#### Re-Examinations, Experience, and Licensure Status (LAC 46:LXI.1315, 1501, and 2103)

Under the authority of the Louisiana Professional Engineering and Land Surveying Licensure Law, R.S. 37:681, et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Professional Engineering and Land Surveying Board has initiated procedures to amend its rules contained in LAC 46:LXI.Chapters 1 through 33.

These are primarily technical revisions of existing rules under which LAPELS operates. The revision to §1315 limits applicants to ten examination attempts on each examination. The revision to §1501 removes the requirement that certain comity applicants must be a resident of the state in which they were originally examined for at least one year prior to that examination. The revision to §2103 allows certain licensees who are qualified for retired status to be granted a waiver of their biennial licensure renewal fee.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LXI. Professional Engineers and Land Surveyors

#### Chapter 13. Examinations

#### §1315. Re-Examinations

A. ...

B. After an individual has failed an examination in any and all jurisdictions for the third time, he/she is not eligible to apply to retake the examination for the next two consecutive test cycles. If an individual has failed an examination in any and all jurisdictions five or more times, following each successive failed examination he/she is not eligible to apply to retake the examination for the next two consecutive test cycles and must successfully complete a review course approved by the board prior to reapplying. After an individual has failed an examination in any and all jurisdictions for the tenth time, he/she is no longer eligible to retake the examination.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:353 (November 1976), amended LR 4:516 (December 1978), LR 5:114 (May 1979), LR 7:647 (December 1981), LR 12:692 (October 1986), LR 16:774 (September 1990), LR 19:57 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1031 (July 2001), LR 30:1715 (August 2004), LR 32:1620 (September 2006), LR 35:1909 (September 2009), LR 36:

#### Chapter 15. Experience

#### §1501. Recognition of Experience

A. ...

B. In considering applications for licensure by comity, the board may recognize examinations passed before the

applicant had accrued sufficient qualifying experience according to Louisiana experience requirements in effect at the time, if:

1. the examination was passed in accordance with the laws and regulations in effect at the time in the jurisdiction in which the applicant was examined; and

2. the experience deficiency according to Louisiana experience requirements has been satisfied as of the date of the application to the Louisiana board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:112 (May 1979), amended LR 7:647 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1031 (July 2001), LR 30:1715 (August 2004), LR 36:

### Chapter 21. Certificates of Licensure and Certification of Individuals or Firms §2103. Licensure Status

\* \* \*

*Retired Status*—the licensure status which exists for an individual licensee of the board who has chosen not to practice or offer to practice professional engineering and/or professional land surveying in Louisiana and who has indicated that fact on the board biennial licensure renewal form. To qualify for the *retired status*, the licensee must be at least 70 years of age or have been a licensee of the board for at least 35 years. Unless the licensee is granted a waiver by the board, the renewal fee for the *retired status* shall be one-half of the current renewal fee for the *active status*. A licensee qualified for the *retired status* may be granted a waiver of this renewal fee if the licensee is at least 70 years of age, has been a licensee of the board for at least 35 years continuously, has never been subject to disciplinary action in any jurisdiction, has never committed any of the offenses described in R.S. 37:698(A)(3), (4) or (5), and is of good character and reputation. A licensee in a *retired status* can represent himself/herself to the public as a *P.E. Retired*, or a *P.L.S. Retired*, but cannot otherwise practice or offer to practice professional engineering and/or professional land surveying in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2151 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1035 (July 2001), LR 30:1719 (August 2004), LR 36:

#### Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the Louisiana Register: The proposed Rule has no known impact on family formation, stability or autonomy.

#### Public Comments

Interested parties are invited to submit written comments on the proposed Rule through March 10, 2010 at 4:30 p.m., to Donna D. Sentell, Executive Secretary, Louisiana

Donna D. Sentell  
Executive Secretary

Donna D. Sentell  
Executive Director  
1002#092

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Re-Examinations, Experience,  
and Licensure Status**

**NOTICE OF INTENT**

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

General and Wildlife Management Area Hunting  
(LAC 76:XIX.111)

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be no costs or savings to state or local  
governmental units resulting from these rule changes.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule changes will result in a net reduction of  
\$3,000 in the agency's revenue collections for both FY 10-11  
and FY 11-12, as follows:

Rule 1315 – No increase or decrease in revenues is  
expected.

Rule 1501 – Agency estimates that this rule change would  
result in approximately 25 additional licensees per year, who  
would each pay \$120 in fees during each biennial licensure  
renewal period. This would increase agency revenues by  
\$3,000 for both FY 10-11 and FY 11-12.

Rule 2103 – Agency estimates that this rule change would  
result in approximately 100 licensees who would be granted the  
waiver of their \$60 biennial licensure renewal fee. This would  
decrease agency revenues by \$6,000 for both FY 10-11 and FY  
11-12.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

The proposed rule changes will have the following impact  
on costs and/or economic benefits to directly affected persons  
or non-governmental groups:

Rule 1315 – For those individuals who fail to pass an  
examination after ten attempts, they would forever lose any  
additional income which may have resulted from there  
becoming certified and/or licensed. Agency is unable to  
estimate this amount.

Rule 1501 – Agency estimates that this rule change would  
result in approximately 25 additional individuals per year who  
would be able to become licensed and obtain work in  
Louisiana, which would allow them to increase their receipts  
and/or income.

Rule 2103 – Agency estimates that this rule change would  
result in approximately 100 licensees who would be granted the  
waiver of their \$60 biennial licensure renewal fee, which would  
allow them to retain those funds.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

The proposed rule changes will have the following effect  
on competition and employment:

Rule 1315 – No impact on competition and employment in  
the public and private sectors is anticipated.

Rule 1501 – Agency estimates that this rule change would  
result in approximately 25 additional individuals per year who  
would be able to become licensed, which would result in  
increased competition and employment in the public and  
private sectors among licensed professional engineers and land  
surveyors.

The Wildlife and Fisheries Commission does hereby give  
notice of its intent to promulgate rules and regulations  
governing the hunting of resident game birds and game  
quadrupeds.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part XIX. Hunting and WMA Regulations**

**Chapter 1. Resident Game Hunting Season**

**§111. General and Wildlife Management Area  
Hunting Rules and Regulations**

**A. Hunting Seasons and Wildlife Management Area  
(WMA) Regulations**

1. The rules and regulations contained within this  
digest have been officially approved and adopted by the  
Wildlife and Fisheries Commission under authority vested  
by Sections 115 and 116 of Title 56 of the Louisiana Revised  
Statutes of 1950 and are in full force and effect in  
conjunction with all applicable statutory laws. The Secretary  
of the Department of Wildlife and Fisheries (LDWF) has the  
authority to close or alter seasons in emergency situations in  
order to protect fish and wildlife resources.

2. Pursuant to Section 40.1 of Title 56 of the  
Louisiana Revised Statutes of 1950, the Wildlife and  
Fisheries Commission has adopted monetary values which  
are assigned to all illegally taken, possessed, injured or  
destroyed fish, wild birds, wild quadrupeds and other  
wildlife and aquatic life. Anyone taking, possessing, injuring  
or destroying fish, wild birds, wild quadrupeds and other  
wildlife and aquatic life shall be required to reimburse the  
LDWF a sum of money equal to the value of the wildlife  
illegally taken, possessed, injured or destroyed. This  
monetary reimbursement shall be in addition to any and all  
criminal penalties imposed for the illegal act.

**B. Resident Game Birds and Animals**

1. Shooting hours: one-half hour before sunrise to  
one-half hour after sunset.

**C. Other Season Dates**

1. Turkey. Please refer to separate pamphlet.

2. Raccoon and Opossum. No closed season. Raccoon  
and opossum can be taken at night by one or more licensed  
hunters with one or more dogs and one .22 rimfire firearm. A  
licensed hunter may take raccoon or opossum with .22  
rimfire rifle, .36 caliber or smaller muzzleloader rifle or  
shotgun during daylight hours. Hunting from boats or motor  
vehicles is prohibited. No bag limit for nighttime or daytime

raccoon or opossum hunting during the open trapping season except on certain WMAs as listed. The remainder of the year, the raccoon and opossum bag limit for daytime or nighttime is two per person per day or night. No one who hunts raccoons or opossums as prescribed above shall pelt during the closed trapping season nor sell skins or carcasses of raccoons and opossums taken during the open trapping season unless he is the holder of a valid trapping license which shall be required in addition to his basic hunting license. Pelting or selling carcasses is illegal during closed trapping season.

3. Nutria. On WMAs and private property nutria may be taken recreationally by licensed hunters from September 1 through the last day of February, during legal shooting hours by any legal hunting method with a daily limit of five. When taken with a shotgun, steel shot must be used. On WMAs during waterfowl seasons, nutria may be taken only with the use of shotguns with shot no larger than F steel, and during gun deer seasons, anyone taking nutria must display 400 square inches of "Hunter Orange" and wear a "Hunter Orange" cap or hat. Recreational nutria hunters must remove each nutria carcass in whole condition from the hunting area, except that nutria may be gutted. Possession of detached nutria parts, including nutria tails, by recreational hunters is illegal. Nutria harvested recreationally may not be pelted nor may such nutria or any nutria parts from recreationally taken nutria be sold, including the tail. Trespassing upon private property for the purpose of taking nutria or other furbearing animals is punishable by fines and possible jail time (R.S. 56:265). The Coastwide Nutria Control Program is a separate program and is in no way related to the nutria recreational season. For questions on the Coastwide Nutria Control Program, call the New Iberia office (337) 373-0032.

4. Blackbirds and crows. The season for crows shall be September 1 through January 1 with no limit; however crows, blackbirds, cowbirds and grackles may be taken year round during legal shooting hours if they are depredating or about to depredate upon ornamentals or shade trees, agricultural crops, livestock, wildlife, or when concentrated in such numbers as to cause a health hazard. Louisiana has determined that the birds listed above are crop depredators and that crows have been implicated in the spread of the West Nile virus in humans.

5. Pheasant. Open concurrently with the quail season; no limit.

6. Falconry. Special permit required. Resident and migratory game species may be taken except turkeys. Seasons and bag limits are the same as for statewide and WMA regulations. Refer to LAC 76:V.301 for specific Falconry Rules.

7. Licensed Hunting Preserve. October 1 - April 30. Pen-raised birds only. No limit entire season. Refer to LAC 76:V.305 for specific Hunting Preserve Rules.

8. Deer Management Assistance Program (DMAP). Land enrolled in the voluntary program will be assessed a \$25 registration fee and 5¢/acre fee. Deer management assistance tags must be in the possession of the hunter in order to harvest an antlerless deer. The tag shall be attached through the hock in such a manner that it cannot be removed before the deer is transported (including those taken on either-sex days and those taken with bow or muzzleloader). Antlerless deer harvested on property enrolled in DMAP

does not count in the season or daily bag limit for hunters. Failure to do so is a violation of R.S. 56:115. Failing to follow DMAP rules and regulations may result in suspension and cancellation of the program on those lands involved. DMAP participants must follow the deer season schedule established for their respective areas. Refer to LAC 76:V.111 for specific DMAP Rules.

9. Landowner Assistance Deer Tag (LADT)

a. Eligibility for LADT is limited to the following landowners or lessees:

- i. License Deer Farmers;
- ii. Landowners or lessees with less than 500 acres who have verified deer depredation problems;
- iii. Landowners with 40 acres or more enrolled in the Louisiana Forest Stewardship Program; and
- iv. Landowners or lessees with 40 or more contiguous acres of forested or marsh land.

b. Each applicant will be assessed a \$25 administrative processing fee. Each hunter must have the Landowner Antlerless Deer Tag in his possession while hunting on the property for which the tag was issued and immediately upon kill of an antlerless deer, the hunter must tag the animal through the hock. The deer must be tagged before it is transported from the site of kill and the tag will remain with the deer while the hunter is in route to his domicile. Antlerless deer harvested on property enrolled in LADT does not count in the season or daily bag limit for hunters. LADT participants must follow the deer season schedule established for their respective areas. For more information, contact any Wildlife Division Region Office.

10. Farm Raised White-tailed Deer and Exotics on Licensed Supplemented Shooting Preserves

a. Definitions

*Exotics*—for purposes of this rule means any animal of the family Bovidae (except the Tribe Bovini [cattle]) or Cervidae which is not indigenous to Louisiana and which is confined on a Supplemented Hunting Preserve. Exotics shall include, but are not limited to, fallow deer, red deer, elk, sika deer, axis deer, and black buck antelope.

*Hunting*—in its different tenses and for purposes of this rule means to take or attempt to take, in accordance with R.S. 56:8.

*Same as Outside*—for purposes of this rule means hunting on a Supplemented Hunting Preserve must conform to applicable statutes and rules governing hunting and deer hunting, as provided for in Title 56 of the Louisiana Revised Statutes and as established annually by the Wildlife and Fisheries Commission.

*Supplemented Hunting Preserve*—for purposes of this rule means any enclosure for which a current Farm-Raising License has been issued by the Department of Agriculture and Forestry (LDAF) with concurrence of the LDWF and is authorized in writing by the LDAF and LDWF to permit hunting.

*White-tailed Deer*—for purposes of this rule means any animal of the species *Odocoileus virginianus* which is confined on a Supplemented Hunting Preserve.

b. Seasons

i. Farm-Raised White-tailed Deer: consult the regulations pamphlet.

ii. Exotics: year round.

- c. Methods of Take
  - i. White-tailed Deer: same as outside.
  - ii. Exotics: Exotics may be taken with longbow (including compound bow and crossbow) and arrow; shotguns not larger than 10 gauge, loaded with buckshot or rifled slug; handguns and rifles no smaller than .22 caliber centerfire; or muzzleloading rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, using black powder or an approved substitute only, and using ball or bullet projectile, including sabot bullets and other approved primitive firearms.
- d. Shooting Hours
  - i. White-tailed Deer: same as outside.
  - ii. Exotics: one-half hour before sunrise to one-half hour after sunset.
- e. Bag Limit
  - i. Farm-Raised White-tailed Deer: same as outside.
  - ii. Exotics: No limit.
- f. Hunting Licenses
  - i. White-tailed Deer: same as outside.
  - ii. Exotics: No person shall hunt any exotic without possessing a valid basic and big game hunting license.
- g. Tagging. White-tailed Deer and Exotics: Each animal shall be tagged in the left ear or left antler immediately upon being killed and before being moved from the site of the kill with a tag provided by the LDAF. The tag shall remain with the carcass at all times.

11. Bobcat. No person other than the holder of a valid big game license may take or possess bobcat, except licensed trappers who may take or possess bobcat during the open trapping season. A big game licensee shall only take bobcat during the time period from one-half hour before sunrise to one-half hour after sunset with approved archery equipment, shotgun, muzzleloader or centerfire firearm. A big game licensee shall not take more than one bobcat per calendar year. This regulation applies only to property that is privately owned, state WMAs, and the Bayou des Ourses, Bodcau, Bonnet Carre, Indian Bayou, Loggy Bayou and Soda Lake tracts owned by the Corps of Engineers but does not apply to state wildlife refuges, the Kisatchie National Forest, or other federally owned refuges and lands. On state WMAs, the take of bobcat is restricted to those open seasons on the WMAs which require the respective legal weapons noted above.

#### D. Hunting-General Provisions

1. A basic resident or non-resident hunting license is required of all persons to hunt, take, possess or cause to be transported by any other person any wild bird or quadruped. See information below for exceptions.

2. All persons born on or after September 1, 1969 must show proof of satisfactorily completing a Hunter Safety course approved by LDWF to purchase a Basic Hunting License, EXCEPT any active or veteran member of the United States armed services or any POST-certified law enforcement officer. Application for the exemption shall be filed in person at the LDWF main office building in the city of Baton Rouge. A person younger than 16 years of age may hunt without such certificate if he is accompanied by, and is

under the direct supervision of a person 18 years of age or older.

3. A big game license is required in addition to the basic hunting license to hunt, take, possess or cause to be transported any deer. A separate wild turkey license is required in addition to the basic hunting license and the big game license to hunt, take, possess or cause to be transported any turkey.

4. Taking game quadrupeds or birds from aircraft or participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

#### 5. Methods of Taking Resident Game Birds and Quadrupeds

a. It is illegal to intentionally feed, deposit, place, distribute, expose, scatter, or cause to be fed, deposited, placed, distributed, exposed, or scattered raw sweet potatoes to wild game quadrupeds.

b. Use of a longbow (including compound bow and crossbow) and arrow or a shotgun not larger than a 10 gauge fired from the shoulder without a rest shall be legal for taking all resident game birds and quadrupeds. Also, the use of a handgun, rifle and falconry (special permit required) shall be legal for taking all game species except turkey. It shall be illegal to hunt or take squirrels or rabbits at any time with a breech-loaded rifle or handgun larger than a .22 caliber rimfire or a primitive firearm larger than .36 caliber. During closed deer gun season, it shall be illegal to possess shotgun shells loaded with slugs or shot larger than BB lead or F steel shot while small game hunting.

c. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs is prohibited when or where a still hunting season or area is designated, and will be strictly enforced. Shotguns larger than 10 gauge or capable of holding more than three shells shall be prohibited. Plugs used in shotguns must be incapable of being removed without disassembly. Refer to game schedules contained within these regulations for specific restrictions on the use of firearms and other devices.

6. Nuisance Animals. Landowners or their designees may remove beaver and nutria causing damage to their property without a special permit. Water set traps and firearms may be used to remove beaver; nutria may be removed by any means EXCEPT that nutria cannot be taken by the use of headlight and gun between the hours of sunset and sunrise. With a special permit issued by the LDWF, beavers may be taken between one-half hour after official sunset to one-half hour before official sunrise for a period of three consecutive calendar evenings from the effective date of the permit. For specific details contact a region office near you. Any nuisance beaver or nutria trapped or shot outside open trapping season cannot be pelted or sold. A trapping license is required to sell or pelt nuisance beavers or nutria taken during open trapping season. Squirrels found destroying commercial crops of pecans may be taken year-round by permit issued by the LDWF. This permit shall be valid for 30 days from the date of issuance. Contact the local region office for details.

7. Threatened and Endangered Species - Louisiana black bear, Louisiana pearl shell (mussel), sea turtles, gopher tortoise, ringed sawback turtle, brown pelican, bald eagle,

peregrine falcon, whooping crane, Eskimo curlew, piping plover, interior least tern, ivory-billed woodpecker, red-cockaded woodpecker, Bachman's warbler, West Indian manatee, Florida panther, pallid sturgeon, Gulf sturgeon, Attwater's greater prairie chicken, whales and red wolf. Taking or harassment of any of these species is a violation of state and federal laws.

8. **Outlaw Quadrupeds.** Holders of a legal hunting license may take coyotes, feral hogs where legal, and armadillos year round during legal daylight shooting hours. The running of coyotes with dogs is prohibited in all turkey hunting areas during the open turkey season. Coyote hunting is restricted to chase only when using dogs during still hunting segments of the firearm and archery only season for deer. Foxes are protected quadrupeds and may be taken only with traps by licensed trappers during the trapping season. Remainder of the year "chase only" allowed by licensed hunters.

9. **Hunting and/or Discharging Firearms on Public Roads.** Hunting, standing, loitering or shooting game quadrupeds or game birds with a gun during open season while on a public highway or public road right-of-way is prohibited. Hunting or the discharge of firearms on roads or highways located on public levees or within 100 feet from the centerline of such levee roads or highways is prohibited. Spot lighting or shining from public roads is prohibited by state law. Hunting from all public roads and rights-of-way is prohibited and these provisions will be strictly enforced.

10. **Tags.** Any part of the deer or wild turkey divided shall have affixed thereto the name, date, address and big game license number of the person killing the deer or wild turkey and the sex of that animal. This information shall be legibly written in pen or pencil, on any piece of paper or cardboard or any material, which is attached or secured to or enclosing the part or parts. On lands enrolled in DMAP, deer management assistance tags must be attached and locked through the hock of antlerless deer, (including those taken with approved archery and primitive firearms, and those antlerless deer taken on either-sex days) in a manner that it cannot be removed, before the deer is moved from the site of the kill.

11. **Sex Identification.** Positive evidence of sex identification, including the head, shall remain on any deer taken or killed within the State of Louisiana, or on all turkeys taken or killed during any special gobbler season when killing of turkey hens is prohibited, so long as such deer or turkey is kept in camp or field, or is in route to the domicile of its possessor, or until such deer or turkey has been stored at the domicile of its possessor or divided at a cold storage facility and has become identifiable as food rather than as wild game.

#### E. General Deer Hunting Regulations

1. Prior to hunting deer, all deer hunters, regardless of age or license status, must obtain deer tags and have in possession when hunting deer. Immediately upon harvesting a deer, the hunter must tag the deer with the appropriate carcass tag and document the kill on the deer tag license. Within 72 hours the hunter must validate the kill and record the validation number on the license. Hunters harvesting deer on DMAP and LADT lands can validate deer per instructions by LDWF using the DMAP and LADT harvest data sheets. Hunters on WMAS can validate deer during

mandatory deer check hunts, when deer check stations are in operation. Hunters may validate deer by calling the validation toll free number or using the validation web site.

2. One antlered and one antlerless deer per day (when legal) except on National Forest Lands and some Federal Refuges (check refuge regulations) where the daily limit shall be one deer per day. Season limit is six, three antlered bucks and three antlerless deer (all segments included) by all methods of take, except antlerless harvest on property enrolled in DMAP and LADT does not count in the season or daily bag limit for hunters. Antlerless deer may be harvested during entire deer season on private lands (all segments included) except in the following parishes: West Carroll and portions of East Carroll. Consult regulations pamphlet, modern firearms table for either-sex days for these parishes. This does not apply to public lands (WMAs, National Forest Lands, and Federal Refuges) which will have specified either-sex days.

3. A legal buck is a deer with visible antler of hardened bony material, broken naturally through the skin. Killing bucks without at least one visible antler as described above and killing does is prohibited except where specifically allowed and EXCEPT in Thistlethwaite WMA where a legal buck shall be defined as deer with at least 4 points on one side or a deer with unbranched antlers commonly referred to as spikes (no minimum length). To be counted as a point, a projection must be at least one inch long and its length must exceed the length of its base. The beam tip is counted as a point but not measured as a point.

4. Either-sex deer is defined as male or female deer. Taking or possessing spotted fawns is prohibited.

5. It is illegal to hunt or shoot deer with firearms smaller than .22 caliber centerfire or a shotgun loaded with anything other than buckshot or rifled slug. Handguns may be used for hunting.

6. Taking game quadrupeds or birds from aircraft, participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

7. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs or moving vehicles, including ATVs, when or where a still hunting season or area is designated, is prohibited and will be strictly enforced. The training of deer dogs is prohibited in all still hunting areas during the gun still hunting and archery only season. Deer hunting with dogs is allowed in all other areas having open deer seasons that are not specifically designated as still hunting only. Except in WMAs, a leashed dog may be used to trail and retrieve wounded or unrecovered deer during legal hunting hours. Any dog used to trail or retrieve wounded or unrecovered deer shall have on a collar with owner's name, address, and phone number. In addition, a dog may be used to trail and retrieve unrecovered deer after legal hunting hours; however, no person accompanying a dog after legal hunting hours may carry a firearm of any sort.

8. It is illegal to take deer while deer are swimming or while the hunter is in a boat with motor attached in operating position; however the restriction in this paragraph shall not apply to any person who has lost one or more limbs.

9. Areas not specifically designated as open are closed.

10. Primitive Firearms Segment: (Special license and primitive firearms specifications apply only to the special state, WMA, National Forest and Preserves, and Federal Refuge seasons.) Still hunt only. Specific WMAs will also be open, check WMA schedule for specific details. Primitive firearms license required for resident hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either-sex deer may be taken in all deer hunting areas EXCEPT Area 5 and as specified on Public Areas. It is unlawful to carry a gun, other than a primitive firearm, including those powered by air or other means, while hunting during the special primitive firearms segment. Except, it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot only).

a. Legal Primitive Firearms For Special Season: Rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, use black powder or approved substitute only, take ball or bullet projectile only, including sabot bullets and may be fitted with magnified scopes. This includes muzzleloaders known as "inline" muzzleloaders.

b. Single shot, breech loading rifles, .38 caliber or larger, of a kind or type manufactured prior to 1900 and replicas, reproductions or reintroductions of that type rifle having an exposed hammer that use metallic cartridges loaded either with black powder or modern smokeless powder and may be fitted with magnified scopes.

c. Special Youth Deer Shotgun Season on Private Land (either-sex): Youths 17 or younger may hunt deer with shotguns using slugs only during the Primitive Firearms Season in each deer hunting area.

11. Archery Segment: Consult regulations pamphlet. WMA seasons are the same as outside except as noted below. Archery license required for resident bow hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either-sex deer may be taken in all areas open for deer hunting EXCEPT when a bucks only season is in progress for gun hunting, and EXCEPT in Area 6 from October 1-15. Archer's must conform to the bucks only regulations. Either-sex deer may be taken on WMAs at anytime during archery season EXCEPT when bucks only seasons are in progress on the respective WMA. Also, archery season restricted on Atchafalaya Delta, Salvador, Lake Boeuf, and Pointe-aux-Chenes WMAs (SEE SCHEDULE).

a. Bow and arrow regulations: Longbow, compound bow and crossbow or any bow drawn, held or released by mechanical means will be a legal means of take for all properly licensed hunters. Hunting arrows for deer must have well-sharpened broadhead points. Bow and arrow fishermen must have a sport fishing license and not carry any arrows with broadhead points unless a big game season is in progress.

i. It is unlawful:

(a). to carry a gun, including those powered by air or other means, while hunting with bow and arrow during the special bow and arrow deer season EXCEPT it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot) only.

(b). to have in possession or use any poisoned or drugged arrow or arrows with explosive tips.

(c). to hunt deer with a bow having a pull less than 30 pounds.

(d). to hunt with a bow or crossbow fitted with an infrared, laser sight, electrically-operated sight or device specifically designed to enhance vision at night (does not include non-projecting red dot sights) [R.S. 56:116.1.A.(3)].

12. Hunter Orange. Any person hunting any wildlife during the open gun deer hunting season and possessing buckshot, slugs, a primitive firearm, or a centerfire rifle shall display on his head, chest and/or back a total of not less than 400 square inches of "HUNTER ORANGE". Persons hunting on privately owned, legally posted land may wear a hunter orange cap or hat in lieu of the 400 square inches. These provisions shall not apply to persons hunting deer from elevated stands on property that is privately owned and legally posted or to archery deer hunters hunting on legally posted lands where firearm hunting is not allowed by agreement of the landowner or lessee. However, anyone hunting deer on such lands where hunting with firearms is allowed shall be required to display the 400 square inches or a hunter orange cap or hat while walking to and from elevated stands. While a person is hunting from an elevated stand, the 400 square inches or cap or hat may be concealed. WARNING: DEER HUNTERS ARE CAUTIONED TO WATCH FOR PERSONS HUNTING OTHER GAME OR ENGAGED IN ACTIVITIES NOT REQUIRING "HUNTER ORANGE".

13. Special Physically Challenged either-sex deer season on private land: 1<sup>st</sup> Saturday of October for 2 days. Restricted to individuals with Physically Challenged Hunter Permit.

14. Special Youth Deer Hunt on Private Lands (Either-Sex). Areas 1, 4, 5 and 6 - last Saturday of October for 2 days; Area 2 - 2<sup>nd</sup> Saturday of October for 2 days; and Areas 3, 7 and 8 - 4<sup>th</sup> Saturday of September for 2 days. Youths 17 or younger only. Youths must be accompanied by an adult 18 years of age or older. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. EXCEPT properly licensed youths 16-17 years old and youths 12 years old or older who have successfully completed a hunter safety course may hunt without a supervising adult.

F. Description of Areas

1. Area 1

a. All of the following parishes are open: Concordia, East Baton Rouge, East Feliciana, Franklin, Madison, St. Helena, Tensas, Washington.

b. Portions of the following parishes are also open:

i. Catahoula - East of Boeuf River to Ouachita River, east of Ouachita River from its confluence with Boeuf River to LA 8, south and east of LA 8 southwesterly to Parish line.

ii. East Carroll - East of mainline Mississippi River Levee and south and east of LA 877 from West Carroll

Parish line to LA 580, south of LA 580 to US 65, west of US 65 to Madison Parish line.

- iii. Grant - East of US 165 and south of LA 8.
  - iv. LaSalle - South of a line beginning where Little River enters Catahoula Lake following the center of the lake eastward to Old River then to US 84, east of US 84 northward to LA 8, south of LA 8 eastward to Parish line.
  - v. Livingston - North of I-12.
  - vi. Rapides - East of US 165 and north of Red River.
  - vii. St. Tammany - All EXCEPT that portion south of I-12, west of LA 1077 to LA 22, south of LA 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.
  - viii. Tangipahoa - North of I-12.
  - ix. West Feliciana - All EXCEPT that portion known as Raccourci and Turnbull Island.
- c. Still hunting only in all or portions of the following parishes:
- i. Catahoula - South of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to LA 8 at Harrisonburg, west of LA 8 to LA 913, west of LA 913 and LA 15 to Deer Creek.
  - ii. East Carroll - East of mainline Mississippi River Levee and south and east of LA 877 from West Carroll Parish line to LA 580, south of LA 580 to US 65, west of US 65 to Madison Parish line.
  - iii. East Feliciana and East Baton Rouge - East of Thompson Creek from the Mississippi state line to LA 10, north of LA 10 from Thompson Creek to LA 67 at Clinton, west of LA 67 from Clinton to Mississippi state line, south of Mississippi state line from LA 67 to Thompson Creek. Also that portion of East Baton Rouge Parish east of LA 67 from LA 64 north to Parish Line, south of Parish Line from LA 64 eastward to Amite River, west of Amite River southward to LA 64, north of LA 64 to LA 37 at Magnolia, east of LA 37 northward to LA 64 at Indian Mound, north of LA 64 from Indian Mound to LA 67. Also, that portion of East Feliciana Parish east of LA 67 from parish line north to LA 959, south of LA 959 east to LA 63, west of LA 63 to Amite River, west of Amite River southward to parish line, north of parish line westward to LA 67.
  - iv. Franklin - All.
  - v. St. Helena - North of LA 16 from Tickfaw River at Montpelier westward to LA 449, east and south of LA 449 from LA 16 at Pine Grove northward to Rohner Road, south of Rohner Road to LA 1045, south of LA 1045 to the Tickfaw River, west of the Tickfaw River from LA 1045 southward to LA 16 at Montpelier.
  - vi. Tangipahoa - That portion of Tangipahoa Parish north of LA 10 from the Tchefuncte River to LA 1061 at Wilmer, east of LA 1061 to LA 440 at Bolivar, south of LA 440 to the Tchefuncte River, west of the Tchefuncte River from LA 440 southward to LA 10.
  - vii. Washington and St. Tammany - East of LA 21 from the Mississippi state line southward to the Bogue Chitto River, north of the Bogue Chitto River from LA 21 eastward to the Pearl River Navigation Canal, east of the Pearl River Navigation Canal southward to the West Pearl River, north of the West Pearl River from the Pearl River Navigation Canal to Holmes Bayou, west of Holmes Bayou from the West Pearl River northward to the Pearl River, west

of the Pearl River from Holmes Bayou northward to the Mississippi state line, south of the Mississippi state line from the Pearl River westward to LA 21. Also, that portion of Washington Parish west of LA 25 from the Mississippi state line southward to the Bogue Chitto River, then west of the Bogue Chitto River to its junction with the St. Tammany Parish line, north of the St. Tammany Parish line to the Tangipahoa Parish line, east of the Tangipahoa Parish line to the Mississippi state line, south of the Mississippi state line to its junction with LA 25.

viii. West Feliciana - West of Thompson Creek to Illinois-Central Railroad, north of Illinois-Central Railroad to Parish Road #7, east of Parish Road #7 to the junction of US 61 and LA 966, east of LA 966 from US 61 to Chaney Creek, south of Chaney Creek to Thompson Creek.

2. Area 2

- a. All of the following parishes are open:
  - i. Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Jackson, Lincoln, Natchitoches, Red River, Sabine, Union, Webster, Winn.
  - ii. EXCEPT: Kisatchie National Forest which has special regulations. Caney, Corney, Middlefork tracts of Kisatchie have the same regulations as Area 2, EXCEPT still hunting only for deer and EXCEPT National Forest Land within the Evangeline Unit, Calcasieu Ranger District described in Area 2 description shall be still hunting only.
- b. Portions of the following parishes are also open:
  - i. Allen - North of US 190 from parish line westward to Kinder, east of US 165 from Kinder northward to LA 10 at Oakdale, north of LA 10 from Oakdale westward to the parish line.
  - ii. Avoyelles - That portion west of I-49.
  - iii. Catahoula - West of Boeuf River to Ouachita River, west of Ouachita River from its confluence with Boeuf River to LA 8, north and west of LA 8 southwesterly to Parish line.
  - iv. Evangeline - All EXCEPT the following portions: east of I-49 to junction of LA 29, east of LA 29 south of I-49 to Ville Platte, and north of US 167 east of Ville Platte.
  - v. Grant - All EXCEPT that portion south of LA 8 and east of US 165.
  - vi. Jefferson Davis - North of US 190.
  - vii. LaSalle - North of a line beginning where Little River enters Catahoula Lake, following the center of the lake eastward to Old River then to US 84, west of US 84 northward to LA 8, north of LA 8 eastward to Parish line.
  - viii. Morehouse - West of US 165 (from Arkansas state line) to Bonita, north and west of LA 140 to junction of LA 830-4 (Cooper Lake Road), west of LA 830-4 to Bastrop, west of LA 139 to junction of LA 593, west and south of LA 593 to Collinston, west of LA 138 to junction of LA 134 and north of LA 134 to Ouachita Parish line at Wham Brake.
  - ix. Ouachita - All EXCEPT south of US 80 and east of Ouachita River, east of LA 139 from Sicard to junction of LA 134, south of LA 134 to Morehouse Parish line at Wham Brake.
  - x. Rapides - All EXCEPT north of Red River and east of US 165, south of LA 465 to junction of LA 121, west of LA 121 and LA 112 to Union Hill, and north of LA 113 from Union Hill to Vernon Parish line, and that portion south

of Alexandria between Red River and US 167 to junction of US 167 with I-49 at Turkey Creek exit, east of I-49 southward to parish line.

xi. Vernon - North of LA 10 from the parish line westward to LA 113, south of LA 113 eastward to parish line. Also the portion north of LA 465 west of LA 117 from Kurthwood to Leesville and north of LA 8 from Leesville to Texas state line.

c. Still hunting only in all or portions of the following parishes:

i. Claiborne and Webster - Caney, Corney and Middlefork tracts of Kisatchie National Forest. (See Kisatchie National Forest Regulations).

ii. Ouachita - East of Ouachita River.

iii. Rapides - West of US 167 from Alexandria southward to I-49 at Turkey Creek Exit, west of I-49 southward to Parish Line, north of Parish Line westward to US 165, east of US 165 northward to US 167 at Alexandria. North of LA 465 from Vernon Parish line to LA 121, west of LA 121 to I-49, west of I-49 to LA 8, south and east of LA 8 to LA 118 (Mora Road), south and west of LA 118 to Natchitoches Parish line.

iv. Vernon - East of Mora-Hutton Road from Natchitoches Parish line to Hillman Loop Road, south and east of Hillman Loop Road to Comrade Road, south of Comrade Road to LA 465, east and north of LA 465 to Rapides Parish line.

### 3. Area 3

a. All of Acadia, Cameron and Vermilion Parishes are open.

b. Portions of the following parishes are also open:

i. Allen - South of US 190 and west of LA 113.

ii. Beauregard - West of LA 113 and east of LA 27 from the parish line northward to DeRidder and north of US 190 westward from DeRidder to Texas state line.

iii. Calcasieu - South of US 90 from Sulphur to Texas state line. Also east of LA 27 from Sulphur northward to the parish line.

iv. Iberia - West of US 90 and north of LA 14.

v. Jefferson Davis - All EXCEPT north of US 190.

vi. Lafayette - West of I-49 and US 90.

vii. Rapides - South of LA 465 to junction of LA 121, west of LA 121 and LA 112 to Union Hill and north of LA 113 from Union Hill to Vernon Parish line.

viii. St. Landry - West of US 167.

ix. Vernon - West and north of LA 113, south of LA 465, east of LA 117 from Kurthwood to Leesville, and south of LA 8 from Leesville to Texas state line.

### 4. Area 4

a. All of Richland parish is open.

b. Portions of the following parishes are open:

i. East Carroll - West of mainline Mississippi River Levee and north and west of LA 877 from West Carroll Parish line to LA 580, north of LA 580 to US 65, east of US 65 to Madison Parish line.

ii. Morehouse - East of US 165 (from Arkansas state line) to Bonita, south and east of LA 140 to junction of LA 830-4 (Cooper Lake Road), east of LA 830-4 to Bastrop, east of LA 139 at Bastrop to junction of LA 593, east and north of LA 593 to Collinston, east of LA 138 to junction of

LA 134 and south of LA 134 to Ouachita line at Wham Brake.

iii. Ouachita - South of US 80 and east of Ouachita River, east of LA 139 from Sicard to junction of LA 134, south of LA 134 to Morehouse line at Wham Bake.

### 5. Area 5

a. All of West Carroll Parish is open.

### 6. Area 6

a. All of the following parishes are open: Ascension, Assumption, Iberville, Jefferson, Lafourche, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. James, St. John, St. Martin, Terrebonne, West Baton Rouge.

b. Portions of the following parishes are also open:

i. Avoyelles - All except that portion west of I-49.

ii. Evangeline - That portion east of I-49 to junction of LA 29, east of LA 29 south of I-49 to Ville Platte and north of US 167 east of Ville Platte.

iii. Iberia - East of US 90.

iv. Lafayette - East of I-49 and US 90.

v. Livingston - South of I-12.

vi. Rapides - South of Alexandria between Red River and US 167 to the junction of US 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line.

vii. St. Landry - East of US 167.

viii. St. Mary - North of US 90 from Iberia Parish line eastward to Wax Lake Outlet, east of Wax Lake Outlet southward to Intracoastal Waterway, north of Intracoastal Waterway eastward to the Atchafalaya River, east of the Atchafalaya River southward to Bayou Shaffer, north of Bayou Shaffer to Bateman Lake, north and west of Bayou Chene from Bateman Lake to Lake Palourde.

ix. St. Tammany - That portion south of I-12, west of LA 1077 to LA 22, south of LA 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.

x. Tangipahoa - South of I-12.

xi. West Feliciana - West of Mississippi River, known as Raccourci and Turnbull Islands.

c. Still hunting only in all or portions of the following parishes:

i. Avoyelles - North of LA 1 from Simmesport westward to LA 115 at Marksville, east of LA 115 from Marksville northward to the Red River near Moncla, south and west of the Red River to LA 1 at Simmesport.

ii. Plaquemines - East of the Mississippi River.

iii. Rapides - South of Alexandria between Red River and US 167 to the junction of US 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line.

iv. St. Bernard - All of the parish shall be still hunting only EXCEPT that portion of St. Bernard known as the spoil area between the MRGO on the east and Access Canal on the west, south of Bayou Bienvenue and north of Bayou la Loutre.

v. St. John - South of Pass Manchac from Lake Pontchartrain to US 51, east of US 51 from Pass Manchac to LA 638 (Frenier Beach Road). North of LA 638 from US 51 to Lake Pontchartrain, west of Lake Pontchartrain from LA 638 to Pass Manchac.

vi. St. Landry - Those lands surrounding Thistlethwaite WMA bounded north and east by LA 359, west by LA 10, and south by LA 103.

vii. HIGH WATER BENCHMARK CLOSURE. Deer hunting in those portions of Iberia, Iberville, St. Martin, and St. Mary parishes south of I-10, west of the East Guide Levee, east of the West Guide Levee, and north of US 90 will be closed when the river stage of the Atchafalaya River reaches 18 feet at Butte LaRose.

7. Area 7

a. Portions of the following parishes are open:

i. Iberia - South of LA 14 and west of US 90.

ii. St. Mary - All EXCEPT that portion north of US 90 from Iberia Parish line eastward to Wax Lake Outlet, east of Wax Lake Outlet southward to Intracoastal Waterway, north of Intracoastal Waterway eastward to the Atchafalaya River, east of the Atchafalaya River southward to Bayou Shaffer, north of Bayou Shaffer to Bateman Lake, north and west of Bayou Chene from Bateman Lake to Lake Palourde.

8. Area 8

a. Portions of the following parishes are open:

i. Allen - That portion east of LA 113 from the parish line to US 190, north of US 190 eastward to Kinder, west of US 165 northward to LA 10 at Oakdale and south of LA 10 from Oakdale westward to parish line.

ii. Beauregard - That portion east of LA 113. Also that portion west of LA 27 from parish line northward to DeRidder, south of US 190 from DeRidder to Texas state line.

iii. Calcasieu - That portion east of LA 27 from the parish line southward to Sulphur and north of US 90 from Sulphur to the Texas state line.

iv. Vernon - That portion west of LA 113 from the parish line northward to Pitkin and south of LA 10 from Pitkin southward to the parish line.

G. WMA Regulations

1. General

a. The following rules and regulations concerning the management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject individual to citation and/or expulsion from the management area.

b. Citizens are cautioned that by entering a WMA managed by the LDWF they may be subjecting themselves and/or their vehicles to game and/or license checks, inspections and searches.

c. WMA seasons may be altered or closed anytime by the LDWF Secretary in emergency situations (floods, fire or other critical circumstances).

d. Hunters may enter the WMA no earlier than 4:00 a.m. unless otherwise specified. Hunters must check out and exit the WMA no later than two hours after sunset, or as otherwise specified.

e. Lands within WMA boundaries will have the same seasons and regulations pertaining to baiting and use of dogs as the WMA within which the lands are enclosed; however, with respect to private lands enclosed within a WMA, the owner or lessee may elect to hunt according to the regular season dates and hunting regulations applicable to the geographic area in which the lands are located, provided that the lands are first enrolled in DMAP or LADT.

Interested parties should contact the nearest LDWF region office for additional information.

f. Dumping garbage or trash on WMAs is prohibited. Garbage and trash may be properly disposed of in designated locations if provided.

g. Disorderly conduct or hunting under influence of alcoholic beverages, chemicals and other similar substances is prohibited.

h. Damage to or removal of trees, shrubs, hard mast (including but not limited acorn and pecans), wild plants, non-game wildlife (including reptiles and amphibians) or any species of butterflies, skippers or moths is prohibited without a permit from the LDWF. Gathering and/or removal of soft fruits, mushrooms and berries shall be limited to 5 gallons per person per day.

i. Burning of marshes is prohibited. Hunting actively burning marsh prohibited.

j. Nature trails. Trails shall be limited to pedestrians only. No vehicles, ATVs, horses, mules, bicycles, etc. allowed. Removal of vegetation (standing or down) or other natural material prohibited.

k. Deer seasons are for legal buck deer unless otherwise specified.

l. Small game, when listed under the WMA regulations may include both resident game animals and game birds as well as migratory species of birds.

m. Oysters may not be harvested from any WMA, EXCEPT that oysters may be harvested from private oyster leases and State Seed Grounds located within a WMA, when authorized by the Wildlife and Fisheries Commission and upon approval by the Department of Health and Hospitals.

n. Free ranging livestock prohibited.

2. Permits

a. A WMA Hunting Permit is required for persons ages 18 through 59 to hunt on WMAs.

b. Self-Clearing Permits. A Self-Clearing Permit is required for ALL ACTIVITIES (hunting, fishing, hiking, birdwatching, sightseeing, etc.) on WMAs unless otherwise specified. The Self-Clearing Permit will consist of three portions: CHECK IN, CHECK OUT and a Vehicle Tag. On WMAs where Self-Clearing Permits are required, all persons must obtain a WMA Self-Clearing Permit from an Information Station. The CHECK IN portion MUST be completed and put in a permit box BEFORE each day's activity on the day of the activity (EXCEPT if hunting from a private camp adjacent to the WMA being hunted or if camping on the WMA, users need only to check in once during any 72 hour period). Users may check-in one day in advance of use. The CHECK OUT portion must be carried by each person while on the WMA and MUST be completed and put in a permit box immediately upon exiting the WMA or within 72 hours after checking in if hunting from a private camp adjacent to the WMA being hunted or if camping on the WMA. EACH PERSON MUST leave the Vehicle Tag portion of his permit on the dashboard of the vehicle used to enter into the WMA in such a way that it can be easily read from outside of the vehicle. This MUST be done only when the vehicle is parked and left unattended on the WMA. If an ATV, boat or other type vehicle was used to enter the WMA, then the vehicle tag must be attached to that vehicle in such a manner that it can be readily seen and read. No permit is

required of fishers and boaters who do not travel on a WMA road and/or launch on the WMA as long as they do not get out of the boat and onto the WMA. When Mandatory Deer Checks are specified on WMAs, hunters must check deer at a check station. (Self-Clearing Permits are not required for persons only traveling through the WMA provided that the most direct route is taken and no activities or stops take place.)

c. Persons using WMAs or other LDWF administered lands for any purpose must possess one of the following: a valid Wild Louisiana stamp, a valid Louisiana fishing license, or a valid Louisiana hunting license. Persons younger than 16 or older than 60 years of age are exempt from this requirement. Also a Self-Clearing WMA permit, detailed above, may be required (available at most entrances to each WMA). Check individual WMA listings for EXCEPTIONS.

### 3. Special Seasons

a. Youth Deer Hunt. Youths 17 or younger only. Youths must be accompanied by an adult 18 years of age or older. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. EXCEPT properly licensed youths 16-17 years old and youths 12 years old or older who have successfully completed a hunter safety course may hunt without a supervising adult. Contact the appropriate region office for maps of specific hunting areas. Either-sex deer may be taken on WMAs with youth hunts. Consult the regulations pamphlet for WMAs offering youth hunts. NOTE: Some hunts may be by pre-application lottery.

b. Youth Squirrel Hunt (on selected WMAs only). Only youths 17 or younger may hunt. Squirrel, rabbit, raccoon and opossum may be taken. Hogs may not be taken. No dogs allowed. All other seasons will remain open to other hunters. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. Youths must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. EXCEPT properly licensed youths 16-17 years old and youths 12 years old or older who have successfully completed a hunter safety course may hunt without a supervising adult. Self-clearing permits are required. Consult the regulations pamphlet for WMAs offering youth squirrel hunts.

c. Youth Mourning Dove Hunt. A youth mourning dove hunt will be conducted on specific WMAs and will follow the same regulations provided for youth deer hunts on the first or second weekend of the mourning dove season (Saturday and/or Sunday only). Consult the regulations pamphlet for WMAs offering youth mourning dove hunts.

d. Physically Challenged Season. An either-sex deer season will be held for hunters possessing a Physically Challenged Hunter Permit on WMAs during the dates specified under the individual WMA. Participants must possess a Physically Challenged Hunter Permit. Contact region office for permit application and map of specific hunting area. Consult the regulations pamphlet for WMAs offering Physically Challenged Seasons. Pointe-aux-Chenes will have an experimental Lottery Physically Challenged waterfowl hunt. Contact New Iberia Office, Coastal and Nongame Resources Division for details.

e. Turkey Lottery Hunts. Hunts restricted to those persons selected by lottery. Consult the regulations pamphlet for deadlines. All turkeys must be reported at self-clearing station. Contact Region Offices for more details. Consult separate turkey hunting regulations pamphlet for more details.

f. Waterfowl Lottery Hunts. Hunts restricted to those persons selected by lottery. Consult the regulations pamphlet for deadline. Consult regulations pamphlet for individual WMA schedules or contact any Wildlife Division Office for more details.

g. Mourning Dove Lottery Hunts. Consult regulations pamphlet for individual WMA schedules or contact any Wildlife Division Office for more details.

h. Trapping. Consult Annual Trapping Regulations for specific dates. All traps must be run daily. Traps with teeth are illegal. Hunter orange required when a deer gun season is in progress.

i. Raccoon Hunting. A licensed hunter may take raccoon or opossum, one per person per day, during daylight hours only, during the open rabbit season on WMAs. NIGHTTIME EXPERIMENTAL - All nighttime raccoon hunting where allowed is with dogs only. There is no bag limit. Self-clearing permit required.

j. Sport Fishing. Sport fishing, crawfishing and frogging are allowed on WMAs when in compliance with current laws and regulations EXCEPT as otherwise specified under individual WMA listings.

k. Additional LDWF Lands. The LDWF manages additional lands that are included in the WMA system and available for public recreation. Small tracts are located in Vernon, Evangeline, St. Helena and other parishes. These small tracts have been acquired from the Farmers Home Administration or other sources for conservation purposes. Contact the appropriate LDWF Region Office for specific information and any additional season dates.

### 4. Firearms

a. Firearms having live ammunition in the chamber, magazine, cylinder or clip when attached to firearms and crossbows cocked in the ready position are not allowed in or on vehicles, boats under power, motorcycles, ATVs, ATCs or in camping areas on WMAs. Firearms may not be carried on any area before or after permitted hours except in authorized camping areas and except as may be permitted for authorized trappers.

b. Firearms and bows and arrows are not allowed on WMAs during closed seasons EXCEPT on designated shooting ranges or as permitted for trapping. Bows and broadhead arrows are not allowed on WMAs EXCEPT during deer archery season, turkey season or as permitted for bowfishing. Active and retired law enforcement officers in

compliance with POST requirements, Federal Law Enforcement Officers and holders of Louisiana concealed handgun permits or permit hunters from a reciprocal state who are in compliance with all other state and federal firearms regulations may possess firearms on WMAs provided these firearms are not used for any hunting purpose.

c. Encased or broken down firearms and any game harvested may be transported through the areas by the most direct route provided that no other route exists EXCEPT as specified under WMA listing.

d. Loaded firearms are not allowed near WMA check stations.

e. Centerfire rifles and handguns larger than .22 caliber rimfire, shotgun slugs or shot larger than BB lead or F steel shot cannot be carried onto any WMA EXCEPT during modern firearm deer season and during special shotgun season for feral hogs on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador WMAs (consult regulations pamphlet for specific WMA regulations).

f. Target shooting and other forms of practice shooting are prohibited on WMAs EXCEPT as otherwise specified.

g. Discharging of firearms on or hunting from designated roads, ATV trails and their rights-of-way is prohibited during the modern firearm and muzzleloader deer season.

#### 5. Methods of Taking Game

a. Moving deer or hogs on a WMA with organized drivers and standers, drivers or making use of noises or noise-making devices is prohibited.

b. On WMAs the daily limit shall be one antlered deer and one antlerless deer (when legal) per day. Three antlered and three antlerless per season (all segments included) by all methods of take.

c. Baiting or hunting over bait is prohibited on all WMAs (hogs included).

d. Deer may not be skinned nor have any external body parts removed including but not limited to feet, legs, tail, head or ears before being checked out.

e. Deer hunting on WMAs is restricted to still hunting only.

f. Construction of and/or hunting from permanent tree stands or permanent blinds on WMAs is prohibited. Any permanent stand or permanent blind will be removed and destroyed. A permanent blind is any blind using non-natural materials or having a frame which is not dismantled within two hours after the end of legal shooting time each day. Blinds with frames of wood, plastic, metal poles, wire, mesh, webbing or other materials may be used but must be removed from the WMA within two hours after the end of legal shooting time each day. Blinds made solely of natural vegetation and not held together by nails or other metallic fasteners may be left in place but cannot be used to reserve hunting locations. Natural vegetation (including any material used as corner posts) is defined as natural branches that are 2 inches or less in diameter. All decoys must be removed from the WMA daily. Permanent tree stands are any stands that use nails, screws, spikes, etc., to attach to trees and are strictly prohibited. Portable deer stands (those that are designed to be routinely carried by one person) may not be left on WMAs unless the stands are removed from trees and

left in a non-hunting position (a non-hunting position is one in which a hunter could not hunt from the stand in its present position). Also, all stands left must be legibly tagged with the user's name, address, phone number and Big Game Hunting License number (or Lifetime License Number). No stand may be left on any WMA prior to the day before deer season opens on that WMA and all stands must be removed from the WMA within one day after the close of deer hunting on that WMA. Free standing blinds must be disassembled when not in use. Stands left will not reserve hunting sites for the owner or user. All portable stands, blinds, tripods, etc. found unattended in a hunting position or untagged will be confiscated and disposed of by the LDWF. LDWF not responsible for unattended stands left on an area.

g. Physically Challenged Wheelchair Confined Deer and Waterfowl Hunting Areas: Special deer and waterfowl hunting areas, blinds and stands identified with LDWF logos, have been established for PCHP wheelchair confined hunters on WMAs. Hunters must obtain PCHP permits and are required to make reservations to use blinds and stands. PCHP wheelchair hunting areas are available on Alexander State Forest, Big Colewa Bayou, Buckhorn, Clear Creek, Elbow Slough, Floy McElroy, Jackson-Bienville, Ouachita, and Sherburne WMAs. Check WMA hunting schedules or call the LDWF Offices in Pineville, Lake Charles, Opelousas, Minden, Monroe or Hammond for information.

h. Hunting from utility poles, high tension power lines, oil and gas exploration facilities or platforms is prohibited.

i. It is illegal to save or reserve hunting locations using permanent stands or blinds. Stands or blinds attached to trees with screws, nails, spikes, etc. are illegal.

j. Tree climbing spurs, spikes or screw-in steps are prohibited.

k. Unattended decoys will be confiscated and forfeited to the LDWF and disposed of by the LDWF. This action is necessary to prevent preemption of hunting space.

l. Spot lighting (shining) from vehicles is prohibited on all WMAs.

m. Horses and mules may be ridden on WMAs except where prohibited and except during gun seasons for deer and turkey. Riding is restricted to designated roads and trails depicted on WMA map, self-clearing permit is required. Organized trail rides prohibited EXCEPT allowed by permit only on Camp Beauregard. Hunting and trapping from horses and mules is prohibited EXCEPT for quail hunting or as otherwise specified. Horse-drawn conveyances are prohibited.

n. All hunters (including archers and small game hunters) EXCEPT waterfowl hunters and mourning dove hunters on WMAs must display 400 square inches of "Hunter Orange" and wear a "Hunter Orange" cap during open gun season for deer. Quail and woodcock hunters and hunters participating in special dog seasons for rabbit, squirrel and feral hogs are required to wear a minimum of a "Hunter Orange" cap. All other hunters and archers (while on the ground) except waterfowl hunters also must wear a minimum of a "Hunter Orange" cap during special dog seasons for rabbit and squirrel and feral hogs. ALSO all persons afield during hunting seasons are encouraged to display "Hunter Orange". Hunters participating in special

shotgun season for feral hogs on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador WMAs must display 400 square inches of hunter orange and wear a "Hunter Orange" cap.

o. Deer hunters hunting from concealed ground blinds must display a minimum of 400 square inches of "Hunter Orange" above or around their blinds which is visible from 360 degrees.

p. Archery season for deer. The archery season on WMAs is the same as outside and is open for either-sex deer EXCEPT as otherwise specified on individual WMAs. Archery season restricted on Atchafalaya Delta and closed on certain WMAs when special seasons for youth or Physically Challenged hunts are in progress. Consult regulations pamphlet for specific seasons.

q. Either-sex deer may be taken on WMAs at any time during archery season EXCEPT when bucks only seasons are in progress on the respective WMAs. Archers must abide by bucks only regulations and other restrictions when such seasons are in progress.

r. Primitive Firearms season for deer. Either-sex unless otherwise specified. See WMA deer schedule. EXCEPT youth 17 or younger may use shotgun with slugs during primitive firearms season on the WMA.

#### 6. Camping

a. Camping on WMAs, including trailers, houseboats, recreational vehicles and tents, is allowed only in designated areas and for a period not to exceed sixteen (16) consecutive days, regardless if the camp is attended or unattended. Houseboats shall not impede navigation. At the end of the 16 day period, camps must be removed from the area for at least 48 hours. Camping area use limited exclusively to outdoor recreational activities.

b. Houseboats are prohibited from overnight mooring within WMAs EXCEPT on stream banks adjacent to LDWF-owned designated camping areas. Overnight mooring of vessels that provide lodging for hire are prohibited on WMAs. On Atchafalaya Delta WMA and Pass-a-Loutre, houseboats may be moored in specially designated areas throughout the hunting season. At all other times of the year, mooring is limited to a period not to exceed sixteen (16) consecutive days. Permits are required for the mooring of houseboats on Pass-a-Loutre and Atchafalaya Delta WMAs. Permits must be obtained from the New Iberia office.

c. Discharge of human waste onto lands or waters of any WMA is strictly prohibited by State and Federal law. In the event public restroom facilities are not available at a WMA, the following is required. Anyone camping on a WMA in a camper, trailer, or other unit (other than a houseboat or tent) shall have and shall utilize an operational disposal system attached to the unit. Tent campers shall have and shall utilize portable waste disposal units and shall remove all human waste from the WMA upon leaving. Houseboats moored on a WMA shall have a permit or letter of certification from the Health Unit (Department of Health and Hospitals) of the parish within which the WMA occurs verifying that it has an approved sewerage disposal system on board. Further, that system shall be utilized by occupants of the houseboats when on the WMA.

d. No refuse or garbage may be dumped from these boats.

e. Firearms may not be kept loaded or discharged in a camping area unless otherwise specified.

f. Campsites must be cleaned by occupants prior to leaving and all refuse placed in designated locations when provided or carried off by campers.

g. Non-compliance with camping regulations will subject occupant to immediate expulsion and/or citation, including restitution for damages.

h. Swimming is prohibited within 100 yards of boat launching ramps.

#### 7. Restricted Areas

a. For your safety, ALL oil and gas production facilities (wells, pumping stations and storage facilities) are off limits.

b. No unauthorized entry or unauthorized hunting in restricted areas, refuges, or limited use areas unless otherwise specified.

8. Dogs. All use of dogs on WMAs, EXCEPT for bird hunting and duck hunting, is EXPERIMENTAL as required by law. Having or using dogs on any WMA is prohibited EXCEPT for nighttime experimental raccoon hunting, squirrel hunting, rabbit hunting, bird hunting, duck hunting, hog hunting and bird dog training when allowed; see individual WMA season listings for WMAs that allow dogs. Dogs running at large are prohibited on WMAs. The owner or handler of said dogs shall be liable. Only recognizable breeds of bird dogs and retrievers are allowed for quail and migratory bird hunting. Only beagle hounds which do not exceed 15 inches at the front shoulders and which have recognizable characteristics of the breed may be used on WMAs having experimental rabbit seasons.

#### 9. Vehicles

a. An all-terrain vehicle is an off-road vehicle (not legal for highway use) with factory specifications not to exceed the following: weight-750 pounds, length-85", and width-48". ATV tires are restricted to those no larger than 25 x 12 with a maximum 1" lug height and a maximum allowable tire pressure of 7 psi. as indicated on the tire by the manufacturer. Use of all other ATVs or ATV tires are prohibited on a WMA.

b. Utility Type Vehicle (UTV, also Utility Terrain Vehicle) is defined as any recreational motor vehicle other than an ATV, not legal for highway use, designed for and capable of travel over designated unpaved roads, traveling on four (4) or more low-pressure tires, with factory specifications not to exceed the following: weight-1900 pounds, length-128" and width-68". UTV tires are restricted to those no larger than 26 x 12 with a maximum 1" lug height and a maximum allowable tire pressure of 12 psi. UTV's are commonly referred to as side by sides and may include golf carts.

c. Vehicles having wheels with a wheel-tire combination having a radius of 17 inches or more from the center of the hub (measured horizontal to ground) are prohibited.

d. The testing, racing, speeding or unusual maneuvering of any type of vehicle is prohibited within WMAs due to property damages resulting in high

maintenance costs, disturbance of wildlife and destruction of forest reproduction.

e. Tractor or implement tires with farm tread designs R1, R2 and R4 known commonly as spade or lug grip types are prohibited on all vehicles.

f. Airboats, aircraft, personal water craft, "mud crawling vessels" (commonly referred to as crawfish combines which use paddle wheels for locomotion) and hover craft are prohibited on all WMAs and Refuges. Personal water craft are defined as a vessel which uses an inboard motor powering a water jet pump as its primary source of propulsion and is designed to be operated by a person sitting, standing or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel. Personal water craft allowed on designated areas of Alexander State Forest WMA.

g. Driving or parking vehicles on food or cover plots and strips is prohibited.

h. Blocking the entrance to roads and trails is prohibited.

i. Licensed motorized vehicles (LMVs) legal for highway use, including motorcycles, are restricted entirely to designated roads as indicated on WMA maps. UTVs are restricted to marked UTV trails only. ATVs are restricted to marked ATV trails only, EXCEPT when WMA roads are closed to LMVs. ATVs may then use those roads when allowed. WMA maps available at all region offices. This restriction does not apply to bicycles. NOTE: All ATV and UTV trails are marked with signs and/or paint, but not all ATV and UTV trails appear on WMA maps.

j. Use of special ATV trails for Physically Challenged persons is restricted to special ATV Physically Challenged permittees. Physically Challenged ATV permittees are restricted to Physically Challenged ATV trails or other ATV trails only as indicated on WMA maps or as marked by sign and/or paint. Persons 60 years of age and older, with proof of age, are also allowed to use special Physically Challenged trails and need not obtain a permit. However, these persons must abide by all rules in place for these trails. Physically Challenged persons under the age of 60 must apply for and obtain a Physically Challenged Hunter Program Permit from the LDWF.

k. Entrances to ATV trails will be marked with peach colored paint. Entrances to Physically Challenged-only ATV trails will be marked with blue colored paint. Entrances to ATV trails that are open all year long will be marked with purple paint. The end of all ATV trails will be marked by red paint. WMA maps serve only as a general guide to the route of most ATV trails, therefore all signage and paint marking as previously described will be used to determine compliance. Deviation from this will constitute a violation of WMA rules and regulations.

l. Roads and trails may be closed due to poor condition, construction or wet weather.

m. ATVs, and motorcycles cannot be left overnight on WMAs EXCEPT on designated camping areas. ATVs are prohibited from two hours after sunset to 4:00 AM, EXCEPT raccoon hunters may use ATVs during nighttime raccoon take seasons only. ATVs are prohibited from March 1 through August 31 EXCEPT squirrel hunters are allowed to use ATV trails during the spring squirrel season on the WMA and except certain trails may be open during this time period

to provide access for fishing or other purposes and some ATV trails will be open all year long on certain WMAs.

n. CAUTION: Many LDWF-maintained roadways on WMAs are unimproved and substandard. A maximum 20 mph speed limit is recommended for all land vehicles using these roads.

o. Hunters are allowed to retrieve their own downed deer and hogs with the aid of an ATV except on Thistlethwaite and Sherburne WMAs under the following conditions:

i. No firearms or archery equipment is in possession of the retrieval party or on the ATV;

ii. The retrieval party may consist of no more than one ATV and one helper;

iii. ATVs may not be used to locate or search for wounded game or for any other purpose than retrieval of deer and hogs once they have been legally harvested and located.

iv. UTV's may not be used to retrieve downed deer or hogs.

#### 10. Commercial Activities

a. Hunting Guides/Outfitters: No person or group may act as a hunting guide, outfitter or in any other capacity for which they are paid or promised to be paid directly or indirectly by any other individual or individuals for services rendered to any other person or persons hunting on any WMA, regardless of whether such payment is for guiding, outfitting, lodging or club memberships.

b. Except for licensed activities otherwise allowed by law, commercial activities are prohibited without a permit issued by the Secretary of the LDWF.

c. Commercial fishing. Permits are required of all commercial fishermen using Grassy Lake, Pomme de Terre and Spring Bayou WMAs. Gill nets or trammel nets and the take or possession of grass carp are prohibited on Spring Bayou WMA. Drag seines (except minnow and bait seines) are prohibited EXCEPT experimental bait seines allowed on Dewey Wills WMA north of LA 28 in Diversion Canal. Commercial fishing is prohibited during regular waterfowl seasons on Grand Bay, Silver Lake and Lower Sunk Lake on Three Rivers WMA. Commercial fishing is prohibited on Salvador/Timken, Ouachita and Pointe-aux-Chenes WMAs EXCEPT commercial fishing on Pointe-aux-Chenes is allowed in Cut Off Canal and Wonder Lake. No commercial fishing activity shall impede navigation and no unattended vessels or barges will be allowed. Non-compliance with permit regulations will result in revocation of commercial fishing privileges for the period the license is issued and one year thereafter. Commercial fishing is allowed on Pass-a-Loutre and Atchafalaya Delta WMAs. See Pass-a-Loutre for additional commercial fishing regulations on mullet.

11. WMAs Basic Season Structure. For season dates, bag limits, shooting hours, special seasons and other information consult the annual regulations pamphlet for specific details.

12. Resident Small Game (squirrel, rabbit, quail, mourning dove, woodcock, snipe, rail and gallinule). Same as outside EXCEPT closed during modern firearm either-sex deer seasons on certain WMAs (See WMA schedule) and EXCEPT non-toxic shot must be used for rail, snipe, and gallinule. Consult regulations pamphlet. Unless otherwise specified under a specific WMA hunting schedule, the use of

dogs for rabbit and squirrel hunting is prohibited. Spring squirrel season with or without dogs: 1<sup>st</sup> Saturday of May for 9 days. Consult regulations pamphlet for specific WMAs.

13. Waterfowl (ducks, geese and coots). Consult regulations pamphlet. Hunting after 2 p.m. prohibited on all WMAs EXCEPT for Atchafalaya Delta, Biloxi, Lake Boeuf, Pass-a-Loutre, Pointe-aux-Chenes, and Salvador/Timken WMAs. Consult specific WMA regulations for shooting hours on these WMAs.

14. Archery. Consult regulations pamphlet.

15. Hogs. Consult regulations pamphlet for specific WMA regulations. Feral hogs may be taken during any legal hunting season, EXCEPT during the spring squirrel season, on designated WMAs by properly licensed hunters using only guns or bow and arrow legal for specified seasons in progress. Hogs may not be taken with the aid of dogs, EXCEPT feral hogs may be taken with the aid of dogs on Attakapas, Bodcau, Dewey Wills, Jackson-Bienville, Pearl River, Red River and Three Rivers WMAs (consult Bodcau, Dewey Wills, Jackson-Bienville, Pass-a-Loutre, Pearl River, Red River and Three Rivers WMAs regulations) by permit from either the Minden, Pineville, Hammond or Opelousas Offices and all hogs must be killed immediately and may not be transported live under any conditions and hunters may use centerfire pistols in addition to using guns allowed for season in progress. Additionally, feral hogs may be taken on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador WMAs from February 16 through March 31 with shotguns loaded with buckshot or slugs.

16. Outlaw Quadrupeds and Birds. Consult regulations pamphlet. During hunting seasons specified on WMAs, except the turkey and spring squirrel seasons, take of outlaw quadrupeds and birds, with or without the use of electronic calls, is allowed by properly licensed hunters and only with guns or bows and arrows legal for season in progress on WMA. However, crows, blackbirds, grackles and cowbirds may not be taken before September 1 or after January 1.

17. WMAs Hunting Schedule and Regulations:

a. Acadiana Conservation Corridor.

b. Alexander State Forest. From December through February all hunters must check daily with the Office of Forestry for scheduled burning activity. No hunting or other activity will be permitted in burn units the day of the burning. Call 318-487-5172 or 318-487-5058 for information on burning schedules. Vehicles restricted to paved and graveled roads. No parking on or fishing or swimming from bridges. No open fires EXCEPT in recreation areas.

c. Atchafalaya Delta. Water control structures are not to be tampered with or altered by anyone other than employees of the LDWF at any time. ATVs, ATCs and motorcycles prohibited EXCEPT as permitted for authorized WMA trappers. Mudboats or air-cooled propulsion engines greater than 36 horsepower are prohibited on the WMA.

d. Attakapas.

e. Bayou Macon. All night activities prohibited except as otherwise provided.

f. Bayou Pierre

g. Bens Creek

h. Big Colewa Bayou. All nighttime activities prohibited.

i. Big Lake.

j. Biloxi.

k. Bodcau.

l. Boeuf.

m. Buckhorn.

n. Camp Beauregard. Daily military clearance required for all recreational users. Registration for use of Self-Clearing Permit required once per year. All game harvested must be reported on self-clearing checkout permit. Retriever training allowed on selected portions of the WMA. Contact the Region office for specific details. No hunting in restricted areas.

o. Clear Creek (formerly Boise-Vernon).

p. Dewey W. Wills. Crawfish: 100 pounds per person per day.

q. Elbow Slough. Steel shot only for all hunting. All motorized vehicles prohibited.

r. Elm Hall. No ATVs allowed.

s. Floy Ward McElroy.

t. Fort Polk. Daily military clearance required to hunt or trap. Registration for use of Self-Clearing Permit required once per year. New special regulations apply to ATV users.

u. Grassy Lake. Commercial Fishing: Permitted EXCEPT on Smith Bay, Red River Bay and Grassy Lake proper on Saturday and Sunday and during waterfowl season. Permits available from area supervisor at Spring Bayou headquarters or Opelousas Region Office. No hunting in restricted area.

v. Jackson-Bienville. Beginning September 1, 2004, ATVs are allowed ONLY on non-public maintained gravel roads and marked ATV trails.

w. Joyce. Swamp Walk: Adhere to all WMA rules and regulations. No loaded firearms or hunting allowed within 100 yards of walkways. Check hunting schedule and use walkway at your own risk.

x. Lake Boeuf. Hunting allowed until 12:00 noon on all game. All nighttime activities prohibited.

y. Lake Ramsay. Foot traffic only - all vehicles restricted to Parish Roads.

z. Little River.

aa. Loggy Bayou.

bb. Manchac. Crabs: No crab traps allowed. Attended lift nets are allowed.

cc. Maurepas Swamp. No loaded firearms or hunting allowed within 100 yards of Nature Trail.

dd. Ouachita. Waterfowl Refuge: North of LA 15 closed to all hunting, fishing and trapping and ATV use during duck season including early teal season. Crawfish: 100 pounds per person per day limit. Night crawfishing prohibited. No traps or nets left overnight. Commercial Fishing: Closed. All nighttime activities prohibited except as otherwise provided.

ee. Pass-a-Loutre. Commercial Fishing: Same as outside. Commercial mullet fishing open only in: South Pass, Pass-a-Loutre, North Pass, Southeast Pass, Northeast Pass, Dennis Pass, Johnson Pass, Loomis Pass, Cadro Pass, Wright Pass, Viveats Pass, Cognevich Pass, Blind Bay, Redfish Bay, Garden Island Bay, Northshore Bay, East Bay (west of barrier islands) and oil and gas canals as described on the LDWF Pass-a-Loutre WMA map. ATVs, ATCs and motorcycles prohibited on this area. Oyster harvesting is

prohibited. Mudboats or air-cooled propulsion engines greater than 36 horsepower are prohibited on the WMA.

ff. Pearl River. All roads closed 8 p.m. to 4:30 a.m. to all vehicles. Old Hwy. 11 will be closed when river gauge at Pearl River, Louisiana, reaches 16.5 feet. All hunting except waterfowl will be closed when the river stage at Pearl River reaches 16.5 feet. No hunting in the vicinity of Nature Trail. Observe "No Hunting" signs. Rifle range open Friday, Saturday and Sunday with a fee.

gg. Peason Ridge. Daily military clearance required to hunt or trap. Registration for use of Self-Clearing Permit required once per year. Special federal regulations apply to ATV users.

hh. Pointe-aux-Chenes. Hunting until 12 noon on ALL GAME, EXCEPT for mourning dove hunting and youth lottery deer hunt as specified in regulation pamphlet. Point Farm: Gate will be open all weekends during month of February. No motorized vessels allowed in the drainage ditches. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) maximum shall be allowed. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) may be taken for bait. Oyster harvesting is prohibited. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the WMA and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. All boats powered by engines having horsepower ratings above 25 h.p. are not allowed in the Grand Bayou, Montegut and Pointe-aux-Chenes water management units. Public is permitted to travel anytime through the WMA for access purposes only, in the waterways known as Grand Bayou, Humble Canal, Little Bayou Blue and Grand Bayou Blue unless authorized by the LDWF. All other motorized vehicles, horses and mules are prohibited unless authorized by the LDWF.

ii. Pomme de Terre. Commercial Fishing: permitted Monday through Friday, EXCEPT closed during duck season. Commercial fishing permits available from area supervisor, Opelousas Region Office or Spring Bayou headquarters. Sport Fishing: Same as outside EXCEPT allowed only after 2 p.m. only during waterfowl season. Crawfish: March 15 - July 31, recreational only, 100 lbs. per boat or group daily.

jj. Red River. Recreational crawfishing allowed on Yakey Farms wetland restoration projects February 1 to the last day of February, 100 pounds per person per day, maximum of five wire traps per person. No traps or nets left overnight. No motorized watercraft allowed.

kk. Russell Sage. Transporting trash or garbage on WMA roads is prohibited. All nighttime activities prohibited except as otherwise provided. Internal combustion engines and craft limited to 10 h.p. rating or less in the Greentree Reservoirs. NOTE: All season dates on Chauvin Tract (U.S. 165 North) same as outside, EXCEPT still hunt only and

EXCEPT deer hunting restricted to archery only. All vehicles including ATVs prohibited.

ll. Sabine.

mm. Sabine Island. Sabine Island boundaries are Sabine River on the west, Cut-Off Bayou on the north, and Old River and Big Bayou on the south and east.

nn. Salvador/Timken. Hunting until 12 noon only for all game. All nighttime activities prohibited, including frogging. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) maximum shall be permitted. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) maximum may be taken for bait. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none of the lines are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the WMA and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. Boats powered by internal combustion engines having horsepower ratings above 25 h.p. are permitted only in oil company access canals, Louisiana Cypress Canal, the Netherlands Pond including the West Canal, Lakes - "Baie Des Chactas" and "Baie du Cabanage" and the Rathborne Access ditch. Use of mudboats powered by internal combustion engines with four cylinders or less is permitted in interior ditches from first Saturday in September through January and may be further permitted. Pulling boats over levees, dams or water control structures or any other activities which cause detriment to the integrity of levees, dams and water control structures is prohibited. ATVs, ATCs and motorcycles prohibited on this area.

oo. Sandy Hollow. Bird Dog Training: Consult regulation pamphlet. Wild birds only (use of pen-raised birds prohibited). Bird Dog Field Trials: Permit required from Baton Rouge Region Office. Horseback Riding: Self-Clearing Permit required. Organized trail rides prohibited. Riding allowed only on designated roads and trails depicted on WMA map. Horses and mules are specifically prohibited during turkey and gun season for deer EXCEPT as allowed for bird dog field trials. No horses and mules on green planted areas. Horse-drawn conveyances are prohibited.

pp. Sherburne. Crawfishing: Recreational crawfishing only on the South Farm Complexes. Crawfish harvest limited to 100 pounds per vehicle or boat per day. No traps or nets left overnight. No motorized watercraft allowed on farm complex. Commercial crawfishing not allowed. Retriever training allowed on selected portions of the WMA. Contact the Region office for specific details. Vehicular traffic prohibited on east Atchafalaya River levee within Sherburne WMA boundaries. Rifle and Pistol Range open daily. Skeet ranges open by appointment only, contact Hunter Education Office. No trespassing in restricted area behind ranges. Note: Atchafalaya National Wildlife Refuge, and U.S. Army Corps of Engineers land holdings adjacent to the Sherburne WMA will have the same rules and

regulations as Sherburne WMA. No hunting or trapping in restricted area.

qq. Sicily Island Hills.

rr. Soda Lake. No motorized vehicles allowed. Bicycles allowed. All trapping and hunting prohibited EXCEPT archery hunting for deer and falconry.

ss. Spring Bayou. Commercial Fishing: permitted Monday through Friday EXCEPT slat traps and hoop nets permitted any day and except gill or trammel nets or the take or possession of grass carp are prohibited. Permits available from area supervisor or Opelousas Region Office. Closed until after 2 p.m. during waterfowl season. Sport Fishing: Same as outside EXCEPT allowed only after 2 p.m. during waterfowl season. Crawfish: recreational only. No hunting allowed in headquarters area. Only overnight campers allowed in the improved Boggy Bayou Camping area. Rules and regulations posted at camp site. A fee is assessed for use of this campsite. Water skiing allowed only in Old River and Grand Lac.

tt. Tangipahoa Parish School Board. No horseback riding during gun season for deer or turkey. ATVs are not allowed.

uu. Thistlethwaite. All motorized vehicles restricted to improved roads only. All users must enter and leave through main gate only. No entry into restricted areas.

vv. Three Rivers.

ww. Tunica Hills. All vehicles restricted to Parish roads. Access to restricted areas is unauthorized. Refer to WMA map. Camping limited to tents only.

xx. Union. All nighttime activities prohibited except as otherwise provided.

yy. West Bay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115 and R.S. 56:116.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:1279 (July 1999), amended LR 26:1494 (July 2000), LR 27:1049 (July 2001), LR 28:1603 (July 2002), LR 29:1124 (July 2003), repromulgated LR 29:1522 (August 2003), amended LR 30:1495 (July 2004), LR 31:1611 (July 2005), LR 32:1251 (July 2006), LR 33:1382 (July 2007), LR 34:1429 (July 2008), LR 35:1264 (July 2009), LR 36:

#### **Family Impact Statement**

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

#### **Public Hearings**

Public hearings will be held at the following locations: March 11 beginning at 6:30 p.m. at the LDWF Office, 9961 Highway 80, Minden; March 9 beginning at 6:00 p.m. at the Ruston Civic Center, N. Trenton Street, Ruston; March 10 beginning at 6:00 p.m. at the Alexandria Convention Hall, 915 Third Street, Alexandria; March 16 beginning at 6:30 p.m. at the LSU Ag Center, next to the Burton Coliseum, Lake Charles; March 18 beginning at 6:00 PM in Room 119 of the U.S. Fish and Wildlife Service Building, 646 Cajundome Boulevard, Lafayette; March 9 beginning at 6:00 PM in the Cafeteria of the Hammond High School, 45168

River Road, Hammond. Also comments will be accepted at regularly scheduled Wildlife and Fisheries Commission Meetings from March through May. Interested persons may submit written comments relative to the proposed rule until 4:30 p.m., Thursday, May 6, 2010 to Mr. Randy Myers, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Stephen J. Oats  
Chairman

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: General and Wildlife Management Area Hunting**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This rule amends permanent hunting regulations for the state at large as well as for Wildlife Management Areas. The establishment of hunting regulations is an annual process. Aside from staff time, no implementation costs to state governmental units are anticipated. Enforcement of the proposed rule will be carried out using existing staff and funding levels.

Local governmental units will not be impacted.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This rule amends permanent hunting regulations for the state at large as well as for Wildlife Management Areas. The establishment of hunting regulations is an annual process. Aside from staff time, no implementation costs to state governmental units are anticipated. Enforcement of the proposed rule will be carried out using existing staff and funding levels.

Local governmental units will not be impacted.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Over 270,000 hunters and numerous businesses that provide goods and services to hunters are directly affected by this proposal. Hunting in Louisiana generates approximately \$594 million in revenue annually through the sale of outdoor related equipment, associated items and trip-related expenditures (Southwick Associates, 2007). Failure to adopt rule changes would result in no hunting seasons being established and a potential loss of commerce associated with these activities.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Hunting in Louisiana provides an estimated 13,084 jobs (Southwick Associates, 2007). Not establishing hunting seasons might have a negative and direct impact on these jobs.

Wynnette Kees  
Fiscal Officer  
1002#104

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Resident Game Hunting Season  
(LAC 76:XIX.101 and 103)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate rules and regulations governing the hunting of resident game birds and game quadrupeds.

**Title 76  
WILDLIFE AND FISHERIES**

**Part XIX. Hunting and WMA Regulations**

**Chapter 1. Resident Game Hunting Season**

**§101. General**

A. The Resident Game Hunting Season regulations are hereby adopted by the Wildlife and Fisheries Commission. A complete copy of the Regulation Pamphlet may be obtained from the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), LR 30:1493 (July 2004), LR

31:1627 (July 2005), LR 32:1253 (July 2006), LR 33:1399 (July 2007), LR 34:1447 (July 2008), LR 35:1278 (July 2009), LR 36:

**§103. Resident Game Birds and Animals**

A. Shooting Hours. One-half hour before sunrise to one-half hour after sunset.

B. Consult Regulation Pamphlet for seasons or specific regulations on Wildlife Management Areas or specific localities.

Species	Season Dates	Daily Bag Limit	Possession Limit
Quail	OPENS: 3 <sup>rd</sup> Saturday of November CLOSES: Last Day of February	10	20
Rabbit and Squirrel	OPENS: 1 <sup>st</sup> Saturday of October CLOSES: Last Day of February	8	16
Squirrel *	OPENS: 1 <sup>st</sup> Saturday of May for 23 days	3	6
Deer	See Schedule	1 antlered and 1 antlerless (when legal)	6/season (3 antlered deer & 3 antlerless deer)

\*NOTE: Spring squirrel season is closed on the Kisatchie National Forest, National Wildlife Refuges, U.S. Army Corps of Engineers property. Some State Wildlife Management Areas will be open, check WMA season schedule.

**C. Deer Hunting Schedule**

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
1	OPENS: 1 <sup>st</sup> day of Oct. CLOSES: Last day of Jan.	OPENS: 2 <sup>nd</sup> Sat. of Nov. CLOSES: Fri. after 2 <sup>nd</sup> Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last Sun. of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3 <sup>rd</sup> Sat. of Nov. CLOSES: Fri. before 2 <sup>nd</sup> Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1 <sup>st</sup> Sat. of Dec. OPENS: Mon. after 1 <sup>st</sup> Sat. of Jan. CLOSES: next to last Sun. of Jan.	OPENS: 2 <sup>nd</sup> Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1 <sup>st</sup> Sat. of Dec. CLOSES: Sun. after 1 <sup>st</sup> Sat. of Jan.
2	OPENS: 1 <sup>st</sup> day of Oct. CLOSES: Last day of Jan.	OPENS: Next to last Sat. of Oct. CLOSES: Fri. before last Sat. of Oct. OPENS: Mon. after the last day of Modern Firearm Season in Jan. CLOSES: After 7 days.	OPENS: Last Sat. of Oct. CLOSES: Tues. before 2 <sup>nd</sup> Sat. of Dec. in odd numbered years and on Wed. during even numbered years EXCEPT when there are 5 Sats. in Nov. and then it will close on the Tues. in odd numbered years or Wed. during even numbered years before the 1 <sup>st</sup> Sat. of Dec.	OPENS: Wed. before the 2 <sup>nd</sup> Sat. of Dec. in odd numbered years and on Thurs. during even numbered years EXCEPT when there are 5 Sats. in Nov., then it will open on the Wed. before the 1 <sup>st</sup> Sat. of Dec. on odd years and Thurs. during even numbered years CLOSES: 40 days after opening in odd numbered years or 39 days after opening in even numbered years
3	OPENS: 3 <sup>rd</sup> Sat. of Sept. CLOSES: Jan. 15	OPENS: 2 <sup>nd</sup> Sat. of Oct. CLOSES: Fri. before 3 <sup>rd</sup> Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1 <sup>st</sup> Sat. of Dec.	OPENS: 3 <sup>rd</sup> Sat. of Oct. CLOSES: Sun. after Thanksgiving Day OPENS: 1 <sup>st</sup> Sat. of Dec. CLOSES: After 37 days	
4	OPENS: 1 <sup>st</sup> day of Oct. CLOSES: Last day of Jan.	OPENS: 2 <sup>nd</sup> Sat. of Nov. CLOSES: Fri. before 3 <sup>rd</sup> Sat. of Nov. OPENS: Mon. after 2 <sup>nd</sup> Sat. of Jan. CLOSES: Mon. after 3 <sup>rd</sup> Sat. of Jan.	OPENS: 3 <sup>rd</sup> Sat. of Nov. CLOSES: Sun. after 2 <sup>nd</sup> Sat. of Jan.	

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
5	OPENS: 1 <sup>st</sup> day of Oct. CLOSES: Last day of Jan.	OPENS: 2 <sup>nd</sup> Sat. of Nov. CLOSES: Fri. before 3 <sup>rd</sup> Sat. of Nov. (BUCKS ONLY) OPENS: Day after Christmas Day CLOSES: Jan. 1 <sup>st</sup> (BUCKS ONLY)	OPENS: Day after Thanksgiving Day CLOSES: Sun. after 2 <sup>nd</sup> Sat. of Dec.	
6	OPENS: 1 <sup>st</sup> day of Oct. CLOSES: Feb. 15 (1 <sup>st</sup> 15 days are BUCKS ONLY)	OPENS: 2 <sup>nd</sup> Sat. of Nov. CLOSES: Fri. before 3 <sup>rd</sup> Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last Sun. of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3 <sup>rd</sup> Sat. of Nov. CLOSES: Fri. before 2 <sup>nd</sup> Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1 <sup>st</sup> Sat. of Dec.	OPENS: 2 <sup>nd</sup> Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1 <sup>st</sup> Sat. of Dec. CLOSES: Next to last Sun. of Jan.
7	OPENS: 1 <sup>st</sup> day of Oct. CLOSES: Last day of Jan.	OPENS: 2 <sup>nd</sup> Sat. of Oct. CLOSES: Fri. before 3 <sup>rd</sup> Sat. of Oct. OPENS: 1 <sup>st</sup> Sat. of Nov. CLOSES: Fri. before 2 <sup>nd</sup> Sat. of Nov.	OPENS: 3 <sup>rd</sup> Sat. of Oct. CLOSES: Fri. before 1 <sup>st</sup> Sat. of Nov. OPENS: 2 <sup>nd</sup> Sat. of Nov. CLOSES: Sun. after Thanksgiving Day	OPENS: Mon. after Thanksgiving Day CLOSES: After 35 days
8	OPENS: 3 <sup>rd</sup> Sat. of Sept. CLOSES: Jan. 15	OPENS: 2 <sup>nd</sup> Sat. of Oct. CLOSES: Fri. before 3 <sup>rd</sup> Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1 <sup>st</sup> Sat. of Dec.	OPENS: 3 <sup>rd</sup> Sat. of Oct. CLOSES: Sun. after Thanksgiving Day	OPENS: 1 <sup>st</sup> Sat. of Dec. CLOSES: After 37 days.

D. Modern Firearm Schedule (Either Sex Seasons)

Parish	Area	Modern Firearm Either-sex Days
East Carroll	Area 1	Antlerless deer may be harvested during entire deer season on private lands (all segments included), east of mainline Mississippi River Levee and south and east of La. 877 from West Carroll Parish line to La. 580, south of La. 580 to U.S. 65, west of U.S. 65 to Madison Parish line.
East Carroll	Area 4 portion	Opens 3 <sup>rd</sup> Saturday of November for 2 days and opens Friday after Thanksgiving Day for 3 days, west of mainline Mississippi River Levee and north and west of La. 877 from West Carroll Parish line to La. 580, north of La. 580 to U.S. 65, east of U.S. 65 to Madison Parish line.
West Carroll	Area 5	Opens Friday after Thanksgiving Day for 3 days.

E. Farm Raised White-tailed Deer on Supplemented Shooting Preserves: Archery, Firearm, Primitive Firearms: October 1-January 31 (Either-Sex).

F. Exotics on Supplemented Shooting Preserves: Either Sex, no closed season.

G. Spring Squirrel Hunting

1. Season Dates: Opens 1<sup>st</sup> Saturday of May for 23 days.

2. Closed Areas: Kisatchie National Forest, National Wildlife Refuges, and U.S. Army Corps of Engineers property and all WMAs except as provided in Paragraph 3 below.

3. Wildlife Management Area Schedule: Opens 1<sup>st</sup> Saturday of May for 9 days on all WMAs except Fort Polk, Peason Ridge, Camp Beauregard, Pass-a-Loutre and Salvador. Dogs are allowed during this season for squirrel hunting. Feral hogs may not be taken on Wildlife Management Areas during this season.

4. Limits: Daily bag limit is 3 and possession limit is 6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:109(B) and R.S. 56:141(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), repromulgated LR 25:1526 (August 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), repromulgated LR 29:1521 (August 2003), LR 30:1494 (July 2004), LR 31:1627 (July 2005), LR 32:1254 (July 2006), LR 33:115 (January 2007), LR 33:1399 (July 2007), LR 34:1447 (July 2008), LR 35:1280 (July 2009), LR 35:2856 (December 2009), LR 36:

**Family Impact Statement**

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

**Public Hearings**

Public hearings will be held at the following locations: March 11 beginning at 6:30 p.m. at the LDWF Office, 9961 Highway 80, Minden; March 9 beginning at 6:00 p.m. at the Ruston Civic Center, N. Trenton Street, Ruston; March 10 beginning at 6:00 p.m. at the Alexandria Convention Hall, 915 Third Street, Alexandria; March 16 beginning at 6:30 p.m. at the LSU Ag Center, next to the Burton Coliseum, Lake Charles; March 18 beginning at 6:00 PM in Room 119 of the U.S. Fish and Wildlife Service Building, 646 Cajundome Boulevard, Lafayette; March 9 beginning at 6:00 p.m. in the Cafeteria of the Hammond High School, 45168 River Road, Hammond. Also comments will be accepted at regularly scheduled Wildlife and Fisheries Commission Meetings from March through May. Interested persons may submit written comments relative to the proposed rule until 4:30 p.m., Thursday, May 6, 2010 to Mr. Randy Myers, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Stephen J. Oats  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Resident Game Hunting Season**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Establishment of hunting regulations is an annual process. Aside from staff time, no implementation costs to state governmental units are anticipated. Enforcement of the proposed rule will be carried out using existing staff and funding levels.

Local governmental units will not be impacted.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

State hunting license fee collections are \$8.0 - 9.0 million annually. Additionally, hunting and related activities generate approximately \$62 million in state and local tax revenues annually (Southwick Associates, 2007). Of this \$62 million,

approximately 66 percent is generated from big game hunting, 17 percent from migratory bird hunting and 17 percent from small game hunting activities. Failure to adopt rule changes would result in no hunting seasons being established and a potential loss of some of these revenues.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Over 270,000 resident and non-resident hunters, numerous sporting good retailers and landowners are directly affected by this proposal (Southwick Associates, 2007). The Louisiana hunter hunts an average of 22 days per year, which amounts to approximately 6 million hunting days annually. Approximately 84 percent of hunters participate in big game hunting, 50 percent participate in small game hunting and 37 percent participate in migratory bird hunting activities each year. According to Southwick Associates, hunting in Louisiana generates approximately \$594 million in revenues annually through the sale of outdoor related equipment, associated items and trip-related expenditures (Southwick Associates, 2007). Failure to adopt rule changes would result in no hunting seasons being established and a potential loss of commerce associated with these activities.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Hunting in Louisiana provides an estimated 13,084 jobs (Southwick Associates, 2007). Not establishing hunting seasons might have a negative and direct impact on these jobs.

Wynnette Kees  
Fiscal Officer  
1002#103

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

# Committee Reports

## COMMITTEE REPORT

**Committee on House and Governmental Affairs  
and  
Committee on Senate and Governmental Affairs**

Proposed Rule—Financial Disclosure Forms  
(LAC 52:I.Chapter 13)

On January 27, 2010, the Committee on House and Governmental Affairs and the Committee on Senate and Governmental Affairs held a joint meeting to consider rule changes proposed by the Board of Ethics. Each committee determined most of the rule changes (including technical changes proposed by the Board of Ethics) to be acceptable. However, each committee found certain parts of the proposed rule to be unacceptable.

The parts found by each committee to be unacceptable concerned rule changes proposing forms for financial disclosure pursuant to R.S. 42:1124.3—forms to be used by persons holding public office and forms to be use by candidates (see R.S. 18:1495.7). Each committee found those proposed rule changes to be unacceptable because the forms did not conform to applicable provisions of law.

Richard "Rick" Gallot, Jr.  
Chairman  
House and Governmental Affairs  
and  
Robert E. "Bob" Kostelka  
Chairman  
Senate and Governmental Affairs

1002#110

# Potpourri

## POTPOURRI

### Department of Agriculture and Forestry Horticulture Commission

#### Landscape Architect Registration Exam

The next landscape architect registration examination will be given June 7-8, 2010 beginning at 7:45 a.m. at the College of Design Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending the application and fee is as follows.

New Candidates:	February 19, 2010
Re-Take Candidates:	March 12, 2010
Reciprocity Candidates:	April 23, 2010

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, P.O. Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to March 12, 2010. Questions may be directed to (225) 952-8100.

Mike Strain, DVM  
Commissioner

1002#006

## POTPOURRI

### Department of Agriculture and Forestry Horticulture Commission

#### Retail Floristry Examination

The next retail floristry examinations will be given April 26-30, 2010 at 9:30 a.m. in the Nelson Memorial Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending in application and fee is March 12, 2010. No applications will be accepted after March 12, 2010.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to March 12, 2010. Questions may be directed to (225) 952-8100.

Mike Strain, DVM  
Commissioner

1002#023

## POTPOURRI

### Department of Economic Development Office of Business Development

#### Entertainment Industry Tax Credit Programs—Digital Media Act (LAC 61:I.1661-1671)

The Department of Economic Development hereby gives notice of its intent to adopt the following revised rules for the administration of the Digital Media Tax Credit program.

Interested persons may submit their written comments to Elliott Adams by 5:00 p.m. on March 23, 2010 at 1045 North Third Street, Baton Rouge, LA 70802 or via email to [elliott.adams@la.gov](mailto:elliott.adams@la.gov).

A public hearing to receive comments will be held on March 24, 2010 at 10:00 a.m. at the Department of Economic Development, 1051 North Third Street, Baton Rouge, LA 70802.

#### Title 61

#### REVENUE AND TAXATION

#### Part I. Taxes Collected and Administered by the Secretary of Revenue

#### Chapter 16. Louisiana Entertainment Industry Tax Credit Programs

#### Subchapter D. Louisiana Digital Media Act §1661. Purpose

A. The purpose of this Chapter is to administer the Louisiana Digital Media Act as established by R.S. 47:6022.

B. The purpose of this program is to encourage the development in Louisiana of a strong capital base for the production of digital interactive media products and platforms in order to achieve a more independent, self-supporting industry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6022.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Office of Entertainment Industry Development, LR 35:

#### §1663. General Description

A. The program offers a tax credit for the producers of digital interactive media projects, which submitted applications prior to January 1, 2009 and for the producers of digital interactive media products and platform projects which submitted applications on or after July 1, 2009.

B. Tax credits are earned per calendar year at the time funds are expended in Louisiana on a state certified production.

C. Tax credits shall never exceed the total base investment in a state certified production.

D. Tax credits become transferable only after final certification of expenditures.

E. These rules shall become effective upon approval by the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs, in accordance with the Administrative Procedures Act.

F. Applicants may apply for more than one entertainment tax credit program administered by the Office and the Department of Economic Development, provided that:

1. separate applications are submitted per program;
2. expenditures shall only qualify for one specified program; and
3. multiple applications shall not result in any duplication of tax credits.

G. A state-certified production which receives tax credits pursuant to the provisions of this Section shall not be eligible to receive the rebates provided for in the Quality Jobs program R.S. 51:2451 through 2461 in connection with the activity for which the tax credits were received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6022.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Office of Entertainment Industry Development, LR 35:

#### **§1665. Definitions**

A. Terms not otherwise defined in this Chapter shall have the same meaning given to them in R.S. 47:6022, unless the context clearly requires otherwise.

B. In this Chapter, the following terms shall have the meanings provided herein, unless the context clearly indicates otherwise.

*3D Geometry*—electronic media representations, three dimensional representations of geometric data for the purposes of rendering 2D image and performing calculations.

*Animated Images*—electronic media representation of images that comprise a series of chronological fixed images.

*Base Investment*—the actual funds expended in Louisiana by a state-certified production as production-related costs for design or development of digital interactive media, including costs for payroll and component parts.

*Component Parts*—all elements that are integral to the functioning or development of such products and platforms. Some examples may be, but are not limited to; software, computer code, image files, music files, audio files, scripts and plays, concept mock-ups, software tools, and testing procedures. Shall also include, but not be limited to: computer servers, workstations, server racks, hard drives, optical drives, monitors, keyboards, integrated video and audio equipment, networking routers, switches, network cabling, and any other computer-related hardware necessary to create or operate a digital interactive media product or platform.

*Department*—Department of Economic Development.

*Digital Interactive Media*—means products or platforms that are:

- a. intended for commercial production, use or distribution;
- b. contain at least two of the following types of data: text, sound, fixed images, video, or 3D geometry; and
- c. that have all of the following three characteristics:

- i. Digital—a system that uses discrete (discontinuous) values ordinarily symbolized numerically to represent information for input, processing, transmission and storage. A digital system would be contrasted with an analog system which uses a continuous range of values to represent information. The term digital includes, but is not limited to information input, processed, transmitted and stored via the internet.

- ii. Interactive—a digital media system for inputting, processing, transmitting or storing information or data in which users of the system are able to respond to the digital media system by inputting, transmitting, processing or storing information or data in response to the information or data provided to them through the digital media system. (Digital media system means communication delivered via electronic energy where the information stored, transmitted, or received is in digital form.

- iii. Media—communication tools used to store, transmit, distribute and deliver information and data. It includes methods and mechanisms for information distribution through, but not limited to distributed networks, such as the Internet, and through compact disc, CD-ROM, various types of DVD, and other removable storage drives and devices.

- d. Digital interactive media may include, but not be limited to:

- i. video or interactive games;
- ii. simulation software;
- iii. interactive educational or training products;
- iv. internet sites designed and developed as social media;
- v. software applications that provide connectivity; and communications between mobile devices and digital interactive media web platforms; and
- vi. technology designed to stream live or pre-recorded video content over the internet to large simultaneous audiences.

- e. Digital interactive media shall not include:

- i. software development primarily designed and developed for institutional, private or internal purposes;
- ii. largely static internet sites designed to provide information about a person, business, or firm; or
- iii. products regulated under the Louisiana Gaming Control Law.

*Digital Interactive Media Company*—an entity organized under the laws of the state of Louisiana and engaged in the business of producing digital interactive media as defined in this section. Digital interactive media company shall not mean or include any company owned, affiliated, or controlled, in whole or in part, by any company or person which is in default on a loan made by the state or a loan guaranteed by the state, nor with any company or person who has ever declared bankruptcy under which an obligation of the company or person to pay or repay public funds or monies was discharged as part of such bankruptcy.

*Director*—the Director of Digital Media, who is the designee of the secretary of the Department of Economic Development.

*Electronic Media*—tools used to store, transmit, and receive digitized information that utilizes electronics or electromechanical energy to access the content.

*Expended in Louisiana*—an expenditure to lease immovable property located within the state; and expenditure as compensation for services performed in the state; or an expenditure to purchase or lease tangible personal property within the state where the transaction is subject to the state sales or lease tax provisions of Title 47 of the Louisiana Revised Statutes of 1950. A transaction that is subject to the state sales or lease tax provisions of Title 47 of the Louisiana revised Statutes of 1950 shall include transactions which are also subject to a statutory exclusion or exemption.

*Expenditure*—actual payment of cash or cash equivalent for goods or services, as evidenced by an invoice, receipt or other such document.

*Fixed Images*—electronic media representation in two dimensions that are static.

*Indirect Costs*—not direct production related costs. Costs of operation that are not directly associated with a specific production, such as clerical salaries and general administrative costs.

*Interpersonal Communication Services*—websites and other digital media that are primarily for the purposes of exchanging personal or business information, photos or news. Examples of this may be, but are not limited to: those listed in R.S. 47:6022(C)(4), web logs, product websites, social networking websites, video conferencing, internet telephony and instant messaging platforms.

*Office*—Office of Entertainment Industry Development.

*Payroll*—includes all salary, wages and other compensation sourced or apportioned to Louisiana, including related benefits,

*Person*—a natural person, corporation, partnership, limited partnership, limited liability company, joint venture, trust, estate or association.

*Production Expenses*—preproduction and production expenditures in the state directly relating to a state-certified production:

- a. may include without limitation the following:
  - i. preproduction stage expenses such as design documents, mock-ups and prototypes.
  - ii. testing software, source code development, patches, updates, sprites, three-dimensional models and level design;
    - (a). testing software – activities entirely devoted to quality assurance of a product;
    - (b). three-dimensional models – electronic media representations, three dimensional representations of geometric data for the purpose of rendering 2D images and performing calculations.
    - (c). updates—activities directly relating to recalibrating or revising a product.
      - i. costs associated with photography and sound synchronization, lighting and related services;
        - (a). lighting and related services – includes but not limited to, the use of motion capture technology or green screen technology.
      - ii. rental of Louisiana facilities and equipment, that are directly related to production;
      - iii. purchase of prepackaged audio files, video files, photographic, or libraries;
      - iv. purchase of license to use pre-recorded audio files, video or photographic files;

vii. development costs associated with producing audio files and video files to be used in the production of the end product under development;

viii. purchase of game engines or content management platforms produced for general sale.

b. Shall not include the following:

i. expenditures made prior to preproduction, such as research and development, workforce recruitment or intellectual property research;

ii. postproduction expenditures for marketing and distribution;

iii. non-production related overhead;

iv. amounts that are later reimbursed by the state or any other governmental agency;

v. costs related to the transfer of tax credits;

vi. amounts that are paid to persons or entities as a result of their participation in profits from the exploitation of the production;

vii. the application fee; or

viii. state or local taxes.

c. The cost of customization or custom development of a product is not an eligible Production Expense, unless the customization services are performed in Louisiana.

*Resident or Resident of Louisiana*—a natural person and, for the purposes of determining eligibility for the tax incentives provided by this section, any person domiciled in the state of Louisiana and any other person who maintains a permanent place of abode within the state and spends in the aggregate more than six months of each year within the state.

*Secretary*—Secretary of the Department of Economic Development.

*State-Certified Production*—a digital interactive media production, or a component part thereof, approved by the Office.

*Tax Credit*—digital interactive media producer tax credit.

*Transferee*—an individual or entity that receives a transfer of investor tax credits.

*Transferor*—an individual or entity that makes a transfer of an investor tax credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6022.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Office of Entertainment Industry Development, LR 35:

## **§1667. Certification Procedures**

### **A. Application**

1. An application for a state certified production shall be submitted to the director, including:

a. a distribution plan;

b. a preliminary budget, including estimated base investment;

c. a statement that the project will qualify as a state certified production; and

d. the applicant shall provide additional information upon request.

### **B. Qualification**

1. The Office shall determine whether a production or project qualifies, by meeting all requirements of R.S. 47:6022 and these regulations, and taking the following factors into consideration.

a. The contribution of the production or project to the goal of creating an independent, self-supporting digital interactive media industry.

b. The impact of the production or project on the employment of Louisiana residents.

c. The impact of the production or project on the overall economy of the state.

## 2. Duration of Tax Credits

a. Tax credits may be granted under R.S. 47:6022 until such statute is amended, modified or repealed.

3. Amount of Tax Credits. Tax credits are earned per calendar year at the time funds are expended in Louisiana on a state certified production

a. For applications for state-certified productions submitted to the Office prior to July 1, 2009 and subsequently approved by the Office and the Secretary, a tax credit shall be earned by producers as follows:

i. The producer shall earn tax credits at the rate of 20 percent of the base investment for the first and second years following certification of the project as a state certified production.

ii. The producer shall earn tax credits at the rate of 15 percent of the base investment for the third and fourth years following certification of the project as a state certified production.

iii. The producer shall earn tax credits at the rate of 10 percent of the base investment for the fifth and sixth years following certification of the project as a state certified production.

iv. No tax credits may be earned after the sixth year following certification of the project as a state certified production.

b. For applications for state-certified productions submitted to the Office on or after July 1, 2009 and subsequently approved by the Office and the Secretary, a tax credit shall be earned by a digital interactive media company as follows.

i. Expenditures made on or after July 1, 2009 shall earn tax credits at the rate of 25 percent of the base investment;

(a) to the extent that base investment is expended on payroll for Louisiana residents employed in connection with a state-certified production, a digital interactive media company shall earn additional tax credits at the rate of 10 percent of payroll.

(b) The initial certification shall be effective for expenditures made prior to the date of initial certification and shall be valid until the production is completed.

(c) The production shall be considered complete when it receives its first commercial release, or other appropriate benchmark as agreed to between the parties and outlined in the initial certification.

ii. Expenditures made prior to July 1, 2009 may qualify for tax credits as follows:

(a) The initial certification shall indicate a beginning date for qualifying expenditures to earn tax credits, (hereafter known as "Start Date") which shall be no earlier than June 30, 2005, the effective date of the original LA Digital Media Act, R.S. 47:6022,

(b) Tax credits shall be earned when expenditures are made, at the following rates:

(i). For each of the first and second years following the Start Date, the producer shall earn tax credits at the rate of 20 percent of the base investment;

(ii). For each of the third and fourth years following the Start Date, the producer shall earn tax credits at the rate of 15 percent of the base investment;

(iii). For each of the fifth and sixth years following the Start Date, the producer shall earn tax credits at the rate of 10 percent of the base investment;

(c) As an illustrative example, if a company applies on August 1, 2009, but indicates that it may have qualifying expenditures dating back to August 1, 2007, the producer would earn tax credits at the following rates:

(i). expenditures made from August 1, 2007 – June 30, 2009 would earn tax credits at the rate of 20 percent for the first and second years after the Start Date.

(ii). expenditures made July 1, 2009 onwards would earn at the flat rate of 25 percent, with the possibility of an additional 10 percent for payroll expenditures.

(d) The initial certification letter shall specifically state the applicable tax credit rates for each state certified production.

## C. Initial Certification

1. After review and upon a determination of qualification, initial certification will be issued by the Office and the Secretary, including:

a. classification of the project as a state certified production;

b. a unique identifying number;

c. the total anticipated base investment;

d. the entity names and allocation percentages for tax credits.

2. Additional information may be requested by the Director in order to make a determination of eligibility for the program.

3. Initial certification shall be issued in the amount determined to be eligible, and shall be sent to each producer or digital media company and to the Secretary.

4. Once an initial certification is issued, the applicant or official representative must countersign and return an original to the director, within 30 business days, acknowledging initial certification status.

5. As a condition for receiving certification of tax credits under this Section, state-certified productions may be required to display the state brand or logo, or both, as prescribed by the Secretary and as outlined in the initial certification letter.

## D. Final Certification and Accounting Requirements

1. Prior to final certification of tax credits of a state-certified production or any portion thereof, the producer or digital interactive media company shall submit to the Office:

a. a cost report of production expenditures.

i. The cost report of expenditures shall be subject to an agreed-upon procedures engagement conducted by a certified public accountant in accordance with statements on standards for attestation engagements established by the American Institute of Certified Public Accountants.

ii. The accountant shall issue a report in the form of procedures and findings. The accountant shall be a certified public accountant licensed in the state of Louisiana

and shall be an independent third party unrelated to the digital interactive media company.

iii. The agreed upon procedures have been established by the Office and the Secretary, with assistance from the Society of Louisiana Certified Public Accountants, as set forth in §1673 of these rules, as promulgated in accordance with the Administrative Procedure Act.

b. any additional information as requested by the Office and/or the Secretary, reasonably necessary to determine eligibility for tax credits, including but not limited to a request for an additional audit at the applicants expense.

2. Upon completion of all or a portion of a state-certified production, the Office shall review the production expenses and upon a determination of qualification the office and the secretary will issue a final tax credit certification letter including

i. the amount of tax credits;

ii. the unique identifying number for the state certified production.

3. Multiple requests for final certification may be submitted.

a. Each submission must be accompanied by a cost report indicating expenditures.

b. Two submissions shall be certified at no additional fee by the Director.

c. Additional charges may apply for three or more certification requests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6022.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Office of Entertainment Industry Development, LR 35:

#### **§1669. Application and Transfer of Tax Credits**

A. Prior to claiming a tax credit on any tax return, or transferring any tax credit, a person must apply for and obtain final certification.

B. After receiving final certification, a tax credit may be applied as follows:

1. The credit shall be allowed against the income tax due for applications submitted prior to July 1, 2009, and against the income or franchise tax due for applications submitted on or after July 1, 2009. The credit shall be allowed against the income or franchise tax due from a taxpayer for the taxable period in which the credit is earned as well as the immediately preceding period. If the tax credit allowed exceeds the amount of such taxes due from a taxpayer, then any unused credit may be carried forward by the taxpayer as a credit against subsequent tax liability for a period not to exceed ten years. However, in no event shall the amount of the tax credit applied in a taxable period exceed the amount of such taxes due from the taxpayer for that taxable year.

2. All entities taxed as corporations for Louisiana income tax purposes shall claim any credit allowed under this section on their corporation income tax return, or in the case of applications submitted after July 1, 2009, their income and franchise tax returns.

3. Individuals shall claim any credit allowed under this section on their individual income tax return.

4. Entities not taxed as corporations shall claim any credits allowed under this section on the returns of the partners or members as follows:

a. Corporate partners or members shall claim their share of the credit on their corporation income tax returns.

b. Individual partners or members shall claim their share of the credit on their individual income tax returns.

c. Partners or members that are estates or trusts shall claim their share of the credit on their fiduciary income tax returns.

C. After receiving final certification, a tax credit may be transferred as follows:

1. Any tax credits allocated to a person and not previously claimed by any taxpayer against his Louisiana state income or franchise tax may be transferred or sold by such person to another person, subject to the following conditions:

a. A single transfer may involve one or more transferees.

b. Transferors and transferees shall submit to the Office and the Department of Revenue in writing, a notification of any transfer or sale of tax credits within thirty days after the transfer or sale of such tax credits. The notification shall include the transferor's tax credit balance prior to transfer, the state-certified production number, the name of the state-certified production, the transferor's remaining tax credit balance after transfer, all tax identification numbers for both transferor and transferee, the date of the transfer, the amount transferred, a copy of the tax credit certificate, and any other information required by the Office or the Department of Revenue.

c. Failure to comply with this paragraph will result in disallowance of the tax credit until the taxpayers are in full compliance.

d. The transfer or sale of this credit does not extend the time in which the credit can be used. The carry forward period for credit that is transferred or sold begins on the date on which the credit was originally earned.

e. The transferee shall apply such credits in the same manner and against the same taxes as the taxpayer originally awarded the credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6022.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Office of Entertainment Industry Development, LR 35:

#### **§1671 Recapture and Recovery of Tax Credits**

A. If the Office finds that funds for which a digital interactive media company received credits are not actually expended in Louisiana as a production-related cost of a state-certified production, then the digital interactive media company's state income tax for such taxable period shall be increased by such amount necessary for the recapture of credit provided by this section.

B. Credits previously granted to a taxpayer, but later disallowed, may be recovered by the Secretary of the Department of Revenue through any collection remedy authorized by R.S. 47:1561 and initiated within three years from December 31 of the year in which the credits were earned.

1. The only interest that may be assessed and collected on recovered credits is interest at a rate of three percentage points above the rate provided in R.S. 9:3500(B)(1), which shall be computed from the original due date of the return on which the credit was taken.

2. The provisions of this section are in addition to and shall not limit the authority of the secretary of the Department of Revenue to assess or to collect under any other provision of law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6022.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Office of Entertainment Industry Development, LR 35:

### **§1673 Agreed Upon Accounting Procedures**

A. The agreed upon accounting procedures shall be available to the public as follows:

1. posted on LouisianaEntertainment.gov;
2. available for viewing during regular business hours in the Office;
3. sent to the applicant and incorporated into the initial certification letter; or
4. available upon written request to the Director; and
5. are included in the rules as detailed in the following section:

#### **B. Instructions**

1. Purpose: In an effort to ensure compliance with the amendments made to LA R.S. 47:6022 (the Louisiana Digital Media Act) during the 2009 Regular Session of the Louisiana Legislature, the Louisiana Department of Economic Development is requiring the independent verification of production expenses incurred by Digital Interactive Media Companies during the creation of state-certified productions. As such, the cost report of production expenditures shall be subject to an agreed-upon procedures engagement conducted by a certified public accountant in accordance with Statement on Standards for Attestation Engagements established by the American Institute of Certified Public Accountants. The agreed-upon procedures engagement must be performed by an independent certified public accountant licensed in the State of Louisiana that is unrelated to the digital interactive media company. The final agreed-upon procedures report must be received prior to any certification of expenditures. The results of the agreed-upon procedures engagement may affect the validity of tax credits granted under this program.

2. Testing: The performance of the agreed-upon procedures will require the testing of payroll and non-payroll expenditures.

#### **3. Sampling Criteria/Instructions - Payroll Expenses:**

a. Obtain the cost report of production expenditures for the period selected by the Digital Interactive Media Company and verify the mathematical accuracy of such report.

b. Obtain the bank statements from the Digital Interactive Media Company relevant to the applicable project for the period covered by the cost report of production expenditures.

c. Obtain the detailed payroll registers for the period selected by the Digital Interactive Media Company (should be the same period covered as the cost report of production expenditures). This report should indicate the names, address, taxpayer identification number, permanent address, the amount of compensation, and the employee's state of residence.

d. Foot the payroll registers mentioned in item 3.c for mathematical accuracy and agree the total to the cost report of production expenditures mentioned in item 3.a.

#### **4. Verification Procedures—Payroll Expenses—Louisiana Residents:**

a. From the detailed payroll registers referenced in item 3.c above, segregate the gross payroll for all Louisiana residents and agree the total to the Louisiana payroll / salaries indicated on either the cost report of production expenditures or the footnotes to the cost report of production expenditures.

b. From the payroll registers for Louisiana residents (see item 4.a above), select all disbursements to those individuals whose gross salaries during the period in question exceeded 5 percent of the total disbursements indicated on the cost report of production expenditures for the period in question (see item (a) for further testing).

c. Excluding those individuals already selected for further testing in item 4.b above, select an additional sample consisting of the lesser of 60 individual payroll disbursements or 50 percent of the payroll disbursements not already selected in item 4.b above from the payroll registers for Louisiana residents (see item 4.a above), for further testing.

d. For each employee selected for testing in steps 4.b and step 4.c, perform the following, detailing any exceptions noted:

i. If the employee is a salaried employee, verify that the gross salary for the selected disbursement is supported by and agrees to an employment contract or other form of approved pay documentation;

ii. If the employee is an hourly employee, verify that the hourly wage rate for the selected transaction is supported by and agrees to the approved pay rate documentation in the employee's personnel file;

iii. If the employee is an hourly employee, verify that the hours paid for the selected transaction is supported by approved timesheets;

iv. Verify that the disbursement of such funds is a qualifying expenditure given the operations of the Digital Interactive Media Company;

v. Verify that the payroll expenditures were actually made by the Digital Interactive Media Company as evidenced by deductions in the bank account statements maintained by the Digital Interactive Media Company and that the disbursement cleared the bank during the period in question; and

vi. Review employee's personnel file, verifying that the individual meets the definition of "resident" or "resident of Louisiana" as defined by the amendments made to LA R.S. 47:6022 during the 2009 Regular Session of the Louisiana Legislature: "resident" or "resident of Louisiana" means a natural person and any person domiciled in the state of Louisiana and any other person who maintains a permanent place of abode within the state and spends in the aggregate more than six months of each year within the state.

#### **5. Verification Procedures—Payroll Expenses—Non Louisiana Residents:**

a. From the detailed payroll registers referenced in item 3.c above, segregate the gross payroll for all non-Louisiana residents and agree the total to the non-Louisiana payroll indicated on either the cost report of production expenditures or the footnotes to the cost report of production expenditures.

b. From the payroll registers for non-Louisiana residents (see item 5.a above), select all disbursements to those individuals whose gross salaries during the period in question exceeded 5 percent of the total disbursements indicated on the cost report of production expenditures for the period in question (see item 3.a for further testing).

c. Excluding those individuals already selected for further testing in item 5.b above, select an additional sample consisting of the lesser of 60 individual payroll disbursements or 50 percent of the payroll disbursements not already selected in item 5.b above from the payroll registers for non-Louisiana residents (see item 5.a above), for further testing.

d. For each employee selected for testing in steps 5.b and step 5.c, perform the following procedures, detailing any exceptions noted:

i. If the employee is a salaried employee, verify that the gross salary for the selected disbursement is supported by and agrees to an employment contract or other form of approved pay documentation;

ii. If the employee is an hourly employee, verify that the hourly wage rate for the selected transaction is supported by and agrees to the approved pay rate documentation in the employee's personnel file;

iii. If the employee is an hourly employee, verify that hours paid for the selected transaction is supported by approved timesheets;

iv. Verify that the disbursement of such funds is a qualifying expenditure given the operations of the Digital Interactive Media Company; and

v. Verify that the payroll expenditures were actually made by the Digital Interactive Media Company as evidenced by deductions in the bank account statements maintained by the Digital Interactive Media Company and that the disbursement cleared the bank during the period in question.

#### 6. Sampling Criteria/Instructions—Non-Payroll Expenses:

a. Obtain the cost report of production expenditures for the period selected by the Digital Interactive Media Company and verify the mathematical accuracy of such report.

b. Obtain the detailed listing of non-payroll expenditures for the period selected by the Digital Interactive Media Company (should be the same period covered as the cost report of production expenditures). This report should indicate the payee, the date of payment, the date that the payment cleared the bank, and amount of the payment.

c. Foot the payroll registers mentioned in item 6.b for mathematical accuracy and agree the total to the cost report of production expenditures mentioned in items 3.a and 6.a.

#### 7. Verification Procedures - Non-Payroll Expenses:

a. From the detailed listing of non-payroll expenditures referenced in item 6.b above, select all disbursements for a particular contract of purchase that exceeded 5 percent of the total disbursements indicated on the cost report of production expenditures for the period in question (see items 3.a and 6.a for further testing).

b. Excluding those expenditures already selected for further testing in item 7.a above, select an additional sample

consisting of the lesser of 60 individual disbursements or 50 percent of the non-payroll disbursements not already selected in item 7.a above from the detailed listing of non-payroll expenditures (see item 7.a above), for further testing.

c. For each disbursement selected for testing in step 7.a and step 7.b, perform the following procedures, detailing any exceptions noted:

d. Verify that the transaction is supported by an original invoice/receipt and that the amounts are in agreement;

e. Verify that the expense category to which the disbursement was coded appears reasonable based on the invoice documentation;

f. Verify that the disbursement of such funds is a qualifying expenditure given the operations of the Digital Interactive Media Company; and

g. Verify that the expenditures were actually made by the Digital Interactive Media Company as evidenced by deductions in the bank account statements maintained by the Digital Interactive Media Company and that the disbursement cleared the bank during the period in question.

8. Formatting Procedures. Before submission to the Louisiana Department of Economic Development, ensure that these steps have been taken.

a. Redact all but the last four digits of any employees SSN.

b. Separate expenditures by calendar year, as well as the aggregate project totals.

c. Submit detailed list of all expenditures as spreadsheet.

d. For expenditures after June 29, 2005 and before July 1, 2009, separate those from any expenditures made after July 1, 2009 using the same guidelines above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6022.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Office of Entertainment Industry Development, LR 35:

Kristy Mc Kearn  
Undersecretary

1002#086

### POTPOURRI

#### Department of Environmental Quality Office of the Secretary

#### Regulation of Greenhouse Gas Emissions and Title V Applicability

Currently, greenhouse gas (GHG) emissions are not considered to be "subject to regulation" and have not triggered the need for a Part 70 (Title V) permit, regardless of the magnitude of such emissions. However, on October 27, 2009, EPA proposed its "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule" (74 FR 55292). As a first phase, this rule seeks to establish a "major stationary source" threshold at a level of 25,000 tons per year (TPY) of carbon dioxide equivalents, or CO<sub>2</sub>e, for both the Prevention of Significant Deterioration (PSD) and Part 70 Operating Permits programs (LAC 33:III.507 and 509, respectively).

Though there are several factors which may impact when GHGs become regulated pollutants, it is expected that the regulation of GHG emissions from mobile sources will be the driving factor. EPA is currently developing a Rule to regulate GHGs from mobile sources under Title II of the Clean Air Act (74 FR 24007; May 22, 2009), the light duty vehicle Rule. EPA expects to promulgate this rule by the end of March 2010. It is currently EPA's position that new pollutants become subject to PSD and Title V when a rule controlling those pollutants is promulgated (and even before that Rule takes effect).

Accordingly, when the light-duty vehicle rule is finalized, the GHGs subject to regulation under that Rule may become immediately subject to regulation under the PSD program, meaning that from that point forward, prior to constructing any new major source or major modification that would increase GHGs by a significant amount, a source owner would need to apply for, and a permitting authority would need to issue, a permit under the PSD program that addresses these increases.

Further, in accordance with Section 503(c) of the Clean Air Act, an owner or operator of an existing source exceeding the major source applicability level for regulated GHGs would have 12 months to submit a Title V permit application if the facility did not have a Title V permit already.

The Louisiana Department of Environmental Quality, Air Permits Division, is requesting owners or operators of facilities operating under any type of air permit to notify the Air Permits Division if GHG emissions from their facility equal or exceed 25,000 CO<sub>2</sub>e. A site-specific estimate of potential GHG emissions (in tons per year) is requested if available, but is not required. This correspondence should be directed to Bryan D. Johnston, Air Permits Division, P.O. Box 4313, Baton Rouge, Louisiana 70821-4313, and submitted by March 31, 2010. Questions may be directed to Tegan Treadaway at (225) 219-3004.

Herman Robinson, CPM  
Executive Counsel

1002#055

**POTPOURRI**

**Department of Environmental Quality  
Office of the Secretary**

**Termination Determination of CAAA §185 Penalty Fees  
State Implementation Plan Revision**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the Secretary of the Louisiana Department of Environmental Quality gives notice that the Office of Environmental Compliance, Air Quality Assessment Division will submit a revision to the State Implementation Plan (SIP) to request a termination determination of the applicability of the Clean Air Act Amendments (CAAA) §185, to the Baton Rouge five-parish

ozone nonattainment area pursuant to guidance issued by the U.S. Environmental Protection Agency on January 5, 2010 (see memo from Stephen D. Page, Director Office of Air Planning and Standards).

The Baton Rouge five-parish ozone nonattainment area, which consists of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge Parishes was classified as severe under the now-revoked one-hour ozone standard on June 23, 2003. Accordingly, the area became subject to CAAA §185, which requires states to develop and implement a fee collection rule. The one-hour ozone standard was revoked by the Environmental Protection Agency on June 15, 2004 which was prior to the attainment deadline.

Based upon monitoring data for the years 2006, 2007, and 2008, the Baton Rouge ozone nonattainment area has reached attainment with the one-hour, as well as the 1997 eight-hour, ozone standard and is therefore eligible to request a termination determination of the CAAA §185 fee collection. As such, the department is submitting a revision to the SIP.

A public hearing will be held at 1:30 p.m. on March 30, 2010, in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposal. Should individuals with a disability need an accommodation in order to participate, please contact Vivian H. Aucoin at (225) 219-3509 or at the address listed below.

All interested persons are invited to submit written comments concerning the Termination Determination of CAAA §185 Penalty Fees for the Baton Rouge area no later than 4:30 p.m., March 30, 2010, to Vivian H. Aucoin, Office of Environmental Compliance, Air Quality Assessment Division, P.O. Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3240 or by e-mail to vivian.aucoin@la.gov.

A copy of the SIP revision is available on the LDEQ website at [www.deq.louisiana.gov/portal/Default.aspx?tabid=2381](http://www.deq.louisiana.gov/portal/Default.aspx?tabid=2381).

Herman Robinson, CPM  
Executive Counsel

1002#056

**POTPOURRI**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

**Fee Schedule**

Following are the fees that are charged by the Louisiana Board of Veterinary Medicine:

<b>Doctors of Veterinary Medicine:</b>	
Annual Active Renewal Fee	\$225
Annual Inactive Renewal Fee	\$100
Renewal Late Fee	\$125
Renewal Late CE Fee	\$25

DVM Original License Fee	\$225
Application Fee (Initial)	\$75
State Board Examination Fee	\$175
Duplicate Wall Certificate Fee	\$25

**POTPOURRI**  
**Department of Natural Resources**  
**Office of the Secretary**  
**Fishermen's Gear Compensation Fund**

Registered Veterinary Technicians:

Annual Renewal Fee	\$30
Late Renewal Fee	\$20
Examination Fee (VTNE)	
(does not include exam vendor's cost)	\$40
Original Certification Fee	\$30
Initial Application Fee	\$25

LORAN Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 7 claims in the amount of \$31,272.41 were received for payment during the period January 1-31, 2010.

There were 6 claims paid and 1 claim denied.

Latitude/Longitude Coordinates of reported underwater obstructions are:

Certified Animal Euthanasia Technicians:

Annual Renewal Fee	\$50
Late Renewal Fee	\$25
Course Fee	\$80
Examination Fee	\$50
Original Full Certification Fee	\$50
Temporary Certification Fee	\$50
Initial Application Fee	\$25

2917.523	8950.679	Plaquemines
2931.378	9140.086	Iberia
2939.240	8948.170	Plaquemines
2940.397	8939.112	Plaquemines
2942.196	8948.638	Plaquemines
2947.991	8938.102	St. Bernard
2949.011	8918.740	St. Bernard

Registered Equine Dentists:

Original Registration Fee	\$200
Annual Renewal Fee	\$125
Late Renewal Fee	\$100
Initial Application Fee	\$100

A list of claimants and amounts paid can be obtained from Gwendolyn Thomas, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225)342-0122.

Scott A. Angelle  
Secretary

Wendy D. Parrish  
Executive Director

1002#061

1002#051

**POTPOURRI**

**Department of Natural Resources**  
**Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Southern Production & Expl Co.	Chalkley, North	L	Vua;Miller-Fruge	004	71644
Plymouth Oil Company	Greenwood-Waskom	L	Sidney L Herold et al	010	47034(30)
G N Parker	Holly	S	C L Parker	001	156100
Mideast Gas Systems, Inc.	Chalkley	L	Katherine Brewer	001	210587

James H. Welsh  
Commissioner

1002#063

**POTPOURRI**

**Department of Revenue**  
**Office of the Secretary**

February Meeting of Act 442 Collaborative Working Group

The next meeting of the Collaborative Working Group will be conducted on Wednesday, February 24, 2010, at 9 a.m. in the Calcasieu Room on the second floor of the LaSalle Building, 617 N. Third Street, Baton Rouge, Louisiana.

Section 4 of Act 442 of the 2009 Regular Session of the Louisiana Legislature established a collaborative working group of state and local tax administrators and industry representatives for the purpose of assisting in developing policy regarding the determination of which items should be considered as moveable or immovable property for the purposes of state and local sales and use tax.

The group's mission is to study and develop specific proposals on the definition of tangible personal property under Chapters 2, 2-A, 2-B and 2-D of Title 47 of the Louisiana Revised Statutes of 1950. The group shall report its policy recommendations to the chairmen of the House Committee on Ways and Means and Senate Committee on Revenue and Fiscal Affairs no later than January 31, 2011.

The group shall cease to exist on June 30, 2011.

Further information concerning this meeting may be obtained from Ted James, Office of the Secretary, P.O. Box 66258, Baton Rouge, LA 70896, phone (225) 219-2707.

Cynthia Bridges  
Secretary

1002#113

**POTPOURRI**

**Department of Revenue  
Tax Commission**

**Public Hearing—Substantive Changes to Proposed Rule  
Valuation of Oil, Gas, and Other Wells  
(LAC 61:V.907)**

The commission published a Notice of Intent to promulgate §907, Valuation of Oil, Gas, and Other Wells, in the December 20, 2009 edition of the Louisiana Register (LR 35:2945–2946). The Notice of Intent, as it was published, showed changes to the Procedure for Arriving at Assessed Value of wells. It was the intent of the commission only to move the existing step 2 to become step 7, the last step in the procedure, therefore, the existing step 3 through step 7 would become step 2 through step 6.

A public hearing will be held on March 23, 2010, at 10 a.m. at the Louisiana Tax Commission, 5420 Corporate Blvd., Suite 107, Baton Rouge, LA 70808 to discuss the proposed Real and Personal Property Rules and Regulations as pertains to Chapter 9, §907.A, Procedures for Arriving at Assessed Value of wells. No fiscal or economic impact will result from the amendments proposed in this notice.

**Title 61**

**REVENUE AND TAXATION  
Part V. Ad Valorem Taxation**

**Chapter 9. Oil and Gas Properties**

**§907. Valuation of Oil, Gas, and Other Wells**

A. The cost-new schedules below cover only that portion of the well subject to ad valorem taxation. Functional and/or economic obsolescence shall be considered in the analysis of fair market value as substantiated by the taxpayer in writing. Consistent with R.S. 47:1957, the assessor may request additional documentation.

Instructions for Use of Tables 907.A-1,  
907.A-2 and 907.A-3  
and

Procedure for Arriving at Assessed Value

1. Determine if well is located in Region 1 by reference to Table 907.B.1. See note for Region 2 or Region 3 (offshore state waters) wells.
2. Multiply the appropriate percent good factor based on age of the well as found in Table 907.B-2.
3. Use Oil cost-new to assess all active service wells for region where located.
4. See explanations in Section 901.E regarding the assessment of multiple completion wells.
5. For wells recompleted, use new perforation depth to determine fair market value.
6. Adjustments for Allowance of Economic Obsolescence
  - a. All wells producing 10 bbls oil or 100 mcf gas, or less, per day, as well as, all active service wells (i.e. injection, salt water disposal, water source, etc.) shall be allowed a 40 percent reduction. Taxpayer shall provide the

assessor with proper documentation to claim this reduction. Once the 40 percent reduction has been applied and calculated, an additional 60 percent reduction shall be applied for any well producing 1 bbl of oil or 10 mcf of gas or less per day.

b. All inactive (shut-in) wells shall be allowed a 90 percent reduction.

c. Deduct any additional obsolescence that has been appropriately documented by the taxpayer, as warranted, to reflect fair market value.

d. All oil and gas property assessments may be based on an individual cost basis.

e. Sales, properly documented, should be considered by the assessor as fair market value, provided the sale meets all tests relative to it being a valid sale.

7. Multiply depth of well by appropriate 15 percent of Cost-New amount as indicated in Table 907.A-1, 907.A-2 or 907.A-3.

A.4. – C.6. ...

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**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

**HISTORICAL NOTE:** Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:488 (March 2004), LR 31:717 (March 2005), LR 32:431 (March 2006), LR 33:492 (March 2007), LR 34:679 (April 2008), LR 35:495 (March 2009), LR 36:

James D. “Pete” Peters  
Chairman

1002#049

**POTPOURRI**

**Department of Social Services  
Office of Family Support**

**Temporary Assistance to Needy Families  
(TANF)—Caseload Reduction Report for Louisiana**

The Department of Social Services, Office of Family Support, hereby gives notice that, in accordance with federal regulations at 45 CFR 261.40, the Temporary Assistance to Needy Families (TANF) Caseload Reduction Report for Louisiana is now available to the public for review and comment.

In order to receive a caseload reduction credit for minimum participation rates, the agency must submit a report based on data from the Family Independence Temporary Assistance Program (FITAP) and the Strategies to Empower People Program (STEP) containing the following information:

1. a listing of, and implementation dates for, all State and Federal eligibility changes, as defined at Section 261.42, made by the State after FY 2005;
2. a numerical estimate of the positive or negative impact on the applicable caseload of each eligibility change (based, as appropriate, on application denials, case closures, or other analyses);

3. an overall estimate of the total net positive or negative impact on the applicable caseload as a result of all such eligibility changes;

4. an estimate of the state's caseload reduction credit;

5. a description of the methodology and the supporting data that it used to calculate its caseload reduction estimates;

6. a certification that it has provided the public an appropriate opportunity to comment on the estimates and methodology, considered their comments, and incorporated all net reductions resulting from Federal and State eligibility changes; and

7. a summary of all public comments.

Copies of the TANF Caseload Reduction Report may be obtained by writing Tara Prejean, Department of Social Services, Office of Family Support, P.O. Box 94065, Baton Rouge, Louisiana 70804-9065, by telephone at (225)342-4096, or via E-mail at tprejean@dss.state.la.us.

Written comments regarding the report should also be directed to Ms. Prejean. These must be received by close of business on March 22, 2010.

Kristy H. Nichols  
Secretary

1002#095

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